



THE REFORMER

THE OFFICIAL QUARTERLY NEWSLETTER OF THE SAMOA LAW REFORM COMMISSION

DRUGS REFORM
CONSULTATIONS
EDITION

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"The Drugs Reform Project aims to address concerns relating to the current legislative framework as well as emerging drug-related issues affecting Samoan communities."



Drugs Reform CLEC Hot-spot Session - 27 July 2017.

DRUGS REFORM (REVIEW OF THE NARCOTICS ACT 1967)

BY DARIUS SHAHTAHMASEBI (PRINCIPAL LEGAL ANALYST)

In March 2015, the Samoa Law Reform Commission (SLRC) received a reference from the Office of the Attorney General (OAG) to review the current Narcotics Act 1967 which regulates the importation, exportation, growing, manufacture, sale, distribution, use and possession of narcotics drugs. The review resulted from a number of concerns such as the outdated nature of the Act and the rise of methamphetamine use in Samoa.

The project considers a number of issues including among others the following:

- the medicinal use of illegal drugs in certain contexts;
- the need to combat the emergence of new drugs such as synthetic cannabis and party pills;
- the Alcohol and Drugs Court which was established to help drug and alcohol offenders ; and
- the adequacy of the current enforcement structure to combat this problem.

The Drugs Reform Project aims to address concerns relating to the current legislative framework as well as emerging drug-related issues affecting Samoan communities.

The Drugs Reform Issues Paper was approved by Cabinet on 21 June for stakeholders and public consultations. Consultations are currently underway.

We welcome submissions (oral and written) on this important review with the closing date for all submissions on the 27 October 2017. To obtain an e-copy of our Issues Paper and the associated questions for submission, please email commission@samoalawreform.gov.ws.

Public consultations will take place in Upolu on 25 and 26 September 2017 and in Savai'i on 27 and 28 September 2017. Please contact our Office for more information on how you can be involved.

MESSAGE FROM EXECUTIVE DIRECTOR



E ia te a'u le agaga faamaualalo ou te faatalofa atu ai. O a'u o Telei'ai Dr Lalotoa Mulitalo, o le Faatonu o le Komisi e Toe Fuataiina Tulafono a Samoa. O lea tofiga ou te faafetaia ai pea le alofa o le Atua, ma faalagolago pea i lona fesoasoani mai, ia iai se 'ai a lenei auuana, e aoga ai mo le atunuu pele o Samoa. Ae ou te talalo atu pea ma le agaga maualalo ina ia fesoasoani mai pea si o tatou atunuu, i le tapenaina ma le fauina o tulafono o Samoa, e ala i galuega fai a le Komisi. Ia fai sou sao i a tatou tulafono.

It is my pleasure to have commenced duties at the SLRC, to serve the public through its work. Law reform has always been an area of interest for me, as it is the process and the avenue through which meaningful laws can be made for the people of Samoa.

Laws must be relevant and suitable to the people for which they are enacted. But laws are not static; societies either consciously or inadvertently respond to societal changes internally or internationally, for a country cannot operate in a vacuum. All laws made must be for the benefit of the people they regulate. To achieve this, there must be periodical reviews of the laws, to ensure their applicability and relevance for the populations those laws serve.

Since the official commencement of my duties, the past first months have been spent on mainly understanding the ongoing review of the following projects: Drugs Reform; the Property Law Act 1952 Review; the Ministerial and Departmental Arrangements Act 2003 Review; Review of Samoa's Foreign Investment laws; and the Freedom of Information Legislation Review.

On 4 August 2017, the Prime Minister approved the 'Review of the Fabric of Samoa Laws Project'. The SLRC believes this project will assist with the current and future reforms of the laws of Samoa generally, but more specifically will also assist government with policy making; the judiciary in applying the law, and Parliament in its law making functions. More significantly, the public will be informed of who is responsible for implementing which laws, in their benefit.

The status of these projects are summarized in this Newsletter. We would welcome any input from stakeholders and the public alike, to take the work of the SLRC further.

