

The Honourable Toswell Kaua  
Minister for Justice and Legal Affairs  
Parliament House  
Honiara  
Solomon Islands

February, 2008

Dear Minister,

On behalf of the members of the Solomon Islands Law Reform Commission, and in accordance with Section 10(1) of the Law Reform Commission Act, 1994, I am pleased to present to you the Fourth Annual Report of the Solomon Islands Law Reform Commission for the period 1 January 2006 to 31 December 2006.

Yours sincerely,

**F.O.Kabui, C.S.I., C.M.G., O.B.E.**

Chairman Solomon Islands Law Reform Commission

Kalala Haus

Signed on behalf of Commissioners Levo, Maenu'u, Dyer and Riti.

Commissioners

Chairman                      Frank Ofagioro Kabui C.S.I., C.M.G., O.B.E.

Part-time Members    Mr Charles Levo

                                 Mrs Sarah Dyer

                                 Mr Leonard Maenu'u O.B.E

                                 Rt. Rev. Philemon Riti O.B.E

**Staff**

Secretary                      Anna Guthleben

Chief Legal Officer            “            “

Senior Legal Officer            Vacant

EP Secretary                      Mrs Detta Fafe

**Premises**

The Commission's premises are now located at Kalala Haus, Hibiscus Avenue, Honiara, Solomon Islands.

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## **Highlights from 2006**

2006 saw the revival and re-establishment of the Solomon Islands Law Reform Commission which had been in abeyance since May 1998 when Chairman Kabui was appointed to the High Court.

Chairman Kabui worked by himself from his chambers in the High Court from April 2006 until office premises were found late in the year.

Office premises were secured and the Law Reform Commission moved into the Panatina Office in October 2006 where he was joined by the administration staff.

On 20<sup>th</sup> November 2006 the Commission was joined by an expatriate technical advisor who was appointed by the Public Service Commission as Secretary/Advisor to the Solomon Islands LRC.

In the few short months available to the LRC office furniture and equipment was sourced and acquired, and office procedures and policies put into place.

## **Comments from the Chairman**

### **Introduction**

Law reform as a concept first hit the political stage in the 1980s. NADEPA was the first political party that had as part of its manifesto the law reform agenda at that time. However, no action had been taken for the next 14 years until in 1994 when the National Parliament passed the Law Reform Commission Act, 1994.

### **The first Law Reform Commission**

The Chairman of the first Law Reform Commission was Mr. Kabui, having relinquished his role as Attorney-General in November, 1994. The other members were the late Bishop Sir Duddley Tuti, K.B.E., O.B.E., Bishop Leslie Boseto, C.S.I. C.M.G., Mr. A. Radclyffe, ESQ and Alice Puia (Mrs.). The Secretary was Mr. David Firisua and the Personal Secretary was Madeline Waiwori (Mrs.).

The budget allocation then was \$165,000.00 for 1995. There were two positions for research officers but were never filled due to lack of local professional manpower. One of these positions was later filled by an expatriate but soon became vacant again due to lack of funding from the Government.

The Minister had given the Law Reform Commission a number of references for their attention with no time limit for completion. The Chairman became the research officer for the Commission. He did one report on land below the high water mark. He also began work on the ownership of customary land in relation to the ownership of the timber resource on it and the law of treason but both were incomplete for reasons I will state later.

The Commission was also able to produce two annual reports for 1995 and 1996. The annual report for 1997 was completed but remains unpublished for the same reason that the Chairman was unable to complete the work he began on the two references referred to above.

In May, 1998 the Chairman was appointed a judge of the High Court and he left the Commission. His resignation also saw the end of the Commission and its work. The staff of the Commission had to be re-posted elsewhere in the public service. The office had to be closed down and the office furniture and equipment re-allocated elsewhere. His attempt to continue as part-time Chairman was rejected by the then Chief Justice. It was unfortunate but the Chairman had to abide by the Chief Justice's view.

### **The revival of the Law Reform Commission**

The Commission had ceased to function for the last eight years. However, in 2005 Government Minister Maina appointed Mr. Justice Kabui as part-time Chairman to the Commission. The Minister also appointed other part-time Commissioners. They

are Messrs Levo, Maenu'u, Bishop Riti and Mrs Sarah Dyer. The Government at that time made no allocation of funds for the work of the Commission. There was then a Commission in place but it had no teeth to bite. That is, it had no office, no staff, no furniture or equipment and no funds.

When Mr. Justice Kabui retired as a judge in April 2006, he was immediately appointed the full-time Chairman of the revived Law Reform Commission. He was appointed by the Judicial & Legal Service Commission on the recommendation of the Minister under section 3 of the LRC Act for a term of five years under section 4 of the LRC Act. His terms and conditions of service are that of a puisne judge of the High Court. The Chairperson of Law Reform Commissions in the Commonwealth is always a serving judge or a retired judge. Any other lawyer who is not a judge or retired judge must be so senior that he is so qualified to be a judge. For example, in Australia, a few chairmen of law reform commissions have been elevated to the bench. In Fiji, the present Chairman of the Fiji Law Reform Commission is not a judge but is a former Attorney-General and is remunerated as a Fiji Supreme Court judge. He is well qualified to become a judge.

