



Government of Samoa

Samoa
Law Reform Commission
Komisi o le Toefuataiga o Tulafono a Samoa

SAMOA LAW REFORM COMMISSION

ANNUAL REPORT

July 2010 - June 2011



GOVERNMENT OF SAMOA

The Honourable Speaker

The Legislative Assembly of Samoa

In compliance with Section 9 (2) of the Law Reform Commission Act, 2008, I have the honour to lay before you copies of the second Annual Report for the Samoa Law Reform Commission for the period of July 2010 - June 2011 for tabling before the Legislative Assembly of Samoa. This report documents activities implemented by the Commission within this period, in accordance with the above Act.

Hon Tuilaepa Lupesoliai Sailele Malielegaoi

**PRIME MINISTER AND MINISTER OF THE SAMOA LAW REFORM
COMMISSION**



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(Leilani Tuala-Warren)

EXECUTIVE DIRECTOR

ACRONYMS and ABBREVIATIONS

AG	-	Attorney General
AGO	-	Attorney General's Office
ALRAC	-	Australian Law Reform Agencies Conference
ALRC	-	Australian Law Reform Commission
CEDAW	-	Convention on the Elimination of Discrimination against Women
CEO	-	Chief Executive Officer
COI	-	Commission of Inquiry
CRC	-	Convention on the Rights of the Child
EDO	-	Environmental Defender's Office
IDL	-	International Dateline
IP	-	Issues Paper
GSOIM	-	Goals Strategies Outcomes Indicators Matrix
LJS	-	Law and Justice Sector
MESC	-	Ministry of Education, Sports and Culture
MCIL	-	Ministry of Commerce, Industry and Labour
MJCA	-	Ministry of Justice, Courts and Administration
MNRE	-	Ministry of Natural Resources and Environment
MOF	-	Ministry of Finance
MoPP	-	Ministry of Police and Prisons
MWCSD	-	Ministry of Women, Community and Social Development
NHS	-	National Health Services
NUS	-	National University of Samoa
NZ	-	New Zealand
PIANGO	-	Pacific Islands Association of Non Governmental Organization
PM	-	Prime Minister
PMEF	-	Performance Monitoring and Evaluation Framework
PSC	-	Public Service Commission
PSIF	-	Public Sector Improvement Facility
RRRT	-	Pacific Regional Rights Resource Team
SDS	-	Strategy for the Development of Samoa
SLRC	-	Samoa Law Reform Commission
SPC	-	South Pacific Commission
SUNGO	-	Samoa Umbrella for Non Governmental Organizations
SQA	-	Samoa Qualifications Authority
UN	-	United Nations
UNESCO	-	United Nations Education Social Cultural Organization
WIPO	-	World Intellectual Property Organization
WG	-	Working Group

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FOREWORD

Hon. Minister of the Office of the Samoa Law Reform Commission



I am pleased to present this 2nd Annual Report (July 2010 – June 2011) of activities and achievements of the Samoa Law Reform Commission since its establishment. The establishment of the SLRC is a milestone for Samoa as this is one of the Government's initiatives that has been in a pipeline for a while and it has finally come into existence. The law reform process aims to review, research and update existing law in a manner which allows broad community participation, devoid of political interference. This leads to promoting justice, good governance and accountability. Given a lot of Samoa's laws are very old, the SLRC performs the important function of ensuring that Samoa laws are continually reviewed and updated taking into consideration the current developments. In performing this role, the SLRC also ensures that the law reflects and maintains Samoan custom and traditions.

This is an opportunity given to the public to voice their views on our Laws and I encourage the public to attend consultations held by the Commission from time to time to voice their views.

I am pleased to present the second Annual Report of the Samoa Law Reform Commission since its establishment in 2008.

Hon Tuilaepa Lufesoia Satai Malielegaoi
Prime Minister and Minister of the Samoa Law Reform Commission

MESSAGE FROM THE CHAIR

Attorney General and Chairman of the Advisory Board



As the Chairman of the Samoa Law Reform Advisory Board, I am proud to see the progress of the SLRC to date. The independence of the SLRC is a hallmark of law reform. The SLRC was initially established as a division of the Office of the Attorney General. Despite the SLRC operating under the AGO, its work is always independent, and the fact that its Office is separated from the AGO and housed on a different floor of the government building is an indication of its independence. However, it was part of a transition phase that the SLRC be housed under my office until such a time when it became fully operational. This time has come and I am happy to say that Cabinet approved the separation of the Samoa Law Reform Commission from the Attorney General's Office on 9 March 2011. This separation will be effective in July 2011.

I wish to acknowledge the assistance of the Advisory Board members for this year's work. I wish to acknowledge the contribution by the matai representative Afioga Gafoa Tufuga of our Board who was selected to represent the Vaisigano No 1 seat in Parliament. We wish him all the best.

I acknowledge the Executive Director and staff of the SLRC for this year's work. Malo le galulue. To God be all the glory.

(Tuatagaloa Aumua Ming C. Leung Wai)

Attorney General/Chairman of Samoa Law Reform Commission Advisory Board

EXECUTIVE DIRECTOR'S REPORT

Leilani Tuala-Warren



This year has been a productive and challenging year for the SLRC. Our first Annual Report, covering the period of 1 November 2008 to 30 November 2009, was tabled in Parliament in October 2010. This report covered an inception phase for the Commission. This is our second report since establishment in 2008, and covers the period from 1 December 2009 to 30 June 2010 and the financial year from 1 July 2010 to 30 June 2011.

During this 18 months period, we conducted our first public consultations across Samoa. Issues relating to the Crimes Ordinance 1961, Law Practitioners Act 1976, Commissions of Inquiry Act 1964, Coroners Ordinance 1959 and Care and Protection Legislation to protect children were discussed at public consultations on 17 and 18 February 2010 in Savaii and 5 March 2010 in Upolu. Our second series of public consultations focusing on the reform of the Prisons Act 1967 and the Protection of Traditional Knowledge and Expressions of Culture were conducted on 12 November 2010 in Savaii and 26 November 2010 in Upolu. Both consultations were significant and allowed the SLRC to understand the views of the community on these issues, and take them into account when developing recommendations for law reform.