It is with great pleasure that I welcome readers to this second edition of "The Reformer", as we try to bring to you the completed work, the current reviews and (tentative) future projects of the SLRC. It is our hope that the people of Samoa will be informed, be interested and participate in the making of the laws about the people, by the people, and for the people.

Ia manuteleina Samoa ma ona faasausauga. Fesoasoani mai le Alii.

Faafetai,
Telei'ai Dr. Lalotoa Mulitalo
Executive Director

PROJECT UPDATES

BY SHELIZA TAPUAI (EXECUTIVE LEGAL OFFICER), MEAROLD VILIAMU (EXECUTIVE LEGAL OFFICER), FAAPALE LEMALU (SENIOR LEGAL OFFICER), CHARLES DEAN (SENIOR LEGAL OFFICER).

Freedom of Information Legislation Review 2017

On 24 March 2017, the SLRC (pursuant to section 6(a) of the Law Reform Commission Act 2008) proposed and recommended to the Attorney General (AG) to consider whether a Freedom of Information legislation is required for Samoa. A terms of reference was issued by the AG on 5 May 2017 for the SLRC to look into the matter. Preliminary research is currently underway.

Review of Samoa's Foreign Investment laws 2017

On 24 March 2017, SLRC also proposed and recommended to the AG the review of Samoa's foreign investment laws and consider whether such laws require reconciliation and amalgamation. The AG issued a terms of reference on 5 May 2017 for SLRC to look into the matter.

Review of the Fabric of Samoa Laws Project 2017

On 4 August 2017, the Prime Minister approved the 'Review of the Fabric of Samoa Laws'. The review aims to:

- identify the current fabric of laws (some 285 existing legislation as of December 2016);
- identify which Ministries, State-owned enterprises and constitutional bodies are responsible for which laws (legal authority); and
- identify and confirm from these bodies any outdated laws under their administration and recommend removal, updating or replacing.

SLRC is currently liaising with relevant stakeholders on this project.

Review of Ministerial and Departmental Arrangements Act 2003 (MDAA) Discussion Paper 2017

The MDAA review Discussion Paper was approved by Cabinet on 12 July 2017. Planning for stakeholder consultations are currently underway. Consultations are proposed to begin in October 2017 and completed by December 2017.

Review of the Property Law Act 1952 Discussion Papers 2017

Following Cabinet approval of Discussion Papers (DPs) 1 and 2 in March 2017, SLRC proceeded with DPs 3 and 4. DP 3 was completed and approved by Cabinet on 12 July 2017 FK 17 (25). DP 4 was recently submitted for Cabinet's approval on 16 August 2017. SLRC awaits Cabinet's approval of DP 4 before it proceeds with consultations on this review.

Review of Samoa's Civil Procedure Rules (Supreme Court and Magistrate Court) Final Report 2017

Following Cabinet's approval of the SLRC's Final Report in February 2017, a legislative drafter was engaged to draft new Rules for both Supreme Court and District Court, to reflect SLRC's recommendations. Further reviews on the new draft Rules are currently being undertaken before they are finalized and submitted to the Rules Committee and subsequently to the Head of State for approval. The new Rules will replace the current Supreme Court (Civil Procedure) Rules 1980 and the Magistrates' Courts (Civil Procedure) Rules 1971.

Convention on the Elimination of Discrimination against Women (CEDAW) Legislative Compliance Final Report 2016

The CEDAW Legislative Compliance Final Report 2016 (CEDAW FR) was tabled in the Standing Orders, Electoral, Petitions and Officers of Parliament Committee in August 2017. The Committee provided the SLRC with its recommendations for Government's response. In addition, the SLRC is currently pushing for its recommendations to be implemented by various Government agencies identified in its Final Report.

Alcohol Reform Final Report 2016

In August 2017, the Alcohol Reform Final Report 2016 and the Alcohol Control Bill 2016 (Bill) were tabled in Parliament. The OAG is currently liaising with the Liquor Control Board to finalise the Bill before it is submitted to Cabinet for approval.

