




**GOVERNMENT OF SAMOA**

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**Samoa**  
**Law Reform Commission**

Komisi o le Toefuataiga o Tulafono a Samoa



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# **ANNUAL REPORT**

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July 2011 – June 2012

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## 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 third Annual Report for the Samoa Law Reform Commission for the period of July 2011 - June 2012 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 Fatialofa Lupesoliai Dr. Sailele Malielegaoi

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



## **GOVERNMENT OF SAMOA**

Honourable Tuilaepa Fatialofa Lupesoliai Dr. Sailele Malielegaoi

### **PRIME MINISTER AND MINISTER FOR THE SAMOA LAW REFORM COMMISSION**

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(Leilani Tuala-Warren)

**EXECUTIVE DIRECTOR**

**SAMOA LAW REFORM COMMISSION**

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## FOREWORD



Hon. Tuilaepa Fatialofa Lupesoli'ai  
Dr. Sailele Malielegaoi  
**PRIME MINISTER and MINISTER FOR  
THE SAMOA LAW REFORM  
COMMISSION**

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I am pleased to present the third Annual Report (July 2011 – June 2012) of activities and accomplishments of the Samoa Law Reform Commission since its establishment in 2008.

The establishment of the SLRC is a milestone for Samoa as this is one of the Government's initiatives that has been in the 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.

The Commission is instrumental in giving unbiased legal policy advice to government. Let us as a country assist in formulating useful laws and policies for Samoa.

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Hon. Tuilaepa Fatialofa Lupesoli'ai  
Dr. Sailele Malielegaoi  
**PRIME MINISTER and MINISTER OF  
THE SAMOA LAW REFORM  
COMMISSION**

## EXECUTIVE DIRECTOR'S REPORT



Leilani Tuala-Warren  
**EXECUTIVE DIRECTOR**  
**SAMOA LAW REFORM COMMISSION**

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This third year of the Commission has been productive. Law reform work is slow and time consuming because there is a law reform process which ensures the end product is of the highest quality. This year has seen the completion of Final Reports or reviews that began in 2009. Our second Annual Report covering the period from 01 December 2009 to 30 June 2010 and the financial year from 01 July 2010 to 30 June 2011 was sent to the Office of Legislative Assembly in November 2012 for tabling in Parliament. This is our third Annual Report since establishment in 2008, and covers the period from 01 July 2011 to 30 June 2012.

Listed below are the highlights of the twelve months period for SLRC:

✚ In March 2011, Cabinet approved the separation of the Samoa Law Reform Commission from the Attorney

General's Office. The Commission is now independent and the separation was effective as of July 2011.

✚ In July 2011, the Commission's Final Reports on *Law Practitioner's Act 1976* was approved by Cabinet. The report makes 44 recommendations and all of which point to the need for a new Lawyers Act. This report is now being bound for tabling in Parliament in its next meeting this year 2012.

✚ The Commission's Final Report on *Prisons Act 1967* was also approved by Cabinet in July 2011. The report produces 44 recommendations and all of which point to the need for a new prisons legislation given that the current Act was in operation for more than 30 years. This report is also being bound for tabling in Parliament in its next meeting this year 2012.

- ✚ The Commission officially launched its website in July 2011. Our keynote address was delivered by the Prime Minister and Minister responsible for the Samoa Law Reform Commission, His Hon. Tuilaepa Lupesoliai Sailele Malielegaoi. With our website, the SLRC is able to publicize its work widely and network with other Law Reform Commissions. More importantly, it allows the public to make online submissions and build better relationships around the world.
- ✚ Two volunteers from Australia and Germany joined the Commission in September 2011 for three months indicating the continuous support from the Commission's International counterparts who volunteer their time to work for the Commission.
- ✚ Public consultations for the review of the *Village Fono Act 1990* were conducted in September 2011 around Upolu and Savaii. SLRC in collaboration with the Law and Justice Sector agencies engaged in these public consultations.
- ✚ In February 2012, the Commission's Final Report on *Criminal Procedure Act 1972* was approved by Cabinet. The report contains 34 recommendations for reform. This report is now being translated for Parliament.
- ✚ In April 2012, the Commission relocated to its new office to the first level of the Government or FMFMII Building.
- ✚ The SLRC participated in celebrating the Samoa's 50 years of Independence on the 1<sup>st</sup> June 2012.
- ✚ In June 2012, the Commission released its first series of Issues Paper for the review of the *Supreme Court Civil Procedure Rules 1980 and District Court Rules 1971* and commenced key stakeholders and collaborating agencies consultations. Public written submissions were also welcomed by the Commission.
- ✚ The Commission's Issues Paper on *District Court Act 1971* was released in June 2012 for public and key stakeholders' submissions. The consultations were also commenced in June of the same year.
- ✚ The Commission welcomed two unpaid interns from Brigham Young University in Utah and University of New South Wales in Australia in June 2012. The Commission continues to engage in internship programs because they are mutually beneficial.
- ✚ Commission staff attended various trainings overseas and gave speeches and presentations on a range of law reform topics.

I wish to acknowledge the Law and Justice Sector for the continuous funding of our projects. I also wish to thank our overseas counterparts who have always assisted us with our references, including the New Zealand Law Commission, Australian Law Reform Commission and the New South Wales Law Reform Commission. To the Chairman and members of our Advisory Board, thank you for all your support and contribution to the work of the Commission. To the Staff of the SLRC, thank you for all your hard work.

More importantly, the Commission would like to acknowledge the support by our Minister, the Prime Minister Hon. Tuilaepa Lupesoliai Sailele Malielegaoi in driving a courageous law reform agenda.

Despite the many challenges faced by the Commission, we always pursue our mission with enthusiasm and remain true to our mandate to review, reform and develop the laws of Samoa.

As we slowly work our way to becoming the most effective law reform agency in the Pacific, we continue to welcome feedback on ways in which we can improve our engagement with the public.