### **The budget for 2006**

For the year 2006, Government allocated \$429,123 for the Commission's total budget. This is the Solomon Islands Government component of the 2006 budget. Of this, \$115,515 had been set aside for recurrent costs such as utilities and travel costs for local officers. \$313,609 were monies to cover salaries and allowances. But the total budget for 2006 was not enough to cover the full cost of operating a full-time Commission and support was sought from AusAid through the RAMSI Law and Justice Program.

### **Staffing of the Commission**

It must be remembered that the Law Reform Commission started from ground zero in 2006. All the existing posts were vacant on day one. When the Chairman was appointed, all the other posts continued being vacant. Seven posts had been created to be funded by the Government. They are the Secretary to the Commission the (Chief Executive Officer), the Chief legal officer, three senior legal officers (all research officers), one Executive Secretary and one clerk. These are the supporting staff for the Commission. There may be a modest increase in staffing later.

### **A teething problem**

There was however a teething problem in the meantime. Because the Commission is starting from scratch again, it had to have an office, staff, furniture and equipment etc. These were not available on day one. The Chairman had to operate from his old Chambers in the High Court with the approval of the Chief Justice. The Chairman only moved out of the High Court premises in October 2006 into a new temporary office located at Panatina Plaza. He was immediately joined by a Personal Secretary

and a clerk. The rental and provision for furniture, equipment, etc were being met by AusAid through the RAMSI Law and Justice Program. Some basic furniture and equipment have now been acquired to start off the office.

The permanent office for the Law Reform Commission will be in the Kalala House near the High Court when it is ready early in 2008. Recruitment of local staff commenced in late 2006 but the response had not been good. The Commission is really in need of local lawyers as researchers working side by side with expatriate researchers. If the Commission cannot get them, it may have to look to overseas expertise to see it out of the woods. It is important that it builds up its local professional staff expertise in the research field and keep it.

An adviser had been recruited for 12 months to assist in setting up the Law Reform Commission office and had become the Secretary to the Law Reform Commission. She is now at post, commencing on 20 November, 2006. She is the Secretary to the Commission as well as the Chief Legal Adviser. She is wearing two hats. She will relinquish her role as Secretary as soon as a local person comes along. Any local person who takes up the role as Secretary has to be a lawyer.

The other expatriate adviser will be the Research Manager and will be joined by any new Solomon Islands recruits as soon as possible. Two vacant posts are being reserved for local lawyers. With two expatriates in place and being joined by two local lawyers later will be a one-to-one placement for mentoring purposes. Even if there are not local lawyers in place on day one, there is still a need for expatriate lawyers' involvement in the first formative years. The reason is that law reform work is new in Solomon Islands and there is no existing pool of expertise on day one. Any number of local lawyers that may engage in law reform work will all be inexperienced themselves and none of them will be senior enough to be the leader and supervisor in research work. This unfortunate situation also exists in the Fiji Law Reform Commission where the lawyers are USP graduates of almost equal standing. I will return to this point later.

**There is a backlog of work to be done.**

In 1995, the then Minister of Justice and Legal Affairs referred to the Law Reform Commission ten matters that the Commission should attend to and report back to him. The first was the review of the law of Crown ownership of the foreshores or beaches up to the high water mark. Work has been done on this but the law has not changed.

The second matter was the review of the ownership of customary land and the ownership of the trees that stand on that customary land. The present law is that the ownership of customary land is not the same thing as the ownership of timber rights in the trees that stand on that land. Work has also been done on this but the law has not changed.

The third matter is the review of the law of marriage and the law of divorce. There are customary marriages and civil marriages co-existing. There are however two categories of civil marriages in Solomon Islands. One is the Islanders' Marriages Act which applies to all Islanders. The other is the Pacific Islands Civil Marriages Order 1907 which applies to non-Islanders. There may be a need for a new civil marriage law for all apart from customary marriages. Should customary marriages be registered? This question needs an answer. The law of divorce had undergone a major change in England in 1969 and this change has reverberated throughout the Commonwealth. The single new ground for divorce now is the irretrievable breakdown of the marriage than proving either adultery, desertion, cruelty etc as is the present law in Solomon Islands. There may be a good case for change in Solomon Islands.

The fourth matter is the review of the building bye-laws that we now have which are out-dated and ought to be revisited to ensure that all buildings in Solomon Islands are safe and secure for occupation.

The fifth matter is the review of the law on mental patients in Solomon Islands. Persons who suffer from mental conditions ought to be properly cared for and be protected from themselves or others whilst under treatment in custody etc.

The sixth matter is the review of the Penal Code and the Criminal Procedure Code. They are now outdated in parts and ought to be reviewed.

The seventh matter is the review of the law of treason. This law is about the overthrow of the Head of State or Government by force. The eighth matter is the review of the law of sedition. This law is about the unlawful behaviour against the Head of State or the Government etc. These two areas of the law are part of the Penal Code but are specific and ought to be treated specifically in terms of reviewing them.

The ninth matter is the review of all the penal provisions of the Customs & Excise Act which are extra-ordinarily low.

The tenth matter is the review of the Acts of the British Parliament which are of general application as on 1/1/1961 in England. Section 76 as read with Schedule 3 to the Constitution does provide for the filling up of gaps in the law of Solomon Islands until the National Parliament repeals that law and fills the gap. For example, we used to apply the English Arbitration Act, 1950 until the National Parliament enacted our own and repealed the English Arbitration Act, 1950. The problem we face is the difficulty in identifying the English Acts, some of which may be very old indeed and then modernizing them to suit our present circumstances in Solomon Islands.

