



THE REFORMER

THE OFFICIAL QUARTERLY NEWSLETTER OF THE SAMOA LAW REFORM COMMISSION



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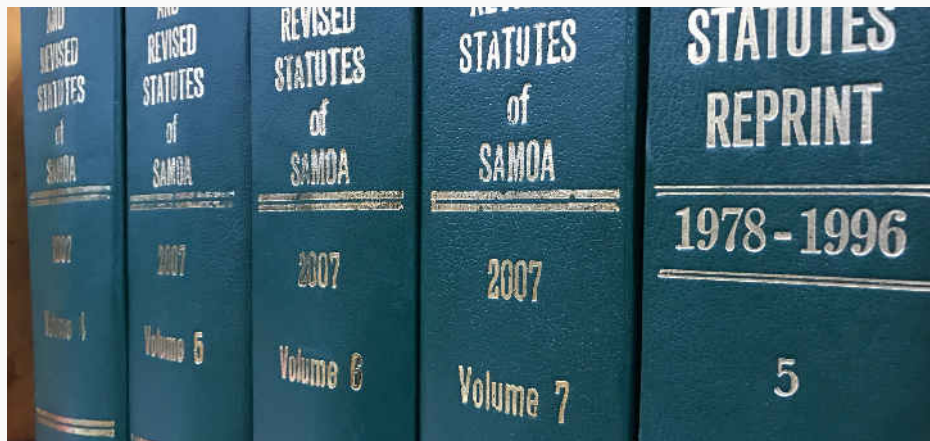
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"The review of the Fabric of Laws of Samoa Project is the first of its kind and will greatly assist the Judiciary, Executive and Parliament with their functions. Both an informed Government and public anticipates better law making, of meaningful, effective and relevant laws."



Samoa's Fabric of Laws Review

THE REVIEW OF THE FABRIC OF LAWS OF SAMOA PROJECT

BY TELEI'AI DR. LALOTOA MULITALO

In **August 2017**, the Samoa Law Reform Commission (SLRC) initiated the the review of the Fabric of Laws of Samoa Project. This initiative was driven by the belief that an overall background knowledge of the fabric of laws of Samoa is necessary for effective law making. This effort is the first of its kind and it is hoped that it will be carried out periodically, so Samoa will continue to operate on current and updated laws. Such will provide benefits at national level, as it will inform the Judiciary in its duty of applying the laws, the Executive in policy making and the Parliament in its Constitutional law making function. Both an informed Government and public will result in meaningful, effective and better law making.

The Review looks at the following:

- identify the current fabric of laws of Samoa (some 285 existing Acts/Ordinances of Parliament);
- identify relevant Ministries, State Owned Enterprises (SOEs), or Constitutional Offices (COs) responsible for which laws; and
- identify and confirm from stakeholders laws that are under their administration that are considered outdated, recommend removal, updating or replacing.

It is anticipated that the SLRC's Final Report on this Project will be submitted for Cabinet's endorsement in the week commencing **18 December 2017**. The SLRC wishes to express sincere gratitude to all Government Ministries and Agencies for their kind support and assistance throughout the course of this crucial and relevant Project.



MESSAGE FROM EXECUTIVE DIRECTOR



TALOFA LAVA, WARM GREETINGS TO YOU ALL AND WELCOME TO THE 2017 3RD EDITION OF "THE REFORMER" NEWSLETTER.

E lē uma le fia fa'afetaia o le alofa tūnoa ma le agalelei o le Atua ona o Lana tausiga, aemaise o Lona fesoasoani mai i galuega sa feagai ai le Komisi i lenei tausaga.

These past few months have been busy for the SLRC. To highlight a few of our accomplishments since our last newsletter: we have completed stakeholders' and public consultations for 3 of our projects: the Ministerial Department Arrangements Act Review (MDAA); the Drugs Reform (Review of the Narcotics Act 1967); and the Review of the Fabric of Laws of Samoa Project. To date, MDAA Final Report has been completed and submitted for Cabinet's approval. We have also completed draft Final Reports for Fabric of Laws and Drugs Reform. The two sets of Civil Procedure Rules for both the Supreme Court and the District Court have finally left the premises of the SLRC and have been referred to the Office of Attorney General. We also received other new references from the PM (Infants Ordinance and MAF).