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Leilani Tuala-Warren  
**EXECUTIVE DIRECTOR**  
**SAMOA LAW REFORM COMMISSION**



## 1. LIST OF REFERENCES

<b>REVIEWS COMPLETED</b>	
1. Daylight Savings	Approved by Cabinet on the 14 October 2009, Act drafted by the SLRC
2. Crimes Ordinance 1961	Final Report tabled in Parliament on the 06 December 2010
3. International Dateline	Recommendation approved by Cabinet on the 27 May 2011, Act drafted by SLRC
4. Coroners Ordinance 1959	Sent to the Office of the Legislative Assembly for tabling in Parliament on the 12 April 2012
<b>FINAL REPORTS COMPLETED</b>	
5. Judicature Ordinance 1961	Final Report approved by Cabinet on the 20 April 2011
6. Prisons Act 1967	Final Report approved by Cabinet on the 06 July 2011
7. Law Practitioners Act 1976	Final Report approved by Cabinet on the 13 July 2011
8. Commissions of Inquiry Act 1964	Final Report approved by Cabinet on the 30 November 2011
9. Criminal Procedure Act 1972	Final Report approved by Cabinet on the 15 February 2012
10. Village Fono Act 1990	Final Report sent to Cabinet for approval on the 29 June 2012
<b>FINAL REPORTS IN PROGRESS</b>	
11. Media Regulation	Final Report in progress
12. Care and Protection Legislation to Protect Children	Final Report in progress
13. Protection of Traditional Knowledge and	Final Report in progress

Expressions of Culture	
<b>ISSUES PAPER/DISCUSSION PAPER</b>	
14. District Court Act 1969	Issues Paper sent to Cabinet for their information on the 03 May 2012
15. National Heritage Board	Discussion Paper approved by Cabinet on the 18 June 2012
16. Civil Procedure Rules (Magistrate & Supreme Court Rules)	<ul style="list-style-type: none"> <li>• 1<sup>st</sup> series Issues Paper sent to Cabinet for their information on the 03 May 2012</li> <li>• 2<sup>nd</sup> series Issues Paper in progress</li> </ul>
<b>PIPELINE PROJECTS</b>	
17. Adult Guardianship Laws	Preliminary consultation stage
18. Compliance with environmental Obligations	Preliminary consultation stage
19. Sentencing Bill	Preliminary Consultation stage
20. Evidence Act 1961	Preliminary Consultation stage
21. Review of Ministries Act	<ul style="list-style-type: none"> <li>• Complete review of MWTI</li> <li>• Review of MCIL in progress</li> </ul>
<b>ON-GOING PROJECTS</b>	
22. Convention of the Elimination of all Forms of Discrimination against Women	
23. Convention on the Rights of the Child	
24. Convention of the Rights of Persons with Disabilities	

## 2. ABOUT THE COMMISSION

### Who We Are

The Samoa Law Reform Commission was established in 2008 as an independent body corporate governed by the *Law Reform Commission Act 2008* to undertake the review, reform and development of the laws in Samoa.

The establishment of SLRC is vital due to the need for new laws to be drafted for Samoa which takes into account the circumstances and needs applying to Samoa. SLRC is funded by the Government and assisting aids from Australia through the Law and Justice Sector.

### Mandate

Pursuant to Section 4 of the Law Reform Commission Act 2008 the SLRC is mandated to facilitate the review, reform and development of the laws of Samoa in order to:

- a) promote Samoan customs and traditions;
- b) enhance the social, cultural, economic and commercial development of Samoa; and
- c) ensure that the laws of Samoa are kept in a modern state which meets the needs of Government and the community.

### Functions of the SLRC

It is the role of the SLRC to carry out major law reform.

Under the Law Reform Commission Act 2008, the functions of the SLRC are set out in Section 6. These functions are:

- a) to recommend to the Attorney General suggested programs for the reform of the laws of Samoa;
- b) in accordance with references made to it by Prime Minister, Cabinet or the Attorney General (whether at the Commission's suggestion or otherwise), to research and analyse 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

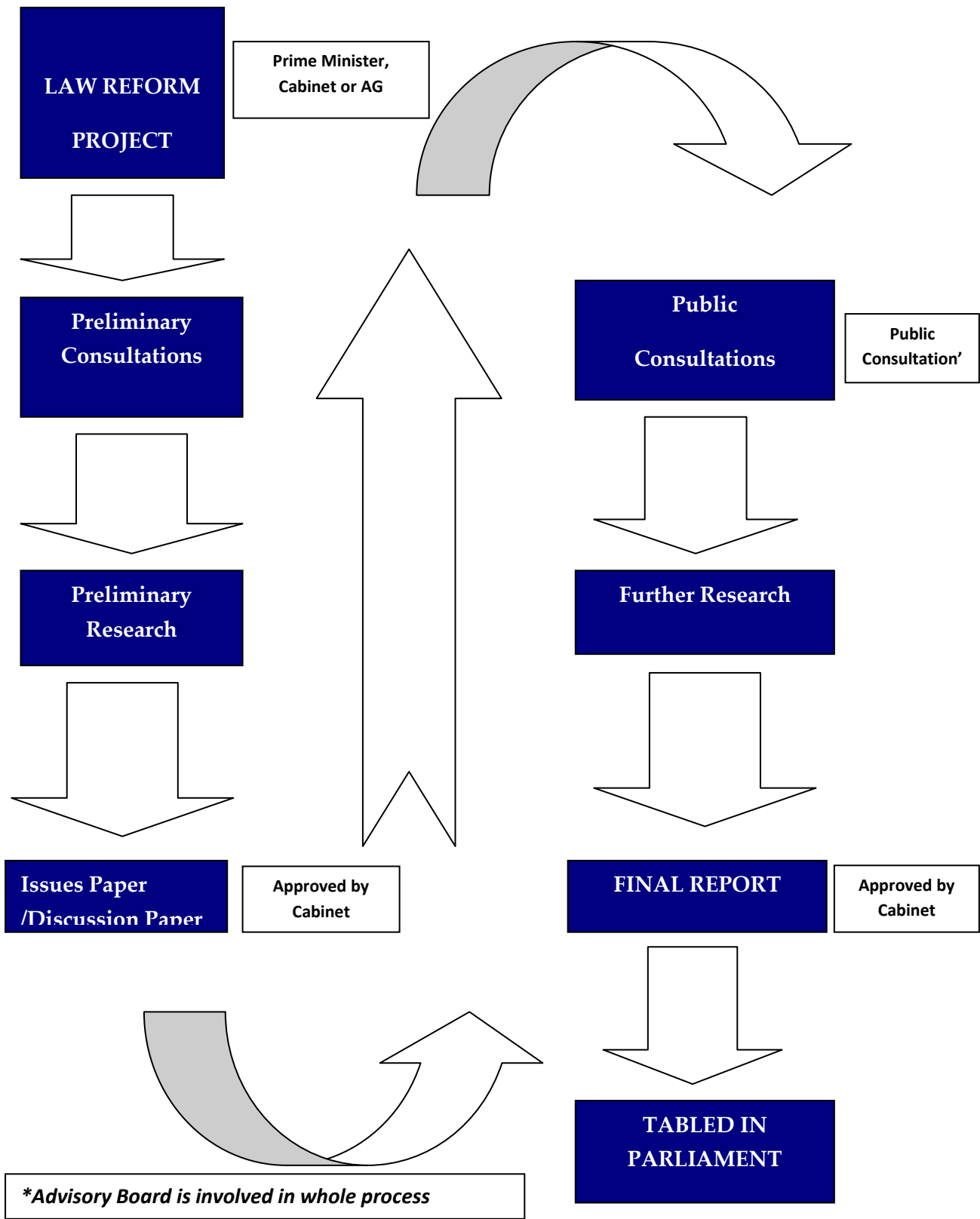
The SLRC is assisted by an Advisory Board that convenes at least four times annually as directed by the Prime Minister or the Attorney General and they are also involved in the whole law reform process.