During this time, the Commission has released two series of Issues Papers. The first series was approved by Cabinet on the 3rd February 2010. They are: IP 01/09 Crimes Ordinance 1961, IP 02/09 Coroners Ordinance 1961, IP 03/09 Care and protection Legislation to protect children, IP 04/09 Law Practitioners Act 1976 and IP05/09 Commissions of Inquiry Act 1964. The second series of Issues Papers was approved by Cabinet on the 21 July 2010. They are IP 06/10 Criminal Procedure Act 1972, IP 07/10 Prisons Act 1967 and IP 08/10 Protection of Traditional knowledge and expressions of culture.

Our first Final Report, for the review of the *Crimes Ordinance 1961* made a total of 62 recommendations and was tabled in Parliament in December 2010. We have received positive and some challenging feedback on some of our recommendations. At the moment the Commission is awaiting the Government's response on these recommendations.

We have completed four other Final Reports, namely the reviews of the *Law Practitioners Act 1976*, the *Coroners Ordinance 1959*, the *Judicature Ordinance 1961* and the *Prisons Act 1967*. These reports will be tabled in Parliament once they have been translated.

I wish to acknowledge the continuous support of the Attorney General to the work of the Commission. The SLRC enjoys a strong and open relationship with the AGO. I also wish to acknowledge the Law and Justice Sector for the continuous funding of some of our projects. In addition, I wish to pay tribute to overseas Law Reform Agencies who have always assisted us with our references, including the New Zealand Law Commission, the Australian Law Reform Commission the British Columbia Law Institute and the Alberta Law Reform Institute. The SLRC continues to foster relationships with international law reform organizations and agencies. Lastly, to the Chairman, members of our Advisory Board and the Staff of the SLRC, Malo le galulue. Despite the many challenges faced by the Commission, we always pursue our mission with zeal and remain true to our mandate to review, reform and develop the laws of Samoa.

(Leilani Tuala-Warren)
Executive Director

List of References

Reviews Completed

1. Daylight Savings - Approved by Cabinet 14 October 2009, Act drafted by SLRC
2. Crimes Ordinance 1961 - Final Report tabled in Parliament 6 December 2010
3. International Dateline - Recommendation approved by Cabinet 27 May 2011, Act drafted by SLRC

Final Reports Completed

4. Coroners Ordinance 1959 - Final Report approved by Cabinet 13 April 2011
5. Judicature Ordinance 1961 - Final Report approved by Cabinet 20 April 2011
6. Law Practitioners Act 1976 - Final Report referred to Cabinet 28 June 2011
7. Prisons Act 1967 - Final Report approved by Cabinet 20 June 2011

Final Reports In Progress

8. Criminal Procedure Act 1972 - Final Report in progress
9. Commissions of Inquiry Act 1964 - Final Report in progress
10. Care and Protection Legislation to protect children (CRC) - Final Report in progress
11. Protection of Traditional Knowledge and Expressions of culture - Final Report in progress

Issues Paper

12. Review of judicial related legislation, including the District Court Act 1971
Supreme Court Civil Procedure Rules 1980
and District Court Rules 1971 - Issues Papers in progress

Preliminary Consultations

13. Village Fono Act 1990 - Referred by the AG 31 March 2011

Pipeline

14. Adult Guardianship Laws - Preliminary consultation stage
15. Evidence Act 1961 - Preliminary consultation stage
16. Sentencing Bill - Preliminary consultation stage
17. Compliance with environmental obligations - Preliminary consultation stage
18. Review of Ministries Act - Completed review of MWTI; review of MCIL in Progress

PART 1: ABOUT THE COMMISSION



Role and Functions of the SLRC

The SLRC is an independent body corporate. It was set up in accordance with the *Law Reform Commission Act 2008*.

The primary function of the SLRC, as set out in section 6 of the *Law Reform Commission Act 2008* is to:

- (a) Recommend to the Attorney General suggested programs for the reform of the laws of Samoa;
- (b) In accordance with references made to it by the Prime Minister, Cabinet or the Attorney General (whether at the Commission's suggestion or otherwise), to research and analyze areas of law considered to be in need of reform and report its recommendations for reform to the Prime Minister and the Attorney General;
- (c) To advise Government Ministries and agencies on the manner or content of reviews of the law conducted by those Ministries and agencies; and
- (d) To consult with and advise the public (and any specific sectors of the community) about its work.

Advisory Board

Pursuant to Section 12 of the *Law Reform Commission Act 2008*, the Commission is assisted by an Advisory Board which convenes at least four times per year as directed by the Prime Minister or the Attorney General. The SLRC Advisory Board consists of:

- Attorney General; (Chairman)
- CEO of Ministry of Prime Minister and Cabinet;
- CEO of the Ministry of Justice and Courts Administration;
- CEO of the Ministry of Finance;
- CEO of the Ministry of Women, Community and Social Development;
- Commissioner of Police and Prisons;
- President of the Samoa Law Society or nominee;
- President of the Samoa Chamber of Commerce and Industry Inc or nominee;
- President of the National Council of Churches or nominee;
- President of the Public Service Association or nominee;
- President of SUNGO or nominee;
- President of the Medical Association or nominee;
- Matai from Upolu;
- Matai from Savaii.

The terms of reference of the Advisory Board approved by Cabinet are as follows:

- Receive Reports on law reform projects currently undertaken;
- Receive Reports on law reform projects to be undertaken;
- Recommend process and outcomes desired for each project;
- Recommend stakeholders and timeframes for each project;
- Approve Commissioners and drafting Consultants; and
- Recommend areas of law to be reviewed and/or reformed so that the SLRC can provide recommendations to the Attorney General.



The Advisory Board has held 4 meetings this year.

PART 2: KEY DEVELOPMENTS

Crimes Ordinance 1961

The review of the *Crimes Ordinance 1961* was a challenge for the Commission given this Act is very old. In order to conduct this inquiry, the Attorney General's Office formed a Working Group consisting of key stakeholders. The SLRC also held public consultations about options for reforming the criminal law. The SLRC received submissions and suggestions for reform from the members of this working group as well as from other organisations and members of the public.

