



THE REFORMER

The Official Quarterly Newsletter of the Samoa Law Reform Commission.

IN THIS ISSUE

Judgement Summonses

Act 1965

- 1

Message from the Executive Director

- 2

Project Updates

2 - 3

Adhoc References

- 3

Public Awareness Activities & Involvement

3 - 4

Community Involvement

3 - 4

Farewell

- 4

Conferences, Workshops & Training

4 - 5



Judgement Summonses Act 1965

As reported in the "The Reformer" - Issue 1 (Oct 2018 - April 2019), a Discussion Paper was approved by Cabinet on 17 April and the Commission was preparing for public consultations.

The review of the Judgment Summonses Act (JSA) 1965 seeks to address concerns raised by members of the public and the relevant Government Ministries. There were strong views by some members of the government stakeholders, and the general to remove the term of imprisonment as a means of punishment for non-payment of a debt. The relevant Government Ministries expressed concerns on the enforcement aspects of the JSA which has exhausted and continues to exhaust their limited resources, at the expense of the tax payers.

This review commenced in November 2018 after a referral from the Office of the Attorney General on 28 November 2018. The Act is to provide for limitation of imprisonment for debt. It is 55 years old and it has only been amended once since its enactment. To date, the Commission has completed the full 6 Steps Law Reform process. Preliminary research and consultations were completed in March 2019, a Discussion Paper was completed and approved by Cabinet on 17 April 2019 and consultations were carried out from May-June 2019 with various key stakeholders which include the Judiciary, relevant Government Ministries, State Owned Enterprises, and the Public. A Final Report was completed and approved by Cabinet on 16 October and it is now with Parliament.

Welcome Message from the Executive Director



Telei'ai Dr. Lalotoa Mulitalo
EXECUTIVE DIRECTOR

Welcome to The Reformer Issue 2!

This issue informs you of the Commission's work of May to December 2019. It was indeed a busy second half of the year. Ae faafetai tele lava i le alofa o le Atua mo lona agalelei ia Samoa.

The Commission continues to be thankful for the support of the public, village communities and the government offices, in the work of the Commission. We hope to be able to meet the variety of Terms of References referred to the Commission in the best way possible, whether it is a full 6 step research review or an ad hoc short term review.

We continue to rely on all your support for successful reviews, resulting in more relevant and suitable laws for Samoa.

Alofa mai pea le Alii ia Samoa.

Enjoy reading!

PROJECT UPDATES

1. Review of the Family Laws.

As reported in "The Reformer" - Issue 1 (Oct 2018 - April 2019), the Commission commenced its review into the 6 core family laws of Samoa.

- (1) Infants Ordinance 1961;
- (2) Marriage Ordinance 1961;
- (3) Divorce and Matrimonial Causes Ordinance 1961;
- (4) Maintenance and Affiliation Act 1967;
- (5) Family Safety Act 2013; and
- (6) Family Court Act 2014.

As scheduled, the Commission completed its preliminary research and consultations in May 2019. Given the nature of this review and to increase its public awareness, the Commission conducted its first "Public Awareness Seminars" on these 6 laws. This was the opportunity to inform the public on these 6 laws, for information only. This is the first Public Awareness Seminar conducted for a law reform project before carrying out public consultations proper. This was made possible with the funding assistance from the Sisters for Change (an organization based in London). It is crucial for the public to be well informed of the 6 Family Laws before providing their input when consultations starts in 2020. Several seminars were conducted around Upolu and Savaii in July, September and October 2019. The seminars were also conducted with the Public Sector of Samoa. To date, a Discussion Paper was completed in December 2019 and it is now with Cabinet for approval.

2. Fetuunai Muniao (Customs in the Constitution and the Land and Titles Court)

On 20 September 2019, a **Cabinet Directive FK (19) 31** instructed the OAG, the Commission and the Ministry of Justice and Courts Administration to clarify the status of communal or community rights.

The Commission has since commenced with the preliminary research and consultations. To date, the Commission together with OAG and MJCA have conducted consultations with members of the Judiciary on this review, on pre-draft laws and continuing to develop and revise the relevant draft laws to respond to the Cabinet Directive.