The Advisory Board in accordance with its Terms of Reference approved by Cabinet receives reports on law reform projects currently undertaken and to be undertaken. From these reports the Advisory Board are to recommend the process and outcomes desired for each project. Additionally they also recommend areas of law to be reviewed and/or reformed so that the SLRC can recommend to the Attorney General. They also approve the recruitment and appointment of Commissioners to assist the SLRC with its work.

### **The Board consists of the following:**

1. Attorney General (Chairman);
2. CEO of Ministry of the Prime Minister and Cabinet;
3. CEO of the Ministry of Justice and Courts Administration;
4. CEO of the Ministry of Finance;
5. CEO of the Ministry of Women, Community and Social Development;
6. Commissioner of Police Services;
7. President of the Samoa Law Society or nominee;
8. President of the Samoa Chamber of Commerce and Industry Inc or nominee;
9. President of the National Council of Churches or nominee;
10. President of the Public Service Association or nominee;
11. President of SUNGO or nominee;
12. President of the Medical Association or nominee;
13. Matai from Upolu; and
14. Matai from Savaii.

### 3. THE COMMISSION'S PROCESS



## Law Reform Process

The Commission's process which is based on its functions from section 6 of its Act means the Commission receives its references from either the:

- i. Prime Minister;
- ii. Cabinet; or
- iii. The Attorney General.

These references are accompanied by a:

- i. Terms of Reference issued by the AG; or a
- ii. Cabinet Directive (F.K) from the Prime Minister and Cabinet setting out the scope of the reform.

## Issues Paper/Discussion Paper

The purpose of the IP or DP is to set out background information about the reference to facilitate stakeholders and public consultations on options for reform. The Commission upon receipt of a reference will carry out its *independent and preliminary research and consultation* by identifying problems or issues that a particular reference is trying to resolve.

This is done by way of:

- Creating working groups with stakeholders; or
- Individual consultations with interested parties.

The IP or DP also raises questions that depict the issues already identified by the Commission and its stakeholders and will then be given to the PM and Cabinet for their approval so that it can be disseminated to the public.



The following illustrates the Commission's IP and DP completed and/or those in progress for this financial year **2011-2012**:

ISSUES PAPER/DISCUSSION PAPER	STATUS
<b>1. Freedom of Religion and Village Fono Act 1990</b>	i. Recommendations by the SLRC on Commissions Of Inquiry recommendations in its report on the issue of Freedom of Religion were submitted to Cabinet on the 20 June 2011.  ii. Public consultations commenced in September 2011
<b>2. Media Regulation</b>	ii. Discussion Paper sent to Cabinet for their information on the 16 December 2011  v. Consultations with JAWS commenced on the 7 February 2012
<b>3. District Court Act 1969</b>	i. Issues Paper sent to Cabinet for their information on the 03 May 2012  ii. Stakeholder and public consultations in progress
<b>4. Civil Procedure Rules (Magistrate &amp; Supreme Court Rules)</b>	i. Issues Paper 1 sent to Cabinet for their information on the 03 May 2012  ii. Issues Paper 2 in progress
<b>5. National Heritage Board</b>	i. Discussion Paper approved by Cabinet on the 18 June 2012  ii. Stakeholder and Public Consultations in progress

## Consultations

Once Cabinet approval is granted for the Commission's IP or DP, the Commission will move to the next stage of its process which is *public consultations*, whereby the community is consulted on areas of law or the issues that affect them. This gives the public the opportunity to be heard and for their views to be taken into account.

One of the most important functions of SLRC is its consultations with the public, as it satisfies the Commission's mandate. Consultations may take several forms and occurs at several different stages in each inquiry. Since the establishment of SLRC in 2008, the Commission has conducted consultations by way of three methods: *i) Individual (one-on-one) Consultations, ii) Stakeholders Consultations; and iii) Public Consultations.*

### *Individual (One-on-one) Consultations*

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Individual consultations target people who are either experts in the particular area under review or those who have a direct stake in the project to submit their views on any particular inquiry by the Commission. These individuals may be retired professionals/academics, students, a village high chief (matai), a priest or those who have a profound knowledge of a specific review conducted by the Commission.



It can be face-to-face or long distance via telephone and sometimes by email and is handled by the Commission's representative responsible for the inquiry.

### *Stakeholders' Consultations*

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At the initial stage of the Commission's review, the SLRC establishes and chairs either a working group, steering committee or an advisory committee with relevant Government Ministries and external stakeholders with the aim of raising issues of concern in practice for a particular reference. This creates a series of opportunities to foster understanding about the project among those likely affected or interested as well as learning how stakeholders view the project and its attendant risks, impacts, opportunities and mitigation measures. Engaging the Commission in stakeholders' consultations can also form a basis for future collaboration and partnership.