The Commission produced a Final Report which was tabled in Parliament on 6 December 2010. The *Crimes Ordinance 1961* Final Report concluded with 62 recommendations to update the law so it is relevant to the needs and values of modern Samoa.

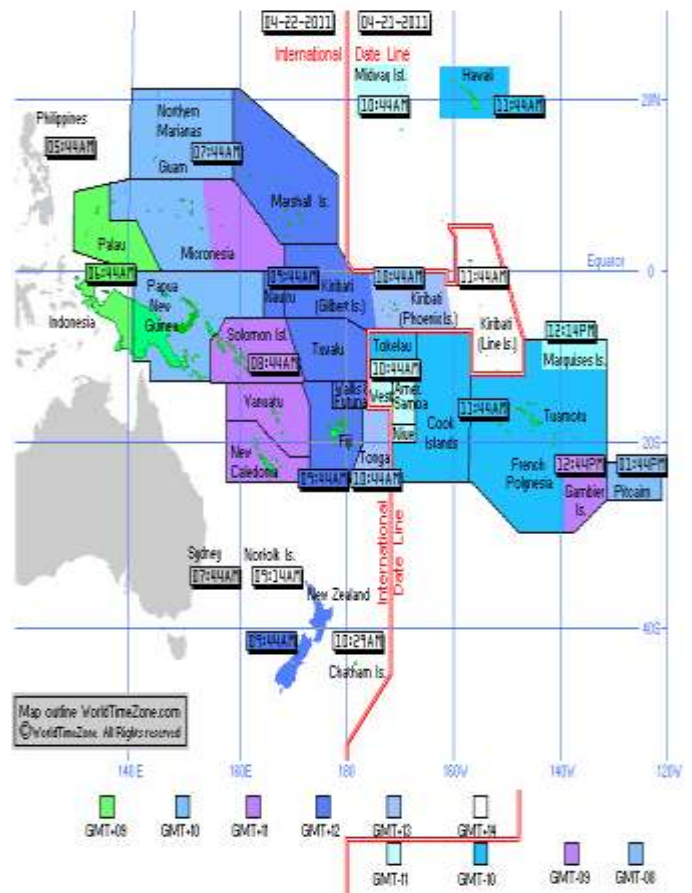


International Dateline (IDL)

This reference was given to the Samoa Law Reform Commission (SLRC) by the Attorney General in April 2011. Currently the IDL is to the West of Samoa. Prior to 1892, the IDL was to the East of Samoa. If the IDL is shifted back to the East of Samoa, Samoa will be in the same time zone as New Zealand and the same date as other countries to its west.

Today, Samoa's principal economic and commercial ties are with New Zealand and Australia, with increasing links to the East Asian nations, particularly China, Hong Kong, Japan, Singapore and Korea. These links are expected to grow in importance in the coming years for trade, tourism and diplomatic ties. The change to the IDL is expected to improve commercial dealings and ease travel and communications between Samoa and its major trading partners in Asia and Pacific region.

After consultations with stakeholders and independent research the SLRC recommended to the Prime Minister and Attorney General that the interests of the community and government will be better served by the shifting of the IDL from west to east. The shift will enhance the social, cultural, economic and commercial interests of Samoa.



Freedom of Religion

A Commission of Inquiry (COI) was appointed on 24th February 2010 to look into the issue of freedom of religion. The COI presented its report to Cabinet for consideration. As a result, in January 2011 the Samoa Law Reform Commission received a reference from Cabinet to review the recommendations made by the COI in its report. The Samoa Law Reform Commission prepared a Cabinet Report incorporating its recommendations and findings and was submitted to Cabinet on the 20 June 2011 for approval.



Public consultation Savaii 17-18 Feb 2011

Prisons Act 1967

The review of the Prisons Act 1967 began in 2009 following a reference from Cabinet. The Samoa Law Reform Commission conducted stakeholders' consultations in 2009 and produced an Issues Paper. In November 2010, public consultations were conducted based on the issues raised in the Issues Paper. Subsequently, a Final Report was completed in June 2011 incorporating submissions from the public and stakeholders, and independent recommendations by the Samoa Law Reform Commission on proposed new prisons legislation.

Law Practitioners Act 1976

The current Law Practitioners Act has been in operation for more than 30 years now. The current Act does not adequately address current issues and developments concerning the legal profession in Samoa. In 2009, the Samoa Law Reform Commission received a reference from Cabinet to review this Act. This was followed by consultations with stakeholders and preliminary research. An Issues Paper was produced in 2009 followed by public consultations in the beginning of 2010. In June 2011, a Final Report was completed and will be submitted to Cabinet for approval.



Public consultation Upolu 5 March 2011

Coroners Ordinance 1959

This legislation is also one of the references from Cabinet in 2009. At this point of the law reform process, a Final Report has been completed and has been approved by Cabinet in April 2011. The Final Report is in the process of being translated into the Samoan language. It is envisaged that a completed Samoan translation will be laid before Parliament for deliberation. The Samoa Law Reform Commission has submitted a proposal to the Law and Justice Sector for funding and drafting of new legislation for Coroners in Samoa.

Judicature Ordinance 1961

In November 2008, the Commission received this reference from Cabinet and the Attorney General. Given the kind of issues dealt with in this inquiry, the Commission did not produce an Issues Paper, but instead conducted interviews and called for submissions from interested stakeholders. The resultant responses were sufficient to produce its Final Report, which was approved by Cabinet in April 2011. This report is currently being translated into Samoan to be laid before Parliament.

Public Consultations

The first Public Consultations were conducted on 17 and 18 February 2010 in Savaii and 5 March in Upolu on five Issues Papers, namely; the Crimes Ordinance 1961, Coroners Ordinance 1959, Care and protection Legislation to protect children, Law Practitioners Act 1976 and Commissions of Inquiry Act 1964. Due to the request by the Council of People with Disabilities, Nuanua o le Alofa, a special consultation was conducted on 3 March 2010 at the Nuanua o le Alofa headquarters.

A second round of public consultations were conducted on 12 November 2010 in Savaii and 26 November 2010 in Upolu to hear the community's views on the reviews of the Prisons Act 1967 and the Protection of Traditional Knowledge and Expressions of Culture.