Sex Offenders' Register Review 2015

In June 2017, the Sex Offenders' Register Final Report (SOR FR) published in May 2015 was officially launched. The Sex Offenders' Registration Bill 2017 went through first and second reading in Parliament, and is currently with the Social Sector Parliamentary Committee for scrutiny.



Review of SLRC Internal Policies Workshop Leuaina Resort: 29-30 July 2017

INTERNAL ACTIVITIES

BY **DARIUS SHAHTAHMASEBI (PRINCIPAL LEGAL ANALYST)**, **CHARLES DEAN (SENIOR LEGAL ANALYST)**, **MEAROLD VILIAMU (EXECUTIVE LEGAL OFFICER)**.

Review of SLRC Internal Policies Workshop - Leuaina Resort

The SLRC held a workshop at Leuaina Resort from 29 - 30 July 2017. The purpose of the workshop was to review SLRC's internal policies including its Corporate Plan as well as its File Management and Procurement policies. The workshop was also an opportunity for the SLRC to reflect back on its work since its inception in 2008 as well as discuss a way forward regarding its role and work.

Continuing Legal Education Committee (CLEC) Hot-spot Session

On 27 July 2017, the SLRC presented at the first-ever CLEC Hot-spot Session for 2017. The SLRC presented on its work as well as on its Drugs Reform Project. The Session was a success generating a fruitful discussion regarding the Drugs Reform Project between SLRC and attendees. Questions and comments from the Session will be noted in the SLRC's Final Report. The SLRC thanks CLEC for the opportunity to present and looks forward to future CLEC Sessions.

SLRC Fundraising Activities

During the months of June and July 2017, the SLRC held two fundraisers to raise funds for its Office Retreat to review its internal policies. The fundraisers included a *Raffle* drawn on the 28th July 2017 and a delicious *Supper* compliments of Chef John Tours. SLRC would like to thank everyone for their kind support. Fa'afetai tele lava!

Parliamentary Committee Meetings

During the month of August, the Commission provided oral submissions on the following Bills:

- a) Conventional Arms Bill 2017; and
- b) Sex Offenders Register Bill 2017.

SPECIAL ANNOUNCEMENT

On the 14 June 2017, SLRC officially launched its SOR FR in conjunction with other completed projects. The main objective of the Launch was to publicise and raise awareness on the SOR FR and the work of the SLRC. Various people attended including the Prime Minister who gave the key note address, Cabinet Ministers', the judiciary, schools, non-governmental organisations and members from the public. The Launch was a huge success and the SLRC would like to thank UNICEF for its financial assistance.

NEW RECRUITS & PROMOTIONS

Executive Legal Officer, **Sheliza Tapuai** – new recruit (commenced work 31 July 2017)

Legal Analyst, **Lemalu Ruta Masinalupe** – new recruit (commenced work 31 July 2017)



New Recruits - Sheliza Tapuai & Lemalu Ruta Masinalupe

FAREWELLS

Principal Legal Analyst, **Tuitapuono Samantha Milford** – resigned on 16 August 2017

Senior IT Officer, **Eleanor Fakau** – resigned on 11 August 2017



Departing Employees - Tuitapuono Samantha Milford & Eleanor Fakau

INTERNSHIP PROGRAMME

This year the SLRC hosted three interns: Ruth Parsons (Australia National University) Lanu Faletau (Auckland University) and Tausala Fruean (Otago University). All three interns assisted in carrying out research on SLRC's various projects in particular the Drugs Reform Review, Samoa Civil Procedure Rules Review and the Freedom of Information legislation Review. Their contribution has greatly benefited the SLRC. SLRC would like to thank all three interns for their amazing work and wish them all the best with their studies. More information about the SLRC Internship Programme can be found on our website at www.samoalawreform.gov.ws.



Legal Interns 2017 - Tausala Fruean, Ruth Parsons, Lanu Faletau



Pacific Legislative Drafters Technical Forum 23-25 August 2017 - Nukualofa, Tonga.