## *Public Consultations*

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This is a regular process by the Commission in which the public's input on matters or issues affecting them are sought. The public and the community is notified by the Commission through newspaper, television and talk-back shows regarding a particular reference for consultation. This is to make sure that the community have the opportunity to be heard on any reviews undertaken by the Commission.



## Submissions

Consultation is essential to developing good policy. Good policy-making and implementation depends on giving all people who may be affected by the policy the opportunity to be heard so that their views are taken into account. These submissions also help government responses to recommendations in the Commission's final reports, by setting out the general consensus by stakeholders and the public as a whole.

The submissions whether written or oral are recorded and compiled by the Commission in order to formulate recommendations for its final reports for Cabinet's approval.

## Final Reports

The Final Report is the final stage of the Commission's process. It concentrates primarily on the Commission's *recommendations* to Government formulated from *submissions* gathered from *consultations* and the results of its *independent research*. Whether the government accepts or implements these recommendations is the government's prerogative.

The Commission's recommendations are evidence-based.

Currently the below table illustrates the Commission's achievements for this financial year 2011-2012 in terms of Final Reports:

FINAL REPORTS COMPLETED		
1. Judicature Ordinance 1961		Final Report approved by Cabinet on the 20 April 2011 This is now being translated and bound for tabling in Parliament
2. Prisons Act 1967		Final Report approved by Cabinet on the 06 July 2011
3. Law Practitioners Act 1976		Final Report approved by Cabinet on the 13 July 2011
4. Commissions of Inquiry Act 1964		Final Report approved by Cabinet on the 30 November 2011
5. Criminal Procedure Act 1972		Final Report approved by Cabinet on the 15 February 2012
6. Village Fono Act 1990		Final Report sent to Cabinet for approval on the 29 June 2012
FINAL REPORTS IN PROGRESS		
7. Media Regulation		Final Report in progress

8. Care and Protection Legislation to Protect Children	Final Report in progress
9. Protection of Traditional Knowledge and Expressions of Culture	Final Report in progress

## 4. MAJOR ACHIEVEMENTS

The following is a snapshot of the Commission's key developments for this financial year July 2011 – June 2012.

### *Village Fono Act 1990 and Freedom of Religion*

A Commission of Inquiry (COI) was appointed in 2010 to inquire into the issue of freedom of religion in particular Article 11 of the Constitution that sets out the right to freedom of religion. The COI presented its report to Cabinet for consideration and as a result, the Commission was given a reference by Cabinet to look into the COI Report 2010.

The Commission responded to Cabinet in June 2011, as a feasible option the amendment of the Village Fono Act 1990 to address concerns relating to the powers of the village fono and the establishment of new churches. The Commission also recommended that this approach take into account general applicable laws and the exception provided in Article 11(2) of the Constitution.

Cabinet directive endorsed the recommendation by the Commission to amend the Village Fono Act and to consider general applicable laws and the exception in article 11(2) of the Constitution. Following Cabinet's approval of the Commission's recommendations, the Commission in collaboration with the Law and Justice Sector partners engaged in public consultations in September 2011 on the review of the Village Fono Act as it relates to Art 11 of the Constitution. During public consultations the Commission sought views from stakeholders and members of the public on ways to improve and amend the Village Fono Act to address the issues discussed.

On the 26 June 2012, the Commission submitted its Final Report on the review of the Village Fono Act. It provides a way forward in amending the VFA to ensure that the concerns raised by the COI report and the Commission's submission to Cabinet are





considered and addressed. The Commission is now waiting for Cabinet's approval so that its Final Report can be translated and bound for tabling in Parliament.

### *Media Regulation*

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On the 15 November 2011, the Attorney General referred to the Samoa Law Reform Commission a reference to examine the need for a body to regulate the media in Samoa, and to make recommendations for the establishment of such body. The Commission released its Discussion Paper in December 2011, to provide the public and stakeholders with information about this reference and to present options for reform of the current media regulatory framework in Samoa.

The consultation with Journalists Association of Western Samoa (JAWS) was conducted in February 2012 where both members and non-members of JAWS were consulted. The Commission presented the Discussion Paper with options provided and invited their views and opinions.

The Commission is now in the process of writing its Final Report to incorporating its final recommendations for reform. The Final Report will be submitted to the Prime Minister, Cabinet and the Attorney General for their approval.

### *Judicature Ordinance 1961*

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This reference was referred by the Cabinet and Attorney General in November 2008. Given the kind of issues dealt with in this inquiry, the Commission did not produce an Issues Paper, but instead conducted consultations with the judiciary. 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 tabled before Parliament.

### *Prisons Act 1967*

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The Commission received a reference from Cabinet in 2009 to review the Prisons Act 1967. The SLRC conducted its stakeholders' consultations and produced an Issues Paper. The Issues Paper was disseminated to interested parties as well as the public for their input in order to assist the Commission formulate its final recommendations to the Prime Minister and Cabinet. Public consultations in collaboration with Ministry of Police and Prisons were conducted in November 2010 based on the Issues Paper. Consequently, the Final Report was completed in June 2011 incorporating submissions from the public and stakeholders, as well as independent recommendations by the SLRC on proposed new prisons legislation. The Final Report was approved by Cabinet in July 2011 and is now being translated for tabling in Parliament.

### *Law Practitioners Act 1976*

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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 SLRC 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 at the start of 2010. In June 2011, a Final Report was completed and submitted to Cabinet for approval. This Final Report with the Commission's final recommendations was approved by Cabinet in July 2011 and is now being translated for tabling in Parliament.

### *Commissions of Inquiry Act 1964*

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In November 2008, SLRC was given a reference by Cabinet to review the Commissions of Inquiry Act 1964. This was followed by stakeholders' consultations and preliminary research. An Issues Paper was produced and disseminated to interested individuals and the public for their comments and views. The beginning of 2010, public consultations were conducted based on the issues raised in the Issues Paper. Subsequently, the Final Report was completed in November 2011 incorporating submissions from the public and stakeholders, as well as independent recommendations by the SLRC on best options for reform. In November 2011, the Final Report was sent to Cabinet resulting in the endorsement of the Commission's recommendations for reform. This report is now being translated into Samoan for tabling in Parliament.