Despite the intensity of the past few months, the work at the SLRC is always worthwhile; as we strive to contribute meaningfully to the reform and development of relevant and effective laws for Samoa. Ia, ae o upu e masani ai, a uma ona tatou faia o se galuega ona o tatou faapea ifo lea, o i tatou lava o ni auauna lē aoga.

On behalf of the SLRC I would like to wish you all a Merry Christmas and a Happy New Year. I look forward to seeing you all in 2018.

I le paia ma le mamalu o Samoa aemaise o e sa lagolago ma fesoasoani mai i faatalatalanoaga ma galuega a le Komisi sa feagai ai i lenei tausaga. O le tatalo ia iai se aoga o auaunaga a le Komisi nei mo tagata lautele o Samoa. E momoli atu ai ma le FAAFETAI TELE MO LO OUTOU SAO. Faafetai mo finagalo faaalua ma le tofa sasa'a, o fautuaga uma lava ua mafai ai ona faamae'a nisi galuega a le Komisi i lenei tausaga. Fa'afetai! Fa'afetai tele lava. O ni vaivaiga ma ni le atoatoa o le Komisi nei, e tatalo atu, ia malu ave i fale i o outou finagalo, faamagalo a outou auauna. E poto lava le tautai ae sese lana atu ama. O le faamoemoe ia ave ni le atoatoa o le 2017, e fai ma a'oa'oga, mo le toe fuata'ina o le agai luma o le au faigaluega i le tausaga fou.

Tatou tuu atu i le Atua o tatou faamoemoega uma. Taupule ola ia le amataga o le Tausaga Fou 2018, ia aulia atu ma le manuia i le alofa o le Atua. Ia manuteleina Samoa ma ona fa'asausauga.

Faafetai,
Telei'ai Dr Lalotoa Mulitalo
Executive Director

PROJECT UPDATES

BY SHELIZA TAPUAI, MEAROLD VILIAMU, FAAPALE LEMALU, LIZATALEI HAKAI, CHARLES DEAN

Review of the Ministry of Agriculture & Fisheries (MAF) laws Directive

On **29 November 2017**, the SLRC received a directive from the Prime Minister (PM) (informed by concerns of the Minister of MAF) to carry out a review of MAF's laws. The directive required the SLRC to review the laws of MAF to bring them up to date with the modern context of Samoa, and in particular to include the power to prohibit the export of certain primary produces of Samoa; and to see that Samoa's laws are receptive of the principles contained in the International Fisheries Conventions. The SLRC has since met with the CEO and Legal Officer (ACEO) of MAF, and are formulating a response for the PM. It is hoped the PM will be briefed before the Christmas holidays.

Infants Ordinance 1960 Reference

In **September 2017**, the SLRC received a TOR from the OAG to review the *Infants Ordinance 1960*. The review was to determine whether the Ordinance complies with international conventions and to provide recommendations on any necessary reform especially in relation to 'overseas adoption'. More important was how 'suitable arrangements' were addressed in Samoa. Preliminary research was carried out and the findings which noted Samoa to be compliant with international conventions on inter-country adoptions, were presented to the AG and the PM.

Freedom of Information Legislation Review 2017

Following the receipt of the TOR from the OAG on **5 May 2017**, the SLRC proceeded with its preliminary research on the Freedom of Information Project. The Project looks at whether a freedom of information legislation is required for Samoa. The review is currently at the early stages of drafting its Issues Paper.

Review of Samoa's Foreign Investment laws 2017

Following the receipt of the TOR from the OAG on **5 May 2017**, SLRC began work on Samoa's Foreign Investment laws Review. Such Review is still currently at the preliminary research stage. The SLRC hopes that this Review will gain some momentum when the Final Reports for several Projects are submitted for endorsement by Cabinet, in **early 2018**.