3. Review of the Traffic Laws of Samoa

Upon the Commission's proposal, the Honourable Prime Minister approved a Terms of Reference on 29 July 2019 for the Commission to conduct a full review of the Traffic Laws of Samoa. This review stems from a number of concerns around the increase number of traffic related incidents over the years. As per its law reform process, the Commission is currently carrying out preliminary research and consultations scheduled to be completed in March 2020, before moving to develop a Discussion Paper.

4. Review of the Alienation of Freehold Land Act 1972

On 16 May 2019, the Commission received a request from the Ministry of Natural Resources and Environment (MNRE) to review the Alienation of Freehold Land Act 1972 (AFLA). MNRE highlighted in their request some serious concerns in the interpretation and implementation of the Act, which warrants the need for a full review of the Act. Upon the Commission's proposal, a Terms of Reference was approved by the OAG on 7 June 2019 for this review. Preliminary research and consultations were carried out to August 2019. To date, this review has reconvened after it was put on hold in October due to the Commission's research for the urgent Cabinet Directive FK (19) 31. Further consultations with MNRE will be conducted after which, it is envisaged, a full review of the Act will take place.

5. Review of the Arms Ordinance 1960

On 4 October 2019, the Ministry of Police (MOP) sought the Commission's assistance to review the Arms Ordinance 1960, a pre-independence legislation. MOP has noted deficiencies and loopholes in the implementation of this old law. This is in the current work plan of the Commission.

6. Exchange of Information in the Public Sector

Following 'The Reformer' Issue 1 of 2019, the translation of the Review of the Exchange of Information (EOI) in the Public Sector, Final Report was completed in May 2019. In June 2019, copies of the EOI FR were provided to the Office of the Clerk of the Legislative Assembly in June 2019, to be tabled before Parliament. On 15 August 2019, the Commission appeared before this Committee to discuss the EOI Final Report. The Commission's recommendations were explained and noted by the Committee.

PROJECT UPDATES (Cont'd)

7. Review of the Law Reform Commission Act 2008

As reported in "The Reformer" – Issue 1 (Oct 2018 – April 2019), the Commission celebrated its 10th year anniversary in November 2018 and a Discussion Paper was approved by Cabinet on 16 January 2019 following extensive research and consultations. It was also reported that a Draft Amendment Bill informed by Cabinet approved recommendations was developed and with the OAG.

To date, the Law Reform Commission Amendment Bill was endorsed by Cabinet in its FK(19)21 on 17 June 2019 which was then tabled and passed by Parliament in its June sitting as the Law Reform Commission Amendment Act 2019. The Commission looks forward to carrying out its revised duties provided in its new updated enabling Act.

AD-HOC REFERENCES

From May 2019 to December 2019, the Commission has undertaken legal and doctrinal research on some 16 (sixteen) ad hoc references from Government. These references usually require that the Commission researches, make analysis and recommendations on a query or issue referred, and such references are at times 'urgent' and a 'priority'. These references have required the Commission to review immigration laws, sports law, environment laws, land laws, telecommunication laws, Parliament laws, traffic laws and laws on children. The Commission has endeavored to respond speedily and effectively following extensive research and analysis. The following Table attempts to highlight the nature of ad hoc received, upon which legal reviews were undertaken and responses made.

A significant ad hoc review was on the laws of Samoa to develop the compulsory vaccination policy of government, after which the Infants Amendment Bill 2020 was developed by the Commission in conjunction with the Office of the Attorney General.

Name of Ad Hoc Reference	Dates Completed	Nature of Ad Hoc Reference	Source of Ad Hoc Reference
1 Cabinet Re-shuffle	3 May 2019	Re-shuffle of Government functions	SLRC Self-initiated
2 Sports Tribunal	7 June 2019	Criminal laws	Hon. Prime Minister
3 Revocation of Citizenship	24 May 2019	Citizenship laws	Hon. Prime Minister
4 Harlich Stavemann Stiftung Foundation	14 June 2019	Foundation Laws	Hon. Prime Minister
5 Land Mining- Tanu o matafaga	28 June 2019	Environment laws	Cabinet
6 Customs Laws- Ministerial Powers	5 June 2019	Ministry Customs & Revenue	Hon. Prime Minister
7 Igoa o le Auala o le Taulaga (Naming of Streets)	11 July 2019	Environment laws	Hon. Prime Minister
8 Revocation of Proclamation under the Samoa Village Regulations 1938	29 July 2019	Environment and land laws	Ministry of Natural Resources and Environment
9 NUS Matter	2 October 2019	Working Conditions and Entitlements	Hon. Prime Minister
10 Pasi Laupapa	22 July 2019	Traffic laws (Buses)	Hon. Prime Minister
11 Prohibiting the Sharing of Violent Materials	Ongoing	Telecommunication/ Criminal laws	Hon. Prime Minister
12 Private Member's Bill	13 December 2019	Standing Orders of Parliament	Associate Minister
13 Telecommunications Amendment Bill 2019	2 November 2019	Telecommunication laws	Hon. Prime Minister
14 Infants Amendment Act 2019 (compulsory vaccination-students to enroll)	11 December 2019	Measles Outbreak- Protection of Children	Hon. Prime Minister
15 Health Ordinance 1959- Measles Outbreak Notices (Powers of DG of Health)	12 December 2019	Measles Outbreak- Protection of Children	Hon. Prime Minister
16 Traffic Regulations (extra-lights/lamps)	17 December 2019	Traffic Laws	SLRC Self-initiated