There is therefore a lot to be done right now and in the future.

### **How does the Law Reform Commission propose to do its work?**

The main constraint is trained manpower and the working tools. Law reform is a specialized area of legal activity. The amount of legal knowledge involved is



enormous. It is less glamorous and does not attract the first lawyer that comes out of law school. It however involves the active participation of the communities and stakeholders. The communities discuss the laws, express their views on them and the Law Reform Commission listens to them and makes its recommendations to the Minister. These recommendations will become Bills in Parliament, changing the laws for the better.

For us the road will be hard, long and tedious but the work has to be done. High quality and high standard of work are required in law reform everywhere and we are no exception. Our local lawyers have to be properly trained for this. We cannot rush it. We cannot cut corners. We need expatriate manpower in the formative years to pass on the knowledge and skills required in law reform. This assistance may take longer than expected but that is the price we have to pay for being a new Law Reform Commission starting from ground zero. We need this assistance and we must get it if we are to survive the formative years and become a vibrant law reformer in Solomon Islands.

We were appalled at the lack of response from local lawyers to our advertisements for the legal posts in the Commission. There is a general reluctance on their part to take up government posts due to lack of better terms and conditions of service for public service lawyers. The other problem is that even if there is enthusiasm on their part and they do come, they cannot assume senior posts immediately because of being raw in the job. Gaining experience is a great thing. It takes time and patience to get it. That is the golden rule. We break this rule and we are in for trouble.

### **Visit to the Fiji Law Reform Commission.**

Realizing this rather daunting task ahead of the Law Reform Commission, the Chairman and part-time Commissioner Levo visited the Fiji Law Reform Commission in September, 2006 to see the Fiji set up and learn from them. The Fiji Law Reform Commission was the most active and resourced Law Reform Commission in the Pacific ahead of PNG apart from Australia and New Zealand. The other Law Reform Commissions in other small Pacific states are either non-existent or inactive.

The Chairman and part-time Commissioner Levo discovered that the Fiji Law Reform Commission had done a lot despite its modest allocation of funds from the Government. They also discovered that the Fiji Law Reform Commission had been able to use off-shore funding to supplement Government allocation. That is, they have tapped UNDP and NZ aid money. In practice, it means securing money from aid donors and then contracting out the work for anyone who is willing and has the appropriate expertise to do the work required but always under the supervision and in consultation of the Fiji Law Reform Commission. Also, a number of reports have been produced by that Commission, some of which may be relevant to us.

We do know from the Fiji Law Reform Commission website that work has begun on the Penal Code and the Criminal Procedure Code, which in many ways, are similar to ours. The Chairman confirmed this on his visit to the Fiji Law Reform Commission. Whatever is being done there in that regard is of relevance to us because we are also required to do to our Penal Code and the Criminal Procedure Code references the very same that the Fiji Law Reform Commission has begun to do. Unfortunately the coup in Fiji has resulted in the demise of the Fiji Law Reform Commission.

The Chairman had done a draft concept project proposal with the view of securing off-shore funding for the review of the Penal and Criminal Procedure Codes. This step was thought necessary to supplement the rather inadequate capacity of the Law Reform Commission to undertake major projects such as the review of the Penal and Criminal Procedure Codes. However, this approach has been superseded with AusAID now funding one position within the Law Reform Commission.

In the case of the Fiji Law Reform Commission project, the NZ Government gave the money and the Fiji Law Reform Commission contracted out the project. The best bidder was selected and entered into a contract with the Fiji Law Reform Commission to undertake the project for 12 months. The work program was agreed and the contractor commenced work and paid by instalments at each stage the project was completed to the satisfaction of the Fiji Law Reform Commission. The project was due to be completed at the end of December, 2006. Fiji should have a new Crimes Act, an amended Criminal Procedure Code and a new Sentencing Act as a result of this project. As noted previously because of the coup the final report covering the Penal Code and Criminal Procedure Code has not been tabled in Parliament, and therefore not available to the public.

However, we discovered that the work of the consultants was superficial in substance perhaps due to the timeline of 12 months being too short a time to complete both the Fiji Penal and Criminal Procedure Codes both of which was a massive project which would have taken longer than 12 months. Accordingly it does not seem to be appropriate to outsource the work of the Solomon Islands Law Reform Commission. A better approach is to build the policy expertise within the Solomon Islands so that law reform becomes a sustainable process.

In the meantime, the Law Reform Commission will do its best with the resources it now has at its disposal. We are of the view that we can do both the Penal and the Criminal Procedure Codes internally provided we have the right complement of staff. The review of the Penal and the Criminal Procedure Codes is a massive undertaking and will take well over 24 months or longer to complete.

### **Training local lawyers**

A policy manual has been developed as a training tool for local lawyers to introduce them to the technical aspects of law reform. The manual is a self-directed learning tool that enables new lawyers to develop their skills over a period of time.

Given that the Solomon Islands Law Reform Commission is newly re-established it is important that local lawyers get exposed to more established LRCs as they develop their skills.

In 2007 the Australian LRC has offered to host the Solomon Islands LRC lawyers for a two week secondment.

As well, the New Zealand Law Commission has offered to host the Solomon Islands LRC lawyers for a 2 week placement in 2008.

Over the next five years as the Law Reform Commission establishes itself it is hoped that local lawyers get an opportunity to work with counterparts from other jurisdictions on a yearly basis.