### *Criminal Procedure Act 1972*

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In November 2008, the Commission was given a major criminal law reference by Cabinet and the Attorney General. The reference included the review and reform of the *Crimes Ordinance 1962*, the *Criminal Procedure Act 1972*, the *Evidence Ordinance 1962* and the development of a Sentencing Bill.

In March 2010, the Commission released an Issues Paper on the review of the Criminal Procedure Act. This was followed by consultations with members of the judiciary, the legal profession and interested individuals in November 2011 to seek their views about proposed reforms to the CPA. Consequently, the Final Report incorporating submissions from the Commission's stakeholders, interested individuals and independent recommendations by the SLRC was approved by Cabinet in February 2012. This report is currently being translated into Samoan to be tabled in Parliament.

## 5. EXTERNAL RELATIONS

The Samoa Law Reform Commission endeavors to participate in any workshops, trainings, conferences and consultations they are invited to attend. Since its establishment in 2008, the Commission acknowledges the continuous support of its external partners including government ministries by giving the Commission opportunities to present on legal policy issues in relation to any law reform project. This helps raise the profile of the Commission and increases the understanding of the community in its work.

### Presentations

Following are the list of conferences, meetings and consultations which the SLRC attended and were given the opportunity to present and share their views on various topics.

#### *Commonwealth Lawyer's Association Conference, 19 April 2012 – Sydney, Australia*

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The theme of the Sydney 2012 Conference is the *Changing Role of the Legal Profession: Emerging Democracies and Globalization*. The Executive Director was invited as a guest speaker to this conference and presented on Samoa's Constitution to the above conference. The paper was written by the Executive Director and called "Weaving the Constitution of Samoa". It looked at how the Constitution has endured its first 50 years.

#### *International Women's Day, 08 March 2012*

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The Executive Director presented at the International Women's Day on the Constitutional Amendment for women's seats.

#### *Women in Leadership Advocacy (WinLA) Health Forum, 24 February 2012*

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The Executive Director presented at the WinLA Health Forum specifically on the topic 'Sexual Harassment'



*Intangible Cultural Heritage Ratification Workshop, 14 – 15 February 2012, Ministry of Education Sports & Culture, Malifa*

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Principal Legal Analyst Houlton Faasau attended the above workshop. The aim of the workshop was to discuss the UNESCO Intangible Cultural Heritage Convention 2003. The Commission presented on the progress of its work on one of the reference on the protection of Samoa's Traditional Knowledge and Expressions of Culture.



*Pacific Regional Child Protection, 5 – 9 December 2011, Novotel Hotel, Lami, Fiji Islands*

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Principal Legal Analyst Houlton Faasau attended the above meeting and presented on the Commission's progress and way forward for the reference on the Care and Protection of Children in Samoa.

*Continuing Legal Education Conference, Samoa Law Society, 30 November 2011*

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The Executive Director presented on law reform to the Samoa Law Society Continuing Legal Education Conference.

*Samoa Faafaine Association Rountable Discussion on the Review of the Crimes Ordinance 1961, 25 November 2012*

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Executive Director presented on the SLRC Final Report to Parliament on the review of the Crimes Ordinance 1961 to the Samoa Faafaine Association Rountable Discussion.





***Oceania Deaf and Disability Forum, Samoa  
Tofamamao Conference Centre, 25 - 28  
November 2011***

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Principal Legal Analyst Houlton Faasau and Senior Legal Analyst Mae Tanner attended the above Forum and the theme was on *Building a Vision - Disability not Inability*. The Commission as a member of the CRC Partnership was invited to share its views and experience on legal issues affecting children with disabilities and special needs.



***Live Radio Panel Discussions on “Break the Cycle: Eradicating Violence against Children in the Family Environment”, Ministry of Women, Community and Development, 17 November 2011***

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Principal Legal Analyst, Houlton Faasau of the SLRC participated in a series of live radio panel discussions on *Break the Cycle: Eradicating Violence against Children in the Family Environment*, as the theme for celebrating the International Day for Children 2011. This initiative by the MWCSD was of great importance to the SLRC for the review of the Care and Protection Legislation to Protect Children, because the public were given the opportunity to submit their views on issues of violence in the family.

***Second (2<sup>nd</sup>) Women’s Health Forum, Development Bank’s Conference Room, 11 - 12 August 2011.***

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The Executive Director participated as a member of Women in Leadership Advocacy (WinLA) on *Women and the Law* presenting a paper termed, “From Marriage to Maintenance and all things in between”. This topic touched on marriage, divorce, maternity leave, maintenance, adoption and sexual harassment.

***Crime Prevention Policy Workshop, Ministry of Justice and Courts Administration Office, 04 - 05 August 2011.***

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Legal Analyst Kaisarina Salesa attended the above workshop on Crime Prevention. SLRC as part of this taskforce was invited to share its views and experience.

## Capacity Building Programs

The involvement of the Commission in capacity building programs is very crucial in terms of developing the capacity of its staff given that SLRC is a new established organization within the Samoan Public Service. Additionally these programs will not only strengthen the skills, competencies and abilities of its staff but also to guide the internal development activities. Following are the range of capacity building programs the SLRC staff attended, including secondments to overseas law reform commissions, trainings and courses.

### *SLRC Secondment to the New Zealand Law Commission, 07 – 18 May 2012, Wellington, New Zealand*

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Principal Legal Project Coordinator, Florita Tupai was approved to be seconded to the NZLC as part of the capacity building program of the SLRC. This secondment was fully funded by the Law and Justice Sector.



The secondment was tailored in a way to enable the SLRC to learn and familiarize with how law reform projects are managed and coordinated, the importance of having a law library for information, development and/or enhancing research for legal analysts and staff as well as to learn how the NZLC's files are managed and organized both manually and electronically.

### *SLRC Secondment to the Australian Law Reform Commission, 16 – 27 April 2012, Sydney Australia*

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Senior Legal Analyst Kaisarina Salesa undertook a secondment with the Australian Law Reform Commission. This is part of the SLRC capacity building program and was fully funded by the SLJS.