This consultation was conducted by the Commission with some of the key stakeholders involved in the protection or conservation of traditional knowledge.

These stakeholders included (MCIL, MESIC, MNRE, MWCSO, NUS, SQA and SUNGO) and their involvement was an excellent start to the sector wide approach initiated by the Commission in this reference.

After completing its first ever round of public consultations, the Commission has learnt valuable lessons in how to make the consultation process more effective. In the future, the Commission may conduct consultations in districts rather than in Salelologa and Apia only, and conduct separate focus groups with interested stakeholders on discrete issues.



Public consultation Savaii 17-18 Feb 2011



Public consultation Upolu 5 March 2011

PART 3: HOW WE WORK

Powers of the Commission

Section 7 of the *Law Reform Commission Act 2008* specifies the powers of the Commission. It gives the Commission wide powers to enable it to carry out its functions. In addition, it has powers to sponsor studies and research necessary for the preparation of reports and associated documents relating to any project referred to it.

Independence and Impartiality

The Samoa Law Reform Commission is created by statute partly to safeguard its independence and impartiality. The Commission's views and recommendations are founded on independent and impartial research and analysis.

The research process which the SLRC has adopted guarantees this. The *Law Reform Commission Act 2008* provides that the Commission may regulate its own procedure in such manner as it thinks fit.

As part of the Commission's mandate and research methods, it publishes Issues Papers and Final Reports based on careful and detailed research. In the course of its research, the Commission pays particular attention to case law, legislation, jurisprudence and academic writings. The Commission also considers the laws of comparable jurisdictions, as well as recommendations presented by law reform bodies in other jurisdictions.

Public Submissions

For every inquiry, the Commission requests public submissions from members of the public who may wish to make their point of view known on a particular law reform project. Relevant submissions are considered in the Commission's reports and any issues or concerns raised are addressed.

Consultations

Consultations are a significant part of the Commission's work. Consultations may take several forms and occurs at several different stages in each inquiry. In the initial stages of its research, the Commission may meet with main stakeholders who may be professionals working in the relevant field, and/or representatives of various interested organisations. Once the issues have been identified, the Commission conducts further consultations with interested parties on recommendations for law reform. For the majority of inquiries, the Commission also conducts public consultations in Upolu and Savaii, in order to hear directly from members of the community about the issues that affect them.



Public consultation Upolu 5 March 2011



Public Consultations in Savaii



Public Consultations at Nuanua o le Alofa



Public Consultations in Upolu

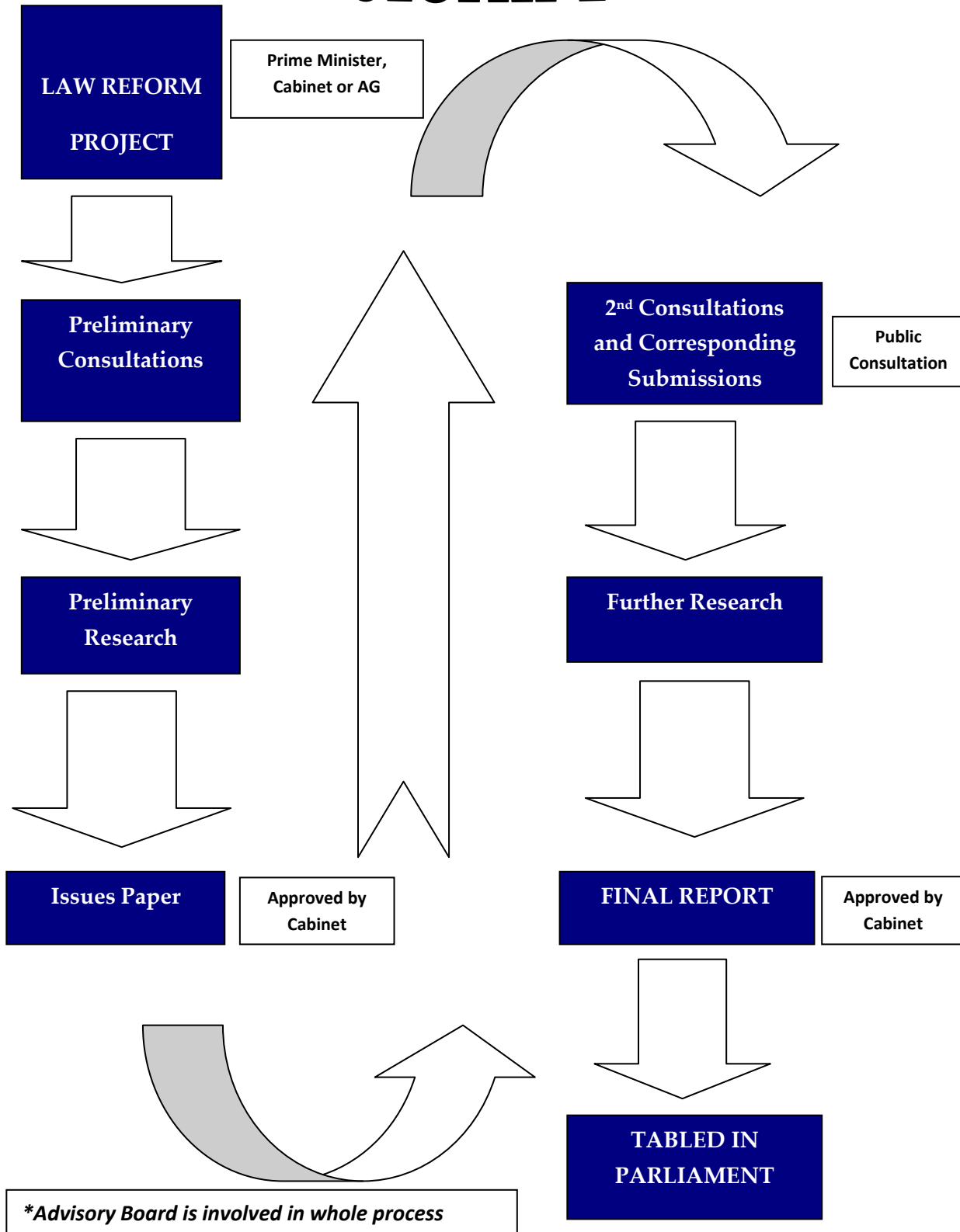
Issues Paper Stage

Once the main issues have been identified the Commission prepares an Issues Paper (IP). The IP is used as the basis for consultation with the stakeholders identified by the Commission. The Issues Papers will be submitted to Cabinet for its approval before it is taken to the public.