**F.O.Kabui, C.S.I., C.M.G., O.B.E.**

Chairman S.I.L.R.C.

Panatina Plaza

16 August, 2007.

## **Corporate Overview**

### **Vision and Mission Statement for the Law Reform Commission**

The LRC vision is law reform for peace, good governance and sustainable development.

The mission of the Solomon Islands Law Reform Commission is to engage Solomon Islanders in the renewal of the law to ensure that it is relevant, responsive, effective, equally accessible to all, and just.

### **Role and Functions of the Law Reform Commission**

The Solomon Islands Law Reform Commission (the Commission) is a statutory body established under the *Law Reform Commission Act 1994* (the "LRC Act"). The Commission is headed by the Chairman and four part-time Commissioners.

The Commission's cardinal role is to review the existing laws of Solomon Islands to bring them into accord with current conditions, stamp out defects, simplify the law and assume new and more efficient methods for the administration of the law and the dispensation of justice. In addition, the Commission makes recommendations with regards to the creation, consolidation, and revocation of laws.

The Commission receives references from the Minister of Justice directing the Commission to review specific areas of law. There are currently 10 outstanding references before the Commission. [Please see Appendix 1 for a complete list of references currently before the Commission.]

### **Powers of the Commission**

The powers of the Commission are provided for under section 6 of the LRC Act 1994. It gives the Commission the power to consult all parties that may be affected by any proposed change in the law. This extends from Government entities to non-government organisations and members of the public.

In addition, the Commission has the power to provide advice and information to any Government department and any other Government institution, authority, organisation, instrumentality or body concerned with proposals for the reform or amendment of any branch of the law but this is subject to the approval of the Minister.

Moreover, the Commission has the power to receive and consider any proposal for the reform of the law which may be referred to it.

Additionally, in conducting its research work, the Commission is also given general powers to gather information not only within the local jurisdiction but also from relevant jurisdictions outside the Solomon Islands.

The Commission is also given powers to do all things necessary or convenient to be done for or in connection with the successful performance of its specified functions.

Finally, when the Commission convenes an inquiry for the purpose of effectively fulfilling its functions, it enjoys the powers and authorities accorded to a commissioner under the Commission of Inquiry Act.

### **Independence and Impartiality**

Law Reform Commissions are established under statute partly to preserve their independence and impartiality. The Commission's views and recommendations are based on independent and impartial research. This is guaranteed by the research methodology it has adopted. The law provides that when the Commission carries out its functions, it is confined to the limits set by each reference made by the Minister.

As part of the Commission's mandate and research methods, it will publish reports and consultation papers based on careful and thorough research. In the course of research particular attention will be given to case law, legislation, jurisprudence and academic writings. The Commission will also consider the laws of comparable jurisdictions, as well as to proposals presented by law reform bodies in other jurisdictions.

The Commission will also request submissions from members of the public who may wish to make their point of view known on a particular research reference. These submissions will be taken into account in the drafting of the final report on the subject, and any issues or concerns they raise will be addressed.

Consultation is of central importance to the Commission's work. Consultation may take several forms. In the initial stages of its research, the Commission will meet with professionals working in a particular area, and representatives of various interest groups.

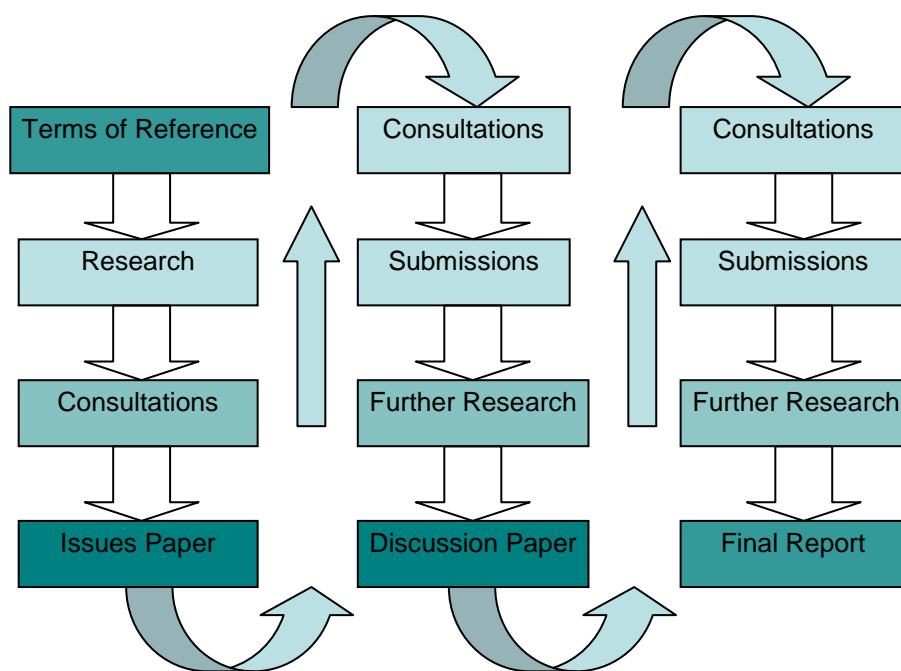
Once the main issues are identified the Commission will prepare an Issues Paper which will be used as the basis of consultation with the people of the Solomon Islands. It is likely that the Commission will consult in the provinces in a number of ways. That is, through television and radio broadcasting to reach people and stimulate discussion and ideas about law that is under review. Moreover, the lawyers from the Commission will visit the provinces and meet with people face to face to receive submissions.