The main goal was to learn about a different law reform process in order to compare and contrast against SLRC's law reform process. Through this process, SLRC was able to learn the various methodologies employed by the ALRC in conducting their inquiries.



***'Human Resource Coordinators Strategic Planning' Training, Public Service Commission's Conference Room, 26 – 30 March 2012***

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Principal Legal Project Coordinator has completed a course in “*Human Resource Strategic Planning*” provided with the cooperation of the Governments of Australia, New Zealand and Samoa under the Samoa In-Country Training Programme.

The main purpose of the course is for the participants to be able to understand the main principles of good strategic planning, to be able to develop organizational goals and objectives and to understand how strategic planning progress can be monitored.



***'Public Sector Report Writing' Training, Public Service Commission's Conference Room, 05 - 08 March 2012***

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Florita Tupai of the SLRC attended a course on ‘Public Sector Report Writing’ provided with the cooperation of the Governments of Australia, New Zealand and Samoa under the Samoa In-Country Training Programme.

The purpose of the course provides a conceptual understanding and practical knowledge on various techniques used for written reports. The purpose also aim is to ensure that only the highest quality reports leave the office.

***Lauga Samoa Training by Leaula Maulolo Tavita Aмоса, Office of the SLRC, October 2011***

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The Commission completed its three (3) weeks Lauga Samoa Training by Maulolo Tavita Aмоса of the Fatu'aiupu Consultancy Services. The training involved conducting the ava ceremony, lauga Samoa and other core values of the Samoan culture especially when facing matais and high chiefs of villages. This is crucial for the Commission when conducting consultations with the public on any law reform project.



This training was funded by the Samoa Law and Justice Sector.

*SLRC Secondment to the Attorney General's Department in Canberra, Australia, September – November 2011 (3months)*

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Principal Legal Analyst, Ulupale Fuimaono attended the Pacific Legal Twinning Programme that was established to provide opportunities for Pacific Island Lawyers to be placed in the Attorney General Department (AGD) in Canberra, Australia for a period of three (3) months. The purpose of this program is capacity building for lawyers in the Pacific in the areas of legal policy and legislative review.



*Course in Legislative Drafting (Diploma in Legislative Drafting), University of the South Pacific, Fiji, 08 – 09 December 2011.*

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Senior Legal Analyst, Kaisarina Salesa completed a course in legislative drafting where the final assessment was held in Fiji from 08 – 09 December 2011. Ms. Salesa was able to attend the course with funding assistance from the Samoa Law and Justice Sector (SLJS).

The Professional Diploma in Legislative Drafting (PDL) is a course that takes place over a period of eight (8) months (April – December). It is undertaken as a Distance and Flexible Learning (DFL) course via the USP in collaboration with the Pacific Island Forum Secretariat and the Commonwealth of Learning. The course requires eight (8) drafting assignments to be submitted over the eight (8) months.

## **PARTICIPATION WITH OTHER SECTORS**

The SLRC took part and was invited to participate in other sector's activities. This is vital for the Commission in terms of giving support and to exchange useful information with other sectors of Samoa. Additionally, these activities not only build the Commission's relationship with other sectors of Samoa but also raise the Commission's profile. Following are a series of activities that the SLRC took part in:

- Houlton Faasau attended a consultation on the National Intellectual Property for Samoa, 29 February 2012 at the MCIL Conference Room.



- Kaisarina Salesa, Senior Legal Analyst participated in the MJCA's consultation on their strategic plan 2012 – 2015, held at the MJCA conference room, February 2012.
- Houlton Faasau attended the UNICEF/MWCSD Annual Work Plan 2012 Consultation. The Commission as part of the NCCRC and CRC Partnership attended this consultation to finalise its responsibilities under the AWP 2012 for child protection in Samoa and justify costs associated with those responsibilities.
- Ulupale Fuimaono attended MOF Savaii consultation on next SDS Plan 2012 – 2015 in January 2012.
- Houlton Faasau attended the UNICEF/MWCSD Child Protection Baseline Survey Consultation on 26 November 2012. The Commission was requested to check the findings and recommendations in general by the UNICEF consultant that carried out the survey in collaboration with MWCSD. The Commission was asked to pay close attention to section of the survey dealing with legislative review/CRC compliance and comments/recommendations.

## WORKING GROUPS/TASKFORCES

This is one form of consultations the Commission employs to gather information that would assist with its reference. The Commission establishes and chairs either a working group, taskforce, advisory committee where members from various organizations are involved in any law reform review. Below are some of the examples of these consultations used by the Commission.

### *Crime Prevention Taskforce*

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The Crime Prevention Taskforce was established to look into establishing a crime prevention system and possible legislation to govern crime prevention. It is an initiative by the Law and Justice Sector for which the SLRC was brought in on the basis of its law reform background.

### *Cultural Working Group under the Ministry of Education, Sports and Culture (MESC)*

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The Cultural Working Group was established to look into the issue of Traditional knowledge and expressions of culture.

This committee was established to coordinate and prepare the travel arrangements for Samoa's delegation to the 11<sup>th</sup> Festival of Pacific Arts hosted by the Solomon Islands.

### *Prison's Taskforce*

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

### *Law and Justice Taskforce for Village Fono Act Consultations*

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This taskforce was set up to facilitate the arrangements and conveyance of public consultations throughout the two main islands on the review of the Village Fono Act 1990 and Freedom of Religion. The Commission in collaboration with the Law and Justice Sector partners engaged in these public consultations in September 2011.



### *Komiti Faufautua mo Tomai ma iloa Faasamoa, MESC*

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This Advisory Committee was established to advise Samoa Qualification Authority on matters pertaining to the development of a qualification in Samoan traditional knowledge.

### *PSC Workforce Plan Working Group*

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This working group was established to communicate human resource issues and discuss HR needs for the future. This working group was facilitated by the PSC and SLRC participated to communicate the difficulties and challenges it is now facing with its human resources.

## **ADVICE**

Other organizations including government ministries may submit a formal letter of request to the Commission seeking its views and opinions regarding a review undertaken by them. The Commission may assist in any way by providing technical advice on the legislation under review by the relevant Ministry or other organisation.