Drugs Reform (Review of the Narcotics Act 1967)

Following Cabinet's approval of its Issues Paper in **May 2017**, stakeholder consultations were carried out in **August** and **September 2017** with 20 stakeholders including relevant Ministries, the judiciary and non-government organizations. Public consultations were also carried out in both Upolu and Savaii from **25-29 September 2017**. Further research and the drafting of the Final Report commenced in October with the first draft completed on **15 December 2017** and tabled before the Advisory Board. It is anticipated that the final version of the Final Report will be submitted to Cabinet the week commencing **18 December 2017**.

Review of Ministerial and Departmental Arrangements Act 2003 (MDAA)

Following consultations with the Central Agencies completed on **23 October 2017**, the MDAA Final Report was submitted to Cabinet on **29 November 2017**. We are currently awaiting Cabinet's approval of the Final Report.

Review of the Property Law Act 1952

On **23 August 2017** Cabinet approved Discussion Paper 4 (DP 4) on the review of the *Property Law Act 1952*. The SLRC is currently preparing for stakeholder consultations anticipated to be carried out early 2018.

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

Following the publication of its Final Report, the SLRC engaged a legislative drafter to draft new (Supreme & District Court) *Civil Procedure Rules* in light of the SLRC's recommendations. Further review by the SLRC was carried out on the draft Rules before submission to the Rules Committee. On **2 November 2017**, the SLRC submitted the Rules to the OAG for further review.

Convention on the Elimination of Discrimination against Women (CEDAW) Legislative Compliance Review

In **September 2017**, the SLRC provided responses to recommendations from the relevant Parliamentary Committee on its CEDAW Final Report (CEDAW FR). In the same month, the SLRC provided a submission, reflecting the SLRC's Final Report recommendations, to the Family Violence National Public Inquiry on Family Violence in Samoa. Consequently, some legislative amendments were proposed for relevant Ministries' consideration and use at their convenience to suit their circumstances.



National Health Week SLRC Sports Day - 10 November 2017

REPORTS & INTERNAL ACTIVITIES

BY BUREIETA LEUGA, GRACE LAFI, RUTA MASINALUPE, SHELIZA TAPUAI, FLORITA TUPA'I, CHARLES DEAN

SLRC Annual Report 2016/2017

The SLRC has completed its Annual Report for Financial Year 2016/2017. This is now with the Minister for SLRC to be submitted to Cabinet and then Parliament, following Cabinet's approval.

SLRC Corporate Plan 2018-2021

The SLRC is finalizing its Corporate Plan for 2018-2021. This Corporate Plan will reflect the revised Strategy for the Development of Samoa 2016/2017-2019/2020 and the Law and Justice Sector Plan 2017-2020. In addition, it will provide a clear indication of the functions and goals of the SLRC for the next 3 years.

SLRC Legal Training's - CBS Conference Room

In August 2017, SLRC's Executive Director conducted monthly legal trainings for SLRC's legal staff on law reform and its challenges in plural societies in the Pacific (specific focus on Samoa). These trainings were subsequently opened to interested in-house counsels and private lawyers in the spirit of knowledge sharing and networking. Since June 2017, five trainings have been carried out. The SLRC looks forward to more trainings in the near future.

CSU Legal File Management Training - SLRC Conference Room

The SLRC's Project Coordinator (Florita Tupa'i) carried out 3 legal file management trainings during October and November 2017. The overall purpose of these trainings is to inform staff on the current file management process, how to keep our current projects records accurate, to ensure accountability and reduce risk to the SLRC.

Samoa National Health Week SLRC Sports Day

On 10 November 2017, the SLRC took part in the annual commemoration of the Samoa National Health Week organized by the Ministry of Health. This year's theme was: "Accelerate physical activity through sports".

SLRC End of Year Party

To celebrate its achievements for the year and prepare for the festive season, the SLRC had its end of year function at the Edge Marina on the 6 December 2017. The theme this year was "VILLAINS".

SLRC Walkathon

On the 23 November 2017, the SLRC conducted a 2km walkathon to fundraise for its end of year activities and most importantly promote healthy living. The event was a success and the SLRC would like to thank all those who contributed.