Public Awareness Activities

1. Family Law Review Public Awareness

With the financial assistance from Sisters for Change based in London, the Commission was able to take out to the public its awareness seminars on the review of the Family Laws of Samoa. These public awareness seminars were aimed at explaining to the public what the 6 family laws are about before seeking their views in public consultations planned for 2020. Awareness Seminars for Government Ministries, State Owned Enterprises and Statutory Bodies were also conducted. The Commission initiated this process with the intention that if the public are aware and understand the laws in review, it will be easier for them to provide invaluable inputs during public consultations that will assist the Commission formulate sound recommendations to Government for law reform.

Awareness seminars for Government Ministries was conducted on 2 October 2019 and State Owned Enterprises and Statutory Bodies on 3 October 2019.

COMMUNITY INVOLVEMENT

1. SOUTH PACIFIC GAMES 2019

Some of the Commission's staff volunteered at the Pacific Games hosted by Samoa from the 7 - 20 July 2019. Our Executive Director was awarded with the Best Team Leader price in Spectator Services.



2. SAMOA'S INDEPENDENCE CELEBRATION 2019

The Commission participated in the 57th Samoa's Independence March on the 1st June 2019.



COMMUNITY INVOLVEMENT cont'd

3. MASS VACCINATION FOR MEASLES 2019

The Executive Director and staff members of the Commission took part in the 2 days national mass vaccination campaign by Government to combat the measles outbreak.



FAREWELLS



Ysatis Leafa
Legal Analyst

(Resigned on the 9th August 2019)

Public Awareness Activities (Cont'd)

Following the above stakeholders awareness seminars, the first round of public awareness seminars were conducted in the month of July 2019, more specifically on the 29th July in Upolu and 31st July in Savaii. The second round of seminars was conducted from the 24 – 27 September 2019 for Savaii and 15 – 21 October 2019 for Upolu. The last round of seminars was scheduled 25 - 29 November 2019. Unfortunately, this did not take place due to the State of Emergency for the measles outbreak declared in the period 16 November to 29 December 2019.

To further inform the public about this review, a brief video clip of the 6 family laws was aired for public viewing on the local TV1 from the 9 – 18 October 2019 and TV3 on the 9, 10, 15 & 17 October 2019. This is in addition to public notices aired on both television stations that announced venues, times and dates of public awareness seminars. The Commission is thankful for the inputs made during the seminar sessions and looks forward to further informed input during the anticipated 2020 public consultations.

2. Customary Land Law Awareness Project (CLLAP 2)

As reported in "The Reformer" – Issue 1 (Oct 2018 – April 2019), the Commission was working on this project to raise awareness of the laws that regulate matters pertaining to Samoa's customary land. To assist meet this goal, a Draft short video clip (CLLAP 1) was completed in June 2019. However, following the passing of the Alienation of Customary Land Amendment Bill 2019 in June's Parliament sittings, (changing the name of the Act to the Leasing and Licensing of Customary Act 1965), the Commission undertook to revise this project to accommodate the new amendments (CLLAP 2). To date, CLLAP 2 is being finalised with TV 1 for airing.