Final Report Stage

When the consultation process is completed, the Commission develops a series of recommendations on how the law that has been referred for reform should be modified. These recommendations are developed by the Commission's lawyers before being submitted to the Law Reform Commission's Advisory Board for comments. The recommendations, and reasons for making them are included in a final report on the reference that is sent to the Prime Minister to be tabled before the Legislative Assembly.

Law Reform Process



In carrying out its work, the Commission engages in various forms of consultations with its various stakeholders. These can range from focus groups to Working Groups as well as meetings on a one to one basis. The Commission will use any form of consultation it sees fits to gather information that would assist with its reference. Below are some examples of different forms of consultation used by the Commission.

CRIMINAL WORKING GROUP

This Working Group was established to assist the Commission with its major reference into criminal law, which includes reviews of the *Crimes Ordinance 1961*, *Criminal Procedure Act 1972*, the *Evidence Ordinance 1962* and the development of a Sentencing Bill. The Working Group consists of the SLRC and key stakeholders in the justice system and was chaired by the AGO. This Working Group submitted a report and recommendations to the Commission’s review of the *Crimes Ordinance 1961*.

PRISONS WORKING GROUP

This Working Group was established to look into the review of the *Prisons Act 1961*. The Working Group consists of the MOH, PSC, MJCA, MWCSO, NHS, AGO and was Chaired by the Ministry of Police. The SLRC was also a member of this WG.

SECONDMENTS

▪ **Rolling Secondment from AGO**

The Attorney General approved the release of five (5) of the newly returned law Clerks to work for the Commission through a system of rolling secondments. This secondment program has worked well, particularly given staff shortages at the Commission at the end of 2009. The secondments lasted three months each, and the program was completed at the beginning of 2010. This was very successful and as a result two of these Law Clerks have applied to work for the Commission permanently. The staffs are Elemesi Schmidt, Phaedra Valoia, Cecily Faasau, Wendy Pogi and Kaisarina Salesa.



Wendy Pogi



Phaedra Valoia



Elemesi Schmidt



Kaisarina Salesa



Cecily Faasau

▪ ***District Court Act 1969 and the Magistrate Court Rules 1971 (MoPP) 9 Jan – 11 Jan 2011***

Our Legal Analyst Kaisarina Salesa who is the desk officer for the review of the *District Court Act 1969* and the *Magistrate Court Rules 1971* was seconded to the Ministry of Police Prosecutions Division as part of preliminary consultations for this review.

The objective of the secondment was to gain an insight into police procedures and court work. Our Legal Analyst was able to observe the police’s relationship with the District Courts and discuss any issues regarding the procedures of the District Court and the jurisdiction of the Court itself.

- **Magistrates Court Rules 1971 (MJCA) 14 March 2011 – 18 March 2011**

Following an insightful secondment with the Ministry of Police, a request was sent to the MJCA for the Legal Analyst Kaisaraina Salesa to be based at MJCA for observation. This secondment lasted from 14 to 18 March 2011. The objectives to this secondment were to gain an understanding of how the District Courts operate, the direction that the Registrars think fit to take regarding the Court Rules, and management of cases by the Registrars.

Both secondments with the Police Prosecutions Division and the MJCA proved to be very useful. The Commission sees secondments of this kind as a valuable way to gain a better understanding of the issues in practice and to guide the Commission's examination of relevant issues and questions. The secondments also provide a lot of useful and discerning information on possible ways of approaching these reviews.

PART 4: EXTERNAL RELATIONS

The Samoa Law Reform Commission is encouraged to participate in any Committees or workshops that they are invited to attend. All opportunities to present to other government agencies, to students and to members of public are welcomed by the Commission as it raises the profile of the Commission and increases the community's understanding of its work.

PRESENTATIONS

Samoa Conference II, 8th July 2010. National University of Samoa

The Executive Director was invited to give a Summation on Law, ethics, social justice and globalization. The theme of this year for the Samoa conference is "Tracing footprints of tomorrow: past lessons, present stories, future lives.

Protection of traditional knowledge and expressions of culture

The Samoa Law Reform Commission was invited to present papers on the protection of traditional knowledge and expressions of culture at the following conferences and workshops. Principal Legal Analyst Houlton Faasau presented at the below workshops.

- ***The UNESCO/Ministry of Education, Sports and Culture (MESC) Workshop on Traditional Knowledge and Expressions of Culture, 16-18 June 2010.***

The Workshop discussed a strategy and action plan for strengthening the safeguarding of the intangible cultural heritage in Samoa by making use of different policy instruments and practical tools made available through UNESCO's programme in this field. It also examined the opportunity presented by the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage. Participants included parliamentarians, traditional chiefs and representative of cultural institutions and women's association. The 2nd day of the Workshop was devoted to presentations by national experts on different ICH aspects, such as language, tattooing, boat building, handicrafts, flower arrangements, performing arts, wood carving, etc. The Samoa Law Reform Commission also presented on its work on the Protection of Samoa's Traditional Knowledge and Expressions of Culture.

- ***The New Zealand Centre for International Economic Law Conference on "Trade, Intellectual Property and the Knowledge Assets of Indigenous Peoples: The Developmental Frontier", in Wellington, New Zealand: 08 - 10 December 2010***

The focus of this conference was on developmental possibilities for knowledge assets as they have become increasingly important in global, regional and national markets. If these developmental possibilities are to be realized new institutional and governance approaches will have to evolve that are responsive to the needs and preferences of indigenous peoples. The conference discussed linkages between trade, intellectual property, traditional knowledge assets (including traditional cultural expressions) and the development aspirations of indigenous peoples. The conference was purposed to share knowledge, ideas and experience of how markets and trade affect indigenous peoples and ways in which indigenous peoples might harness economic opportunities to benefit from and support their unique heritage of knowledge. The Samoa Law Reform Commission presented an update on its work on the



Houlton Faasau, Principal Legal Analyst presenting at the Measina Conference, 1st September 2010

Protection of Samoa's Traditional Knowledge and Expressions of Culture. The conference had particular focus on New Zealand, the Pacific Islands and Australia.