TRAININGS & WORKSHOPS

BY TELEI'AI DR. LALOTEA MULITALO (EXECUTIVE DIRECTOR), GRACE LAFI (LEGAL ANALYST), FAAPALE LEMALU (SENIOR LEGAL ANALYST), CHARLES DEAN (SENIOR LEGAL ANALYST), MEAROLD VILIAMU (EXECUTIVE LEGAL OFFICER).

Effective Project Management Training - Apia, Samoa.

Three officers from SLRC attended the Public Service Commission Project Management Training workshop held from 31 July – 4 August 2017. The workshop provided training on how to manage projects efficiently which are useful skills for upcoming projects of the SLRC.

'Legislative Drafting in the Pacific Context' Guide Launch - TC Beirne School of Law, The University of Queensland, Australia.

SLRC's Executive Director was awarded the Greg Urwin Award in February 2017. The Award gave her the opportunity to undertake a 3 month project with the University of Queensland's TC Beirne School of Law. Under this project, the Executive Director wrote a Guide entitled 'Legislative Drafting in the Pacific Context'. The development of the Guide was funded by the Australian Pacific Leadership Program, under the Greg Urwin Award. The Guide was completed at the end of May with its official launch held on 14 July 2017, at the University of Queensland. The Guide was coined as the first of its kind, to inform effective law making in the Pacific region.

Legislative Drafting in the Pacific Context Guide Seminar - Apia, Samoa.

On the 28 July 2017, the SLRC hosted a seminar on the "Legislative Drafting in the Pacific Context Guide". The purpose of the seminar was to introduce law makers, specifically legislative drafters to the Guide in the hope that it will make the drafting of laws in both Samoa and the Pacific Islands 'more relevant and suitable' in their own context.

Tracer Youth Employment Survey 2017 Launch - Apia, Samoa.

On the 26 June 2017, two officers from the SLRC attended the launch of the Tracer Youth Employment Survey 2017 hosted by the Samoa National Youth Council (SNYC). The Survey examined why the rate of youth unemployment in the informal sector is a high; and to recommend key policy positions by SNYC to relevant stakeholders in order to address the high rate of youth employment.

UNHR Working Group visit to Samoa 2017 - Apia, Samoa.

The UNHR Working Group visited Samoa in August 2017 to discuss the issue of discrimination against women in law and practice. The SLRC met up with the delegation to discuss its work in relation to the issue of discrimination against women and in particular the findings of SLRC's CEDAW FR 2016. The Commission congratulates the UNHR Working Group for their hard work.

Family Safety Study 2017: Consultation & Launch - Apia, Samoa.

Three members from the SLRC attended consultations held on the 29 June 2017 on the Family Safety Study 2017. The Study assessed all forms of domestic and gender based violence in Samoa as well as identify services available to respond to such issues. The Study was officially launched on the 14 July 2017.

Pacific Legislative Drafters Technical Forum - Nukualofa, Tonga.

SLRC's Executive Director was invited by the Pacific Islands Forum Secretariat to present on the 'Legislative Drafting in the Pacific Context Guide' at the Pacific Legislative Drafters Technical Forum held in Tonga, on 23-25 August 2017. Some 30 to 40 drafters from across the Pacific participated, each receiving a copy of the Guide with anticipation and interest. The objective of the Guide is to assist drafters draft laws relevant and suitable to the context of the Pacific Islands. It is the Executive Director's (author of the Guide) sincere hope that the Guide will go some ways in assisting Pacific Islands develop and enact laws relevant and suitable to the Pacific peoples.

Other Consultations/ Workshops attended by SLRC representatives include:

- Samoa Qualifications Authority Stakeholder Consultation on the "Guidelines for the Recognition of Non-Formal Learning" - 11 August 2017.
- Office of the Regulator (OOTR) Consultations on the "Electric Power Corporation's proposal to OOTR for new electricity tariffs" - 17 July 2017.

HAVE YOUR SAY

Q: How do I give the Commission my feedback?

A: You can send us your feedback in writing (letter or email) or attend one of our public consultations in Upolu or Savaii. Keep checking our website and Facebook page to find out dates for our public consultations.



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