As soon as the consultation process is completed the Commission will develop a series of recommendations on how the law should be modernised, amended, or repealed. These recommendations are developed by the Commission's research lawyers. The recommendations then go before the four Commissioners and Chairman for their comments and endorsement. Finally the body of work is released as a Final Report that goes to the Minister of Justice.

The Commission hopes to be able to present a draft Bill to the Government as part of the Final Report. In this way the Government will easily be able to act on the Commission's recommendations if it so chooses. It is entirely the Government's prerogative as to whether they support the Commission's recommendations and enact or amend the draft Bill.

In abiding by this methodology it is assured that the information which the Commission's views and recommendations is based on, is balanced and unbiased. This guarantees the Commission's successful adherence to its vision and fulfilment of its mission.

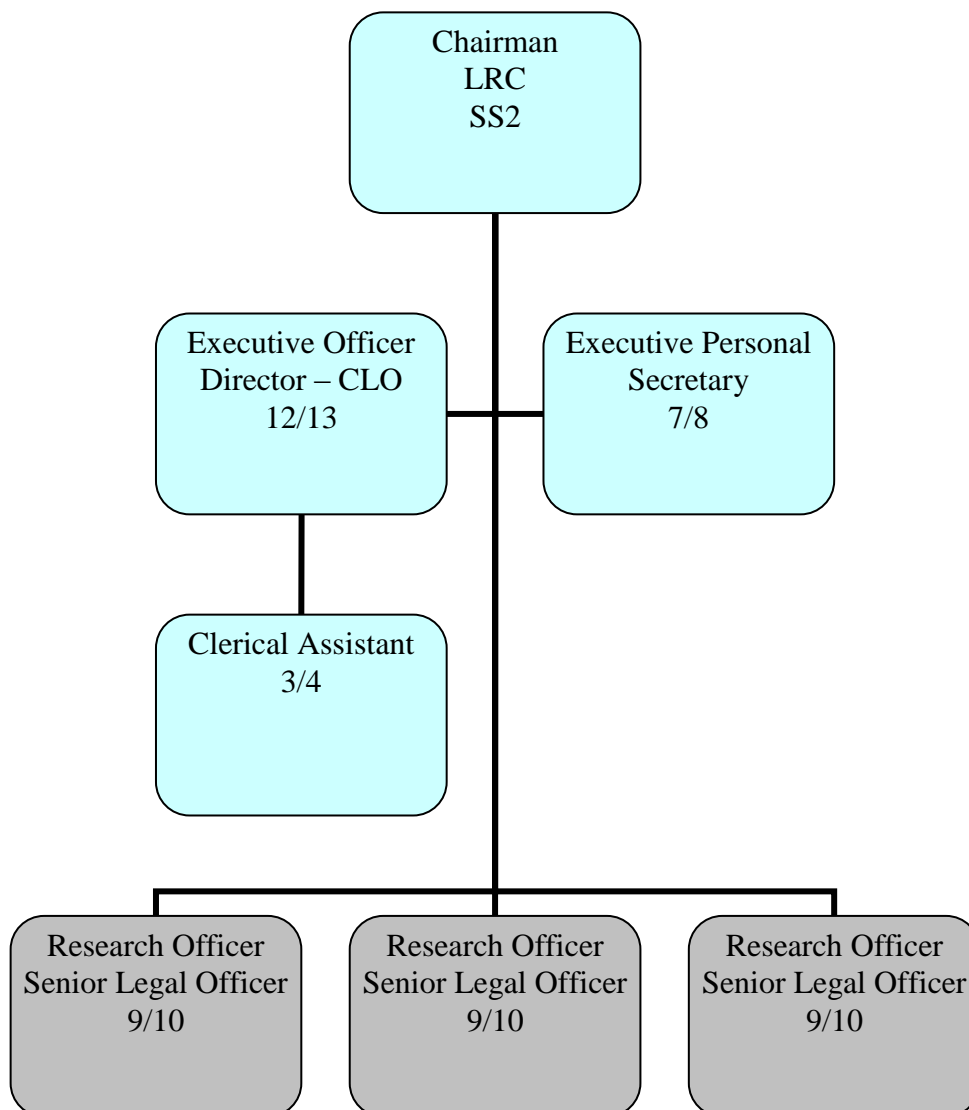
### A Typical Law Reform Inquiry Process



## Law Reform Commission Organisational Structure

The Commission had been in abeyance from 1998 following the appointment of Chairman Kabui to the High Court. In 2006 he was appointed part-time Chairman and upon conclusion of his term as High Court Judge in April 2006 he was again appointed as full-time Chairman to the Commission.

In late November, 2006 the Chairman and the administration staff were joined by the expatriate advisor (Ms Guthleben). In 2006 there were no research officers working in the Commission.



## Commissioners Profiles

### **Chairman – Mr Frank Ofagioro Kabui C.S.I., C.M.G., O.B.E.**

Mr Kabui graduated with a Bachelor of Laws (LLB) from the University of Papua New Guinea in 1973. He entered Government Services as Crown Counsel in January 1975 in the Attorney-General's Chambers. He became Assistant Attorney-General in 1977 and Attorney-General in April 1980. He was Attorney-General for fourteen years. In 1995 Mr Kabui was appointed Chairman of the Law Reform Commission.