- ***The Measina a Samoa Conference, hosted by the National University of Samoa, 1st September, 2010***

The theme for this year's Measina Conference is, 'E le o le fusiga po'o le fisiga a'o le niusina o le fa'asamoa: In search for the core elements of the fa'asamoa'.

This year's conference provided an opportunity for Samoans to look at themselves critically and identify the core elements and associated values of their way of doing things — the fa'asamoa.

The SLRC presented at this conference and an article was in the

Samoa Observer dated 2 September 2010 on the presentation by the Commission on the protection of traditional knowledge.

World Congress on Adult Guardianship Law, Yokohama, Japan: 01 – 04 October 2010

The Executive Director attended a World Congress on Adult Guardianship Laws", Yokohama, Japan: 01 – 04 October 2010. The Executive Director presented on the UN Convention on the Rights of persons with disabilities and consequences for Samoa's National Guardianship Laws.



***Executive Director at Yokohama, Japan
October 2010***

Samoa National Consultation on Advocacy Strategies for Advancing Legislative Change to address Violence Against Women, Apia, 18 January 2011



Participants of Samoa National Consultation on Advocacy Strategies for Advancing Legislative Change to address Violence Against Women, 18 January 2011



***Executive Director Leilani Tuala-Warren
presenting at the workshop 18 January 2011***

The Samoa Law Reform Commission was invited to present on the law reform process in Samoa at this Seminar. The Executive Director presented a paper on the process of Law Reform.

Guest Lecturers at the National University of Samoa, 20 April 2011

Staff from the Samoa Law Reform Commission Kaisarina Salesa and Ulupale Fuimaono were Guest Lecturers at the National University of Samoa on the Law Reform Process in Samoa on 20 April 2011.

Faafafine Association Conference, 30 May 2011

The Samoa Law Reform Commission was invited to the Faafafine Association Conference to speak on Law Reform and the Crimes Ordinance Review on 30 May 2011. Ulupale Fuimaono and Malaea Feterika attended on behalf of the Commission to brief the association.

Guest Speaker at Maori Law Society Dinner, 30 June 2011

The Executive Director was invited to be the guest speaker at the Maori Law Society Dinner on 30 June 2011 to honour the Honourable Georgina Te HeuHeu, NZ Minister for Pacific Affairs.

Australasian Law Reform Agencies Conference, Brisbane, Australia: 08 – 10 September 2010

The Executive Director and Principal Legal Analyst Ulupale Fuimaono attended the above conference.

The theme of this conference was 'Law Reform: Relationships and the Future'. The SLRC was asked to present on 'Creating a new law reform Commission in the Pacific'. Samoa and NZ were the only two foreign law reform commissions which presented at the conference. The rest of the presenters were from around Australia.



Executive Director at Maori Law Society Dinner with Judge Craig Coxhead of Maori Land Court, 30 June 2011

The focus was not only on sharing the experience of creating a new law reform commission and what has been done to date, but it was also used as an opportunity to acknowledge the assistance given by other law reform agencies to SLRC and to seek out creative ways in which more established law reform agencies can assist SLRC within reason.

The end result was the volunteer of time for the buddy system from Mary Anne Kenny, Chair of the Law Reform Commission of Western Australia, and Amanda Alford of the Australian Law Reform Commission. This means that they will be available to assist and read reports drafted by the new lawyers to the SLRC.

The attendance of SLRC at this conference was extremely valuable as SLRC is slowly building up a profile in our region and internationally. The biggest achievement is building networks with the more established law reform agencies who can help SLRC in its strive to be the most productive and respected law reform commission in the region.

With the support of the Attorney General, Samoa put forth an invitation to host ALRAC in 2014 which was accepted. ALRAC will be held in Samoa in 2014 and SLRC will make the necessary Cabinet submission in 2013.

COMMITTEES AND PARTNERSHIPS

Law and Justice Sector Steering Committee

The Commission is an agency of the Law and Justice Sector (LJS). The Law and Justice Sector Plan 2008-2012 has been developed by the newly established Law and Justice sector comprising of the Attorney-

General's Office (AGO), the Ministry of Justice & Courts Administration (MJCA), the Ministry of Police and Prisons (MoPP), the Office of the Ombudsman, the Ministry of Women Community & Social Development (MWCSO); and two central agencies, specifically the Ministry of Finance (MoF) and the Public Service Commission (PSC). There is also representation from the private sector and Non Governmental Organizations. This Plan translates the national strategic plan (Strategy for the Development of Samoa - SDS) into development goals / objectives and activities for the law and justice sector.

The Law and Justice Sector holds monthly meetings for agencies to give updates of the work of their agencies. The LJS is funded by the Australian government and the Commission is grateful for LJS assistance in funding some of its projects.

There are subprojects under the Law and Justice Sector that the Commission has been involved in as part of the Sector. These projects are as follows.

- ***Customary & Community Based Justice (Fautasi Taskforce)***

The objective of this Taskforce is to progress activities which focus on the promotion and integration of customary and community based justice. The taskforce will endeavour to provide a consultative harmonization of customary and community based justice with the formal legal system in Samoa. The name Fautasi in this context refers to the harmonization of the formal legal systems and customary/community based system in attempts to work together for the benefit of the people of Samoa. Principal Legal Analyst Ulupale Fuimaono was part of this taskforce together with other agencies of the sector in their consultations on the 12 November 2010 in Salelavalu and the 16 November 2010 in Vaiusu in which they presented on issues that relate to good governance, criminal offences, Customary land, fisheries and Lands and title Courts.



- ***Performance Monitoring and Evaluation Framework (PMEF) Taskforce***

Malaea Feterika, Principal Legal Project Coordinator was part of this Taskforce together with other agencies of the Sector. This taskforce worked together with the PMEF Consultant to finalize a Performance Monitoring and Evaluation framework as well as Goals strategies Outcomes Indicators Matrix (GSOIM) which was approved by steering Committee on the 1st September 2010.