### *Attorney General's Office - Constitution Amendment Bill 2012 (Minimum number of women Members of Parliament)*

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The Attorney General's Office requested the SLRC to comment on the Constitution Amendment Bill 2012 to provide for a minimum number of women Members of Parliament

(‘the Bill’). The SLRC studied and reviewed the Bill and submitted its comments to the AGO on 07 March 2012.

### *Attorney General’s Office – Draft Audit Bill 2012*

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The Office of the Attorney General requested the SLRC’s assistance to review and comment on the Draft Audit Bill 2012. The SLRC submitted its comments to Attorney General’s Office on 23 January 2012.

## **VOLUNTEERS**

The SLRC continues dialogue and exchange with its international counterparts, where possible lawyers are attracted by volunteering their time to work for the SLRC. The aim of this initiative is to build the capacity of the Commission’s staff in law reform work, skill development as well as to exchange experiences and knowledge of law reform with lawyers in the region. The SLRC engaged two volunteers from Australia and Canada in the past two years.

The Commission was fortunate to engage another two volunteers this year with the willingness to perform the work without compensation. The Commission is grateful for the invaluable contribution of volunteers. The following volunteers have worked at the Commission:

### *Anna Dziedzic, Australia*

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Anna Dziedzic holds degrees in Arts and Law with first class honours and the University Medal in English from the Australian National University. She also completed a Masters in Human Rights with Distinction from University College London and was admitted to practice as a lawyer in 2009. Prior to volunteering at the Samoa Law Reform Commission, she worked at the Department of the Prime Minister and Cabinet, the Australian Law Reform Commission, and as an Associate at the Federal Court of Australia. Anna volunteered for the Commission from September – November 2011 and she worked together with another volunteer Marie Kronberg on the review of the Criminal Procedure Act 1972.



In January 2012, Anna continued to work on a voluntary basis for the SLRC for six months, contributing legal research and analysis for the ongoing inquiry into a body to protect national heritage in Samoa.

### *Marie Kronberg, Germany*

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Marie Kronberg is a qualified lawyer from Germany, holding a degree in International Law from the University of Passau and a PhD in European Sports Law. Prior to volunteering with the SLRC, she worked in different legal fields, including academic research and law reform both in Germany and Spain, mainly focusing on maritime and sports law. She is currently training to be a diplomat with the German Foreign Office.

Marie commenced volunteering for the SLRC from October – December 2011. She worked together with Anna in writing the Final Report on the reform of the Criminal Procedure Act 1972.

## **INTERNSHIP**

The Commission continues to engage unpaid interns who are students from Law Schools around the world. Their research expertise on various law reform matters has not only strengthened the capacity of the Commission but also contributed immensely to the performance of its work. The Commission welcomed one unpaid intern within this financial year:

### *Su'e Tervola, Intern from BYU, Utah, USA*

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Su'e Tervola was attached to the SLRC from May – June 2012. She is currently studying Law at the Brigham Young University in Utah, United States of America.

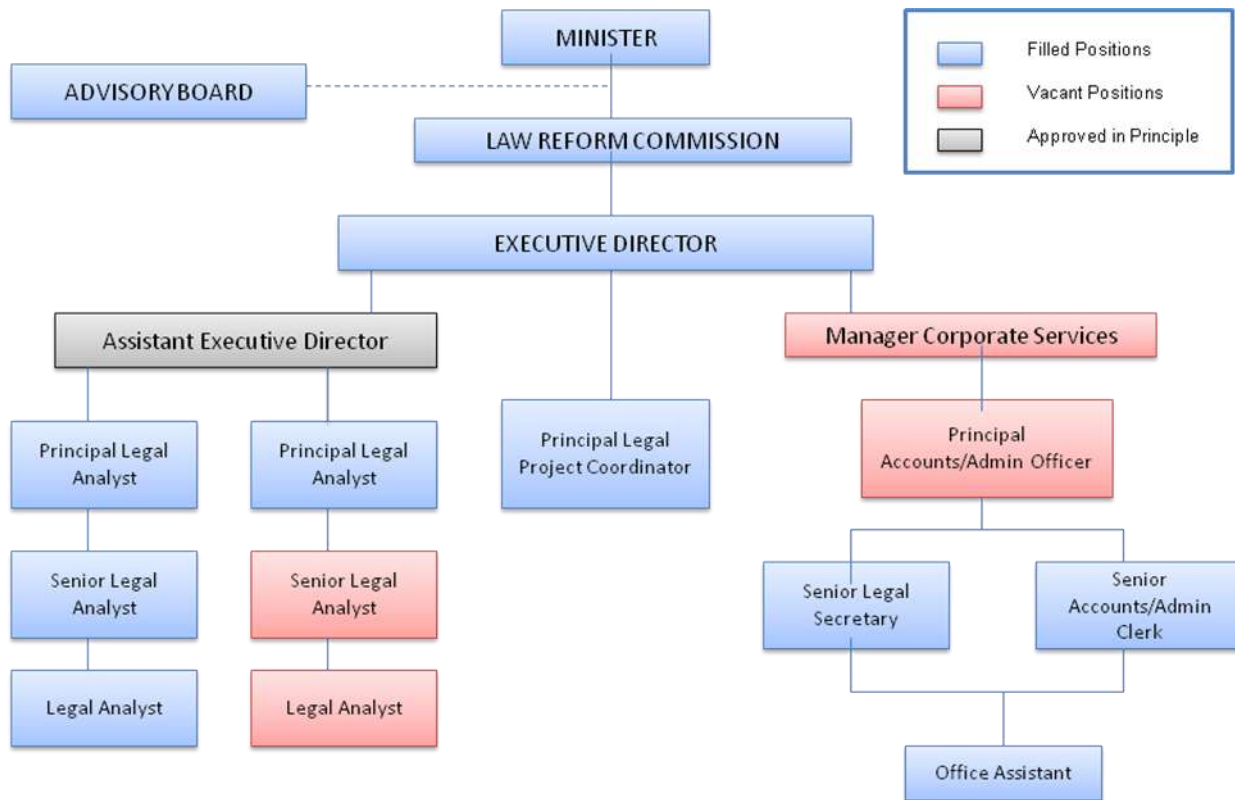
She worked for the Commission for six (6) weeks and assisted one of the legal analysts in research on the review of the Care and Protection Legislation to protect children.