In May 1998 Mr Kabui was appointed a judge of the High Court and left the Commission. In 2005 Judge Kabui was appointed part-time Chairman to the LRC. On retirement from the Bench in 2006 he was again appointed full-time Chairman of the Law Reform Commission.

Mr Kabui also holds a Post-Graduate Diploma in International Law from the Australian National University (ANU) and a Certificate in Legislative Drafting from CFTC sponsored training in Colombo, Sri Lanka, 1976/77. He was an ex-officio member of the Investment Corporation of Solomon Islands (ICSI) for six years and director of ICSI portfolio companies during that same number of years.





**Commissioner – Mr Charles Levo**

Mr Charles Levo completed his primary education from 1982-1987 at Kariki and Vonunu Primary schools. His secondary education included attending from 1988-1992 Goldie College National Secondary School; 1993 Selwyn College National Secondary School; and in 1994 King George Sixth School.

Mr Levo undertook university studies from 1995 -1998 at the University of South Pacific (Suva and Port Vila), obtaining a LLB. In 2000 he graduated from USP (Suva), with a Professional Diploma in Legal Practice (PDLP).

In 1999-2000 he was the Clerk to the Central Magistrates Court. From 2000-2002 he worked as the Assistant Legal Advisor to the National Bank of Solomon Islands Limited. In 2003-2005 he was the Legal Advisor to the National Bank of Solomon Islands Limited. Currently he is a private Legal Practitioner with XPlain Lawyers.

Mr Charles Levo is also an Executive Member of the Solomon Islands Bar Association; a Member of the Law Reform Commission of Solomon Islands and a Member of the Solomon Island Constitutional Congress.



**Commissioner – Mrs Sarah Dyer**

Mrs Sarah Dyer holds a Certificate and Diploma in Special Education from Suva, Fiji in 1980 and University of the Philippines, Manila, in 1984, as a teacher for children with disabilities. She taught at the Solomon Islands Red Cross Centre for Special Disabilities from 1979-1984. From 1998-2000 she was the President of Soroptimist International Solomon Islands. In 1999 to 2003 she was the National Representative for Solomon Islands on the Soroptimist International, South West Pacific Federation.

In 2002-2005 she was the President, Solomon Islands National Council of Women. In 2004 she was appointed by the Government to the RAMSI Intervention Taskforce.

Mrs Dyer is also a member of various high level boards including: 2003-2006 Member, the University of the South Pacific (USP) Council; 2004-2006 Member of the National Education Board; 2005 (ongoing) Member, Women, Peace and Security; 2005 (ongoing) Member of the CEDAW Committee.



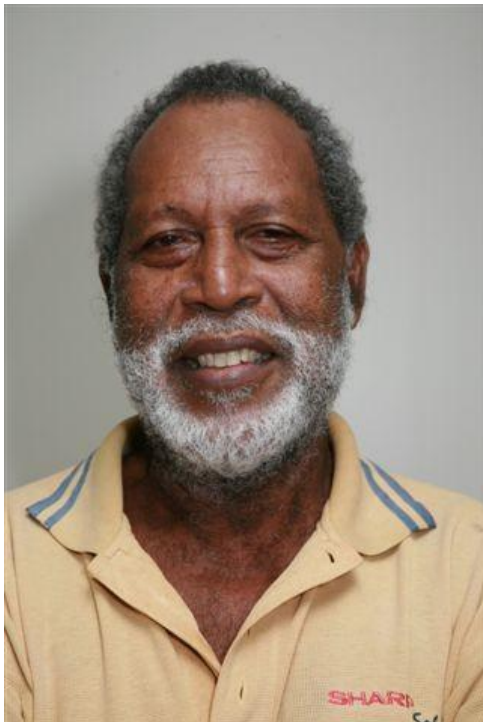
**Commissioner – Mr Leonard Maenu’u O.B.E.**

Mr Maenu’u holds a Certificate in Forestry (Forestry School of Fiji-1960), Diploma in Effective English (Regent Institute in England-1968), and a Diploma in Forestry (Papua New Guinea Forestry College-1970). Recently, he completed a Certificate (2002) and a Diploma (2004) in Theological Studies from the Pacific Theological College in Suva, Fiji.

Mr Maenu’u entered Government Services as a Forestry Officer in 1958, and he was appointed the Commissioner of Lands in 1974. He held the position of Permanent Secretary for the Ministry of Commerce, Trade and Industries (1976-1978, 1982-1984), Ministry of Health and Medical Services (1978-1980, 1992-mid 1993), Ministry of Youth Sports and Culture (1980-1982), Ministry of Police, National Security and Justice (1986-1987), Ministry of Post and Telecommunication (1987-1989) and Ministry of Finance (1989-1990).

Prior to his current appointment in 2006 as the Director of Land Reform, Mr Maenu’u also occupied other key positions such as Secretary to Cabinet (1991-1992), Chairman of the Leadership Code (1993-2001), part-time Chairman to the Committee for Prerogative Mercy (1993-2001), consultant for the Public Service Reform (2005) and Commissioner of Lands (2006).

He has also published a book on Kwara’ae Land Tenure and had contributed immensely to the drafting of instruments such as the Leadership Code [Cap 86], the National Disaster Council Act [Cap 148], and guide for the Committee on Prerogative Mercy.