SQA – Advisory Committee

The Law Reform Commission was invited by the Samoa Qualifications Authority (SQA) to be part of an Advisory Committee to the SQA for the establishment of standards and qualifications in traditional knowledge and expressions of culture. The Commission's contributions to the work of the Advisory Committee are drawn from its experiences and work on the reference for the protection of Samoa's traditional knowledge and expressions of culture.

Convention on the Rights of the Child (CRC) Partnership

The Samoa Law Reform Commission was invited by the Ministry of Women, Community and Social Development (MWCSO) to be part of the CRC Partnership. The CRC Partnership includes members drawn

from both the public and private sectors. The Commission is an active member of the Partnership giving advice and guidance on policies and law reform issues relating to children as evident in its contributions to the CRC matrix compiled by the MWCSO for reporting purposes to the United Nations Committee on the Rights of the Child.

CEDAW Partnership

The Samoa Law Reform Commission was invited by the Ministry of Women, Community and Social Development (MWCSO) to be part of the Convention on the Elimination of Discrimination Against Women (CEDAW) partnership. As with the CRC partnership, the CEDAW Partnership includes members from both public and private sectors and the Commission provides the Partnership with advice and guidance on policies and law reform issues relating to women.

Crime Prevention Taskforce

The Samoa Law Reform Commission was invited to be a member of the Crime Prevention Taskforce. The objective of this Taskforce is to draft a National Policy for Crime Prevention in Samoa.

Prisons Taskforce

This taskforce was formed to consider a feasible way of separating prisons from Police. The Commission played an active role in this taskforce.

ADVICE

MCIL – Independent Review of Intellectual Property Laws by the Ministry of Commerce, Industries and Labour

The Ministry of Commerce Industries and Labour (MCIL) requested the Law Reform Commission's assistance to review and comment on a copy of a draft report on public consultations for MCIL's independent review of Intellectual Property Laws of Samoa (Copyright, Trademarks, Patent, Industrial Design, Geographical Indications, Plant Breeder's Rights and Circuit Layouts). The Commission reviewed and submitted its recommendations to MCIL on 10 June 2011.

MCIL- National Intellectual Property Strategy

The Ministry of Commerce Industries and Labour (MCIL) requested the Law Reform Commission's help to review and comment on a draft of National Intellectual Property Strategy for Samoa. The Commission submitted its recommendations to MCIL on 28 June 2011.

TRAINING WORKSHOPS

SPC/RRRT Human Rights Training

The SPC/Pacific Regional Rights Resource Team (RRRT) conducted a training session on human rights for the Samoa Law Reform Commission from 23 to 26 May 2011. The training was in response to a request from the Commission. Overall, the training was a capacity-building exercise for the Commission's staff. The objectives and outcomes of the training gave direction in identifying sources of human rights law; application of the principles of the rights-based approach to law reform; carrying out a human rights analysis of legislation; and discussing human rights law reform issues that need attention in Samoa. The knowledge gained from the training will help inform the staff of the Commission of human right concerns when undertaking law reform work.

Lawyers and participants from Government Departments, Government Corporations and the Private Sector also attended on an invitation extended by the Commission.

Training on Law Reform Process

In September 2010 Ms Laura Watts from the British Columbia Law Institute visited the Commission for a week to conduct trainings for the legal and support staff on project management and support. This was a great opportunity for the staff to revisit the Commission's processes and procedures in law reform. This has brought to the fore the importance of building networks with other more established law reform agencies in the world.



Project Management Training for the Public Sector, funded by PSIF in collaboration with Victoria University, February – December 2010

Malaea Feterika, Principal Legal Project Coordinator was selected to attend two programs namely Certificate IV in Training and Assessment and Diploma of Government. This training was offered by the Public Sector Improvement Facility (PSIF) in collaboration with Victoria University. The overall purpose of this program is to improve the quality of project management within the Samoa public sector. This will be achieved by delivering internationally recognised qualifications in public sector project management and workplace training and assessment. The Certificate IV in training and Assessment was from February – July 2010 and Diploma in Government was from July-December 2010.

MEETINGS/CONFERENCES SEMINARS

Seminar on Judicial System Construction for Developing Countries, Peking University, Beijing China: 14 - 27 June 2011.

Executive Director, Leilani Tuala-Warren attended the "Seminar on Judicial System Construction for Developing Countries" with Kalameli Seuseu of the Attorney General's Office. The Seminar was held at the Peking University, Beijing China: 14 - 27 June 2011.



Executive Director and Kalameli Seuseu with participant at Beijing China June 2011

Pacific Islands Law Officers Network, Port Villa, Vanuatu: 02 – 08 December 2010

Principal Legal Analyst Ulupale Fuimaono attended the Conference on "Pacific Islands Law Officers Network" in Port Villa, Vanuatu: 02 – 08 December 2010

Media & Advocacy Skills Training Workshop, 9 September 2010, Apia Samoa

Malaea Feterika and Kaisarina Salesa attended this workshop funded by PIANGO and SUNGO. This was a useful training to get insights into basic journalism skills to engage with the mainstream news media as well as skills to write effective Press releases for utilization by radio, television and print media outlets. The other objective of the workshop is for participants to be able to effectively apply advocacy skills to facilitate media, government and public engagement of critical development and issue-based information, and enable participants to plan and develop effective communications strategies to obtain maximum media mileage of critical issues.

The Pacific Regional Meeting on Ratification and Implementation of the UN Convention Against Corruption” APIA, Samoa: 19 – 22 July 2010

Legal Analyst Kaisarina Salesa attended “The Pacific Regional Meeting on Ratification and Implementation of the UN Convention Against Corruption” APIA, Samoa: 19 – 22 July 2010.

Seminar – Environment Protection and Biodiversity Conversation a view from Australia, Apia, Samoa, 12 April 2010.