3. Public Service Day 2019

On 27 September 2019, the Commission participated in the Public Service Day, a national event to remember all public servants employed under the auspices of the Public Service Commission. The Commission in its effort to celebrate Public Service Day, set up Awareness Booths outside its Office and distributed pamphlets and flyers to members of the public in the vicinity of the FMFM II Building. Public Service day also coincided with the Family Law Awareness Seminars in Savaii where the Commission also set up Awareness Booths at each of the venues (Neiafu, Sagone, Safotu & Salelologa) where the seminars were held. The Commission is thankful to Cabinet and the Public Service Commission for this opportunity to allow the Commission to inform the public on its work.

Conferences, Workshops & Training

Legal

Training/ Course Title	Provider	Date	Location	SLRC Employee
Awareness Presentation on Digital TV Project	OOTR	3/5/2019 @9am- 12pm	SLRC Conference Room	All Staff
MCCABE CENTRE FOR LAW & CANCER INTENSIVE LEGAL TRAINING COURSE	MOH	6/5/19- 24/5/19	Melbourne, Australia	Sheliza Tapuai
Workshops & Roundtable Discussions for the Development of a Gender Based Family Violence Toolkit for the Family Violence Court	MJCA SLRC Ex Dir presented on aspects of the SLRC's Family Law Review	21/5-27/5/19, 28/5/19	MJCA Training Room	Tele'ai Lalotoa Mulitalo, Tapuala Ulupale Fuimaono, Ruta Masinalupe & Ysatis Leafa
SADATA Workshop	MFAT	29/5/2019	Sheraton Hotel Lounge	Sheliza Tapuai
SLRC Legal Staff Training-Consolidation of Regulations Project – The Process	Executive Director SLRC	31/5/2019@3 pm-5pm	SLRC Conference Room	SLRC Legal Staff & Office of the Attorney General
Hotspot Session: SLRC Review of the Judgement Summonses Act 1965	Samoa Law Society SLRC presented on the Review of the JSA	27/6/2019 @3pm-5pm	Samoa Conference Centre, Cafeteria Room TATTE	SLRC Legal Staff & the Law Society

Conferences, Workshops & Training Cont'd

Legal Cont'd

SLRC Legal Staff Training- Research & Methodology-Analysis of data in Legal Research	Executive Director SLRC	28/6/2019	SLRC Conference Room	SLRC Legal Staff
SLRC Legal Staff Training- 1) Advice on President of the LTC; 2) Translation of the Miscellaneous Repeal Bill 2019	Executive Director SLRC	26/7/2019	SLRC Conference Room	SLRC Legal Staff
Samoa and NZ Women Peace and Security Summit	MFAT	22/8/2019-23/8/2019	Sheraton Ballroom	Hana Gauta & Ruta Masinalupe
SLRC Legal Staff Training- REVOCATION OF PROCLAMATION UNDER THE SAMOAN VILLAGE REGULATIONS 1938	Executive Director SLRC	29/8/2019	SLRC Conference Room	SLRC Legal Staff
SLRC Legal Staff Training with MNRE- • REVOCATION OF PROCLAMATION UNDER THE SAMOAN VILLAGE REGULATIONS 1938	Executive Director SLRC	18/9/2019	Post Office	SLRC Legal Staff & MNRE Land and Legal Divisions
SLR Legal Training- SAMOAN CUSTOMS IN SAMOA'S CONSTITUTION – RESEARCH PRELIMINARIES & WHAT TO LOOK FOR	Executive Director SLRC	4/10/2019	SLRC Conference Room	SLRC Legal Staff
Commonwealth Asia High-Level Regional Dialogue	Sisters for Change	18 – 20 November 2019	Kuala Lumpur	Executive Director SLRC

Corporate Service Unit

Training/ Course Title	Provider	Date	Location	SLRC Employee	Designation
S1118: Sector Planning Training	PSC	29/4/19-3/5/19 @9:30am - 1pm	PSC Conference Room	Maselusi Ah Poe	Manager Corporate Service Unit
S1128: Customer Service	PSC	20/5/19-24/5/19 @9:30am -1pm	PSC Conference Room	Ropati Sitivi	Driver
Performance Management System	PSC	19/6/19-20/6/19 @9:30am -1pm	PSC Conference Room	<u>Masinamua</u> Maselusi Ah Poe	Manager Corporate Service Unit
Performance Appraisal Training	PSC	16/8/2019 @3pm	SLRC Conference Room	All Staff	SLRC

HAVE YOUR SAY



Q -
How to give the Commission my Feedback?

A -
Send us through letter, email or join us at our public consultations in Upolu or Savaii.

Contact us

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