**Commissioner - Rt. Rev. Philemon Riti O.B.E.**

Bishop Riti completed his primary education in the Western Province, and his secondary education at Goldie College, Munda. In 1966 he attended the British Solomon Islands Teachers College in Honiara. From 1967-1969 he taught at Sege and Gizo Primary Schools. In 1971 Bishop Riti completed Form 4 at George Brown High School, Rabaul, PNG.

In 1972-1977 Bishop Riti completed a Diploma in Theology at Rarongo Theological College, Rabaul PNG. He then was the parish Minister at Waigani United Church Congregation at Port Moresby, PNG. From 1980-1982 he was the Chaplain at the University of Technology, Lae, PNG, and then in 1983 he was the Circuit Minister for North Choiseul, Solomon Islands.

1984-1988 he held the post of General Secretary to SICA in Honiara. 1987-1988 he was a member of the National Constitutional Review Committee. In 1989-1990 he undertook post graduate theological studies at St John Trinity College in Auckland New Zealand.

In 1991 he was appointed bishop of Solomon Islands Region within the United Church of PNG and Solomon Islands, a post he held until 1996. From 1997-2005 he was the First Moderator of the United Church in Solomon Islands independent from the PNG United Church. He served as the Moderator of Pacific Conference of Churches from 2002-2007. He was appointed as General Secretary of SICA for the period 2006-2008.



## Staff Profiles

### Chief Legal Officer/Secretary – Anna Guthleben

Ms Guthleben graduated from Adelaide University with a Bachelor of Science (Jurisprudence) and Bachelor of Laws (Honours). She also has a Graduate Diploma in Legal Practice from Australian National University.

She is currently in the Solomon Islands on leave from her position in South Australia's Attorney-General's Department Legislation and Legal Policy Section. Her experience includes working in private practice, for government statutory authorities and within government departments. Ms Guthleben also brings to the Commission excellent training skills gained over many years. She was also a Director of YWCA (Canberra) for 3 years.



**Executive Personal Secretary - Mrs Detta Fafe**

Mrs Fafe has been working with the Ministry of Justice for the past fourteen years. She brings to the Commission extensive administration and word processing skills gained from working as part of the Law Revision Commission where she was responsible for producing the manuscripts for the Solomon Islands Statute Books (the Green Books). Prior to joining the Law Reform Commission Mrs Fafe worked in the Attorney-General's Chambers.



## Report on Operations

### Introduction

Re-establishing the Law Reform Commission involves three relatively distinct stages.

The first phase involves: equipping the office; designing and implementing administrative and management systems, policies and procedures; and training the support staff.

Phase 2 involves: recruiting and training the legal officers; developing the LRC research methodology; designing the consultation process; stakeholder contact lists; LRC writing style guides; and building relationships with the Commission's stakeholders and overseas Law Reform Commissions.

Phase 3 involves running and managing the substantive work of the Commission and building the capacity and expertise of the legal research team.

### LRC Corporate Plan 2006 and Achievements

The LRC Corporate Plan for 2006 was modest because the Chairman was only appointed as full time Chair in late April 2006. Also the LRC didn't move into the Panatina office until late October 2006.

#### **Objective 1 Re-establish the LRC office**

Office space at Panatina was found and the LRC moved in October 2006

The Chairman was joined by the Executive Personal Secretary and Clerk

Office furniture and office equipment was sourced and bought

#### **Objective 2 Set up administration and management procedures**

The Classifications Plan and filing system was designed and implemented

The SIG procurement process was implemented

LRC trained in the SIG procurement process

#### **Objective 3 Build capacity of LRC administration staff**

Administration staff underwent a training needs and skills analysis

Training and development goals identified

CAO in Ministry aware of training needs of LRC administration staff

## Financial Statements

### Financial Statements 2006

The Commission's financial statements are presented as three tables. The first two tables give an overall picture of the allocated budget and actual spending. The final table gives a detailed breakdown of the allocated budget lines for 2006.

### Allocated Budget and Spending 2006

#### Budget Performance 2006

2006	Revenue		Expenditure	
Budget Performance	Final Budget (\$)	Actual (\$)	Final Budget (\$)	Actual (\$)
	N/A	N/A	382,442	120,061

#### Composition of Expenditure 2006

2006	Personnel Costs		Operating Costs		Total Expenditure	
Expenditure Composition	Final Budget	Actual	Final Budget	Actual	Final Budget	Actual
	313,609	93,139	68,933	26,922	382,442	120,061

During 2006 utilities became the responsibility of the Ministry of Justice and are now paid centrally. This amendment to process was accompanied by a virement of \$46,582 to the Ministry utility account. Thus the original LRC operating budget was reduced from \$115,515 to \$68,933.

The Law Reform Commission did not have an opportunity to fully utilise the 2006 budget for two reasons: firstly the Commission did not really come into operation until it moved into office space in October 2006; secondly, it was not possible to recruit legal officers to the research positions in 2006.