Select Committee Meetings

During October, the SLRC provided oral submissions on the following Bills:

- Energy Efficiency Bill 2017; and
- Police Service Amendment Bill 2017.

NEW RECRUITS & PROMOTIONS

Principal Legal Officer, **Lizatalei Hakai** – new recruit (commenced work 2 Oct 2017)

Senior IT Officer, **Launiu Paleaee** – new recruit (commenced work 18 Sept 2017)

Driver, **Ropati Sitivi** – new recruit (commenced work 12 Dec 2017)



New Recruits - Lizatalei Hakai, Launiu Paleaee & Ropati Sitivi

FAREWELLS

Principal Legal Analyst, **Darius Shahtahmasebi** – resigned on 20 Oct 2017

Driver, **Sili Su'a** – resigned on 13 Oct 2017



Departing Employees - Sili Su'a & Darius Shahtahmasebi

INTERNSHIP PROGRAMME

The SLRC is happy to announce that it will be hosting two interns from the TC Beirne School of Law, University of Queensland for the months of January and February 2018. This is the third year for the SLRC to host interns since its revival in 2016. The interns work on a voluntary basis for 4 weeks and mainly carry out legal research and analysis to assist the SLRC with its projects. More information about the SLRC Internship Programme can be found on our website at www.samoalawreform.gov.ws.



Tina & Tamaita'i Group 2 presenting their findings during the SLRC Drugs Reform Savaii public consultations - 28 Sept 2017, Sapapalii.

TRAININGS & WORKSHOPS

BY LIZATALEI HAKAI, CHARLES DEAN, SHELIZA TAPUAI, FLORITA TUPA'I

Skills to be an Effective Leader Training - Apia, Samoa.

Sheliza Tapuai (Executive Legal Officer) attended the training on "Skills to be an effective leader" from 30 October 2017 – 3 November 2017 hosted by PSC. The overall objective of this training was to build team leader capacity and leadership skills in the workforce to enable government to meet goals for effective services to the public.

Samoa Pre-Mission Workshop on Obligations under the UNCAT - Apia, Samoa.

On 2 October 2017, Charles Dean (Senior Legal Analyst) attended the Samoa Pre-Mission Workshop on Obligations under the UN Convention Against Torture (UNCAT). The purpose of the workshop was to raise awareness among Samoan authorities regarding key UNCAT and OPCAT obligations, identify key challenges re implementation and how they could be addressed, and prepare a roadmap to assist the CTI diplomatic delegation's visit to Samoa. Following this workshop the SLRC met with the delegation and discussed ways the SLRC can contribute re Samoa implementing the UNCAT.

Consultation on the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol) - Motootua, Samoa.

On 18 December 2017, Lizatalei Hakai (Principal Legal Analyst) attended the Consultation on the Protocol, hosted by the Ministry of Health. The main objectives of the Consultation was raise awareness on the Protocol to facilitate Samoa's support in the implementation of the Protocol, as well as increase collaboration in the enforcement of tobacco legislation and compliance to the Framework Convention on Tobacco Control (FCTC). The Protocol is a treaty to implement Article 15 of the FCTC.

Training and Awareness Program on Occupational Safety and Health - Apia, Samoa.

Bureieta Leauga (Manager Corporate Services) and Lizatalei Hakai (Principal Legal Analyst) attended the Training and Awareness Program on Occupational Safety and Health hosted by MCIL on 6 December 2017. The Program focused on raising awareness on the relevant legislation dealing with occupational safety health issues within work places so that Ministries can comply with the same.

National Mechanism on Reporting and Follow up (NMRF) Sadata Workshop - Apia, Samoa.

On the 23 November, Florita Tupa'i (Principal Project Coordinator) attended the NMRF SADATA Workshop hosted by MFAT Samoa. The purpose of the workshop was to raise awareness among NMRF key points of contact on how they can utilize the SADATA web tool for coordinating and monitoring implementation of human rights and the Sustainable Development Goals. Given SLRC's work relating to human rights, this tool or database would be useful and would greatly assist on its projects with a human rights focus in future.

HAVE YOUR SAY

Q: How do I give the Commission my feedback?

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



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