The Commission acknowledges Ms. Tervola for all her assistance and contribution to the work of the Commission during her six (6) weeks internship.





## 6. STAFF and RESOURCES



### STAFFING

The Commission consists of an Executive Director as the administrative head of the Commission who supervises and directs its work. The office now has fourteen (14) approved positions including four (4) vacant positions and one (1) position approved in principle. The organizational structure as shown above illustrates the organization of the SLRC staff positioning.

Moreover, the SLRC has begun to grow and expand since its establishment in 2008 and therefore is expecting to employ more staff members. This is dependent on the approval of our formal requests and proposals to the Public Service Commission and Ministry of Finance to create more positions that contribute to the achievement of the Commission's strategic goals and objectives. Following are the Staffing updates for the SLRC for this financial year.

### *New Positions approved by the Public Service Commission*

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The SLRC proposed to the PSC for the creation of the following positions and these were approved in February 2012:

- 1. Manager of Corporate Services; and**
- 2. Principal Accounts/Administration Officer**

Given the separation of the SLRC from the AGO in July 2011, this poses a need for the Commission to create its own Corporate Services Unit ('CSU') to manage its growing budget as well as to provide daily operations of the Commission. Since the establishment of the SLRC in 2008, the budget has increased over the years and the MOF has raised the need to have a CSU to closely monitor and manage the Commission's budget. Currently, these positions are advertised and will be budgeted under the new budget for the new financial year.

The SLRC is very grateful for the assistance and support of the PSC in considering the SLRC's requests.

### **3. Assistant Executive Director (AED)**

The SLRC also proposed to the PSC the creation of an Assistant Executive Director position. This position is essential for career progression for legal staff. This would not only provide an avenue to maintain legal staff, but is needed in the event that the Executive Director is away from the office. It is critical to have an AED position so that the principal legal analysts are able to build their capacity as managers and eventually as Executive Director.

This position was approved in principle in March 2012 by the PSC subject to matters concerning the job description and their assessment under the Job Classification System that determines the appropriate salary grade for the position. The SLRC is now re-drafting the job description and will be re-submitted for PSC's consideration.

### *New Staff Members, Promotions and Turnover*

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The Commission welcomed three staff members within this financial year:

1. Senior Legal Secretary;
2. Senior Legal Analyst; and
3. Legal Analyst.

Florita Tupai who was the Senior Legal Secretary is now our Principal Legal Project Coordinator effective as of March 2012.

Malaea A. Feterika who was the Principal Legal Project Coordinator resigned in December 2011 to take up a position in the Private Sector, and while this was a huge loss to the

Commission, the Commission is happy that Malaea was able to secure this position.

## **BUDGET**

The Commission since separation from the AGO, is now operating under its own budget. There is an increase from last year's budget of \$447,030.00. Below is our budget breakdown for this financial year:

<b>Personnel</b>	\$346,205.00
<b>Operating</b>	\$191,596.00
<b>Capital</b>	\$ 0.00
<b>TOTAL BUDGET</b>	<b>\$537,801.00</b>

## 7. LAW REFORM AT A GLANCE

### *SLRC's Participation in the Samoa 50<sup>th</sup> Years of Independence, 01 June 2012*

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The SLRC participated in the march celebrating our 50 Years of Independence on the 01 June 2012. The SLRC is very happy to be part of this important event for Samoa as it not only raises the profile of the Commission but also build good relationships with other sectors of Samoa including Ministries, Corporations, as well as the Private Sector.

SLRC is immensely proud of Samoa's development in all areas.



*March at the 50 Years of Samoa's Independence*

### *SLRC New Office Space, April 2012*

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The SLRC relocated to its new office on the first floor of the Government Building, Eleele Fou in April 2012. This is due to the growing number of employees.

SLRC wishes to thank our Minister and Prime Minister for endorsing our relocation to the new office space, as well as the Chief Executive Officer of the Ministry of Prime Minister and Cabinet.

### *SLRC's Separation from the Attorney General's Office, July 2011*

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SLRC's separation from the Attorney General's Office was effective on the 01 July 2011 according to Cabinet's directive F.K. (11)08, dated 09 March 2011. The SLRC was initially established as a division of the AGO for logistical reasons.

The SLRC acknowledges all the support and contribution of the Attorney General, Afioga Aumua Ming C. Leung Wai who has been a major supporter of SLRC and the AGO staff who welcomed the Commission.

### *SLRC's Participation in WINLA Netball Competition, September 2011*

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SLRC as part of Women in Leadership Advocacy Group participated in the Netball Competition in September 2011.



*SLRC in Pink  
Participated in WINLA  
Netball Competition*



## *SLRC's Website Officially Launched, July 2011*

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The SLRC's website was launched on the 14 July 2011. Keynote address was delivered by the Honourable Prime Minister and Minister for the Samoa Law Reform Commission. The Chairman of SLRC Advisory Board and Attorney General was the Master of Ceremonies. With our website, the SLRC is able to publicize its work widely and network with other Law Reform Commissions to builds better relationships around the world.

The website address is [www.samoalawreform.gov.ws](http://www.samoalawreform.gov.ws) and the website was funded from our savings.



*Launching of the SLRC  
website, July 2011*

## List of ACRONYMS and ABBREVIATIONS

AG	-	Attorney General
AED	-	Assistant Executive Director
AGO	-	Attorney General's Office
ALRC	-	Australian Law Reform Commission
BYU	-	Brigham young University
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
DFL	-	Distance and Flexible Learning
DP	-	Discussion Paper
ED	-	Executive Director
IP	-	Issues Paper
SLJS	-	Samoa 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
MWTI	-	Ministry of Works, Transport and Infrastructure
NZ	-	New Zealand
NZLC	-	New Zealand Law Commission
PDL	-	Diploma in Legislative Drafting
PM	-	Prime Minister
PSC	-	Public Service Commission
PSIF	-	Public Sector Improvement Facility
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
USA	-	United States of America
WinLA	-	Women in Leadership Advocacy
WIPO	-	World Intellectual Property Organization
WG	-	Working Group