Principal Legal Analysts Houlton Faasau and Ulupale Fuimaono attended the above Seminar. This seminar was hosted by Australia’s Environmental Defender’s Office (EDO), Sydney, Australia in collaboration with the Ministry of Natural Resources and Environment. The subject of the seminar was environmental protection and Biodiversity conservation – a view from Australia. The presenters also discussed Australia’s Environment Protection and Biodiversity Conservation Act 1999. The EDO is an Australia-wide network of not-for-profit community legal centres specializing in public interest environmental law for 25 years. It does a lot of work in the Pacific on capacity building with those working in public interest environmental law.

WIPO Regional Seminar on IP and TK, Generic Resources and Traditional Cultural Expressions, Bangkok Thailand: 16 – 17 December 2009

The Executive Director attended the “WIPO Regional Seminar on IP and TK, Generic Resources and Traditional Cultural Expressions”, Bangkok Thailand: 16 – 17 December 2009.

VOLUNTEERS

The Commission has continued dialogue with its International partners for possible Lawyers that can volunteer their time to work for the Commission. The Executive Director’s familiarization visits to well established Law Reform agencies helped to secure this. The aim of this initiative is to build the capacity of the Commission’s legal staff in law reform work, as well as to exchange experiences and knowledge of law reform with lawyers in the region. Volunteers are lawyers who have given their time at their own expense to work for the Samoa Law Reform Commission. The Commission is grateful for the invaluable contribution of volunteers. The following volunteers have worked at the Commission



Laura Watts, a lawyer with the British Columbia Law Institute volunteered her time to conduct training for the SLRC in November 2010. She continues to provide a valuable service in editing the Final Reports of the SLRC.



Lisa Eckstein joined the Commission on the 16 April - 31 July 2010. She was the first volunteer to join the Commission and was of great assistance in up-skilling the staff in the process of law reform. Lisa was previously a lawyer with the Australian Law Reform Commission.

INTERNSHIPS

The Commission continues to bring in unpaid internships for students from Universities around the region. The SLRC values the participation and the contribution of the interns to the work of the Law Reform Commission. Their research expertise has strengthened the capacity of the Commission.

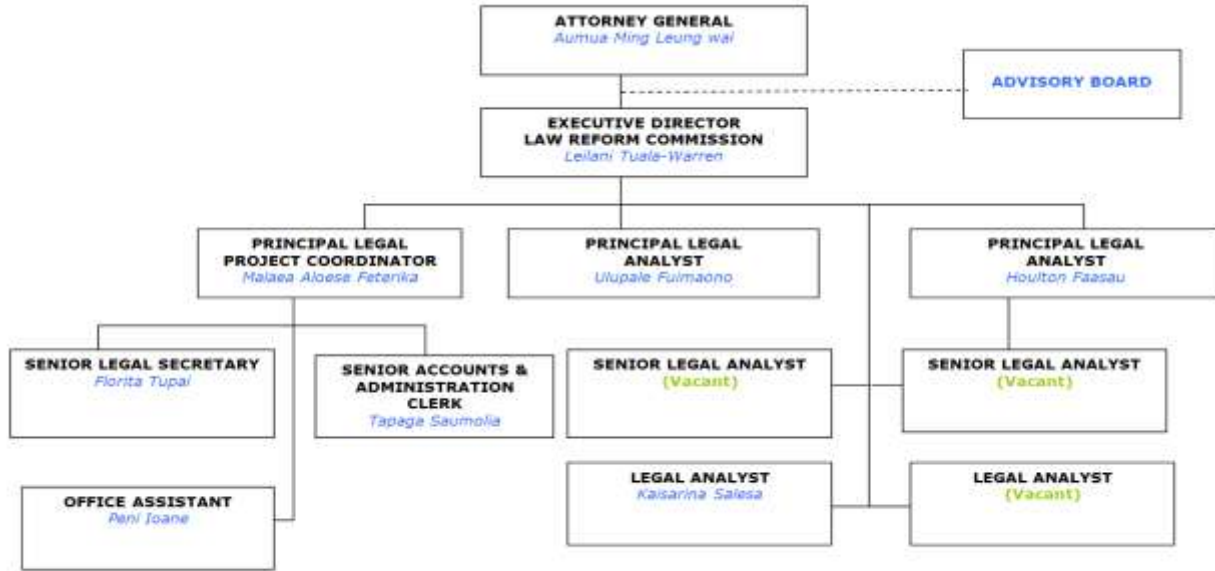


Brooke Nelson joined the Commission as an intern from Brigham Young University, Utah in July 2010 for one month. The Commission was grateful for Brooke's assistance in research and legal writing. She was working on a research paper on Adult Guardianship Law.

Eike Fesefeldt joined the Commission as an intern. He is from the Victoria University School of Law. He commenced work on the 18 April -13 May 2011. He was conducting research on the District Court Rules.

The Commission encourages expressions of interest in unpaid internships at the Commission from all law schools as well as other organizations to assist with its work. The Commission has continued dialogue with Universities of Waikato and New South Wales to ensure the internship programme continues to assist in building the skills and capacity of the Commission in its law reform work and provide invaluable experience in law reform to our interns.

PART 5: STAFF AND RESOURCES



STAFFING



Wendy Pogi

The Commission now has six Legal Staff with a Principal Legal Analyst position established and two Legal Analyst positions. In July 2010 we welcomed 2 new staff members, our Office Assistant and Senior Accounts & Administration Clerk. One of our Legal Analysts, Wendy Pogi, resigned to take up a position in the Cook Islands, and while this was a loss to the Commission, the Commission is happy that Wendy was able to secure this promotion.

The Commission envisages that its structure will grow once it is separated from the Attorney General's Office in the next Budget. The Commission's current office space is too small to accommodate the increase in its staff and the Commission will relocate in the near future to larger offices in the Government Building.

BUDGET 2010-2011

The SLRC was operating below the Line under the AGO's Budget.

Personnel	366,618.00
Operating	63,620.00
Capital Cost	16,800.00
TOTAL BUDGET	ST447,030

SLRC STAFF



**Peni Poli and
Tapaga Saumolia**



**Houlton Faasau and
Ulupale Fuimaono**



Florita Tupai



Kaisarina Salesa



**Malaea Aloese-
Feterika**



**Staff farewelling
Wendy Pogi**