**Breakdown of LRC Budget Votes 2006**

0159 Law Reform Commission				
Code	Item	Vote	Virements	Adjusted Budget
	Payroll			
1000	Statutory Salary	104,000		104,000
1001	Housing Allowance	6,000		6,000
1004	Other Allowances	8,000		8,000
1005	NPF (7.5%)	8,850		8,850
1010	Civil Service Salaries	156,924		156,924
1011	Housing Allowance	16,805		16,805
1014	Other Allowances			
1015	NPF (7.5%)	13,030		13,030
1020	Wages			
1021	Housing Allowance			
1024	Other Allowances			
1025	NPF (7.5%)			
	Personnel Costs	313,609		313,609
2010	Office Expenses	5,305	8,067	13,372
2011	Electricity & Gas	15,450		15,450
2012	Water	4,120		4,120
2013	Telephones	25,750	-20,000	5,750
2051	Freight - Surface	8,240	-8,240	
2070	Travel & Transport	30,900	-20,000	10,900
2191	Office Equipment		7,870	7,870
2193	Furniture		11,471	11,471
6028	Commissioners Allowances	25,750	-25,750	0
	Operating Costs	115,515	-46,582	68,933
	Grand total	429,124		382,542

## Appendix 1

### Terms of Reference

WHEREAS section 5C of the Forest Resources and Timber Utilisation Act (Cap.40) sets out the procedure for the acquisition of timber rights in Solomon Islands.

AND WHEREAS the determination of timber rights on customary land is not the same thing as the determination of the ownership of customary land.

AND WHEREAS the High Court in Allardyce Lumber Company Limited, Bisili, Roni, Sakiri, Hiele, Sasae, Poza, Zengahite, Daga, Pato and Zingihite v Attorney-General, Commissioner of Forests Resources, Premier of Western Province and Paia [1988/89] S.I.L.R. 78 confirms that ownership of customary land and ownership of timber rights are not the same thing.

AND WHEREAS this position has been disputed as not representing the true position in customary land in that persons who own customary land also own the timber on that land.

NOW THEREFORE in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994, I, OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following –

To enquire and report to me on –

1. The effectiveness/appropriateness of the timber acquisition procedure under section 5C of the Forest Resources and Timber Utilisation Act (Cap. 40);
2. The true position in customary law regarding ownership of customary land and timber on customary land in view of section 5C of the Forests Resources and Timber Utilisation Act (Cap. 40) and the High Court ruling above;
3. Whether or not the Area Council is the appropriate authority to determine ownership of timber on customary land;
4. Any reforms necessary to make the law more suited to the aspirations of Solomon Islanders.

Dated at Honiara this 1<sup>st</sup> day of May 1995

O. ZAPO

Minister of Justice and Legal Affairs

NB: Explanation: The procedure for the acquisition of timber right on customary land is prescribed by section 5C of the Forests Resources and Timber Utilisation Act (Cap. 90). This position is further endorsed by the High Court when it remarked that ownership of customary land is not the same thing as ownership of timber rights. This position has been questioned on the basis that it does not represent the customary law position in the determination of ownership of customary land and the timber sitting on it. Also, the area council as the authority to decide who is entitled to grant timber rights has been questioned on the basis of its appropriateness in the context of customary land tenure ownership system in Solomon Islands. It is therefore in the public interest to review section 5C above and bring about change if necessary.

WHEREAS the Islanders Marriage Act (Cap.47) is based upon the Native Marriage King's Regulation 1945 which recognised custom marriages to this day.

AND WHEREAS there is also the Pacific Islands Civil Marriages Order of 1907 still recognised by the Islanders Marriage Act (Cap. 47) above.

AND WHEREAS these multiple laws have caused confusion and the need for rectification as soon as possible is but obvious.

AND WHEREAS the law relating to divorce in Solomon Islands is also in need of review to bring it in line with modern approach to divorce settlement in Commonwealth countries.

AND WHEREAS in so doing regard should also be given to the aspirations of the people of Solomon Islands in terms of giving them the choice between alternatives, if any, of available approaches to divorce settlement.

NOW THEREFORE in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994, I, OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following –

To enquire and report to me on –

**A.**

1. The need to have one single civil marriage law for all persons resident in Solomon Islands.
2. The recognition of marriage conducted according to custom in Solomon Islands.
3. The need for registration of customary marriages for the purposes of proof in Court etc.
4. Reforms that may be necessary to meet the aspiration of the people of Solomon Islands.

**B.**

1. The review of the law relating to divorce in Solomon Islands.
2. Reforms as may be necessary bearing in mind the aspirations of the people of Solomon Islands in the context of Solomon Islands circumstances.

Dated at Honiara this 1<sup>st</sup> of May 1995.

O. ZAPO

Minister of Justice and Legal Affairs

(Continues...)

NB: Explanation: There are three systems in the law for marrying, namely, marriage under custom, marriage under the Islander's Marriage Act (Cap.47) and marriage under the Pacific Islands Civil Marriages Order of 1907. Not only are these systems discriminatory in some ways but they are apart from customary marriage, confusing also. It is therefore necessary to review the present marriage law with the view of having one marriage law for every one apart from customary marriage in Solomon Islands.

The law relating to divorce in Solomon Islands is based upon the English divorce law. However, the concept which forms the basis of the English divorce law has undergone some fundamental changes over the years. These changes have come about as a result of social and economic circumstances in England and elsewhere within the Commonwealth. It is therefore necessary to look again at the divorce system in Solomon Islands in the light of these changes with the hope that Solomon Islands' divorce system benefits from useful changes in these other countries through their experiences over the years. However, whatever these changes may be, must be acceptable to the people of Solomon Islands.

WHEREAS the present building code in Solomon Islands is out of date and is totally inadequate.

AND WHEREAS the safety standard of all buildings in Solomon Islands must be of the highest order in order to provide a reasonable quality of life to the users thereof.

NOW THEREFORE in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994 I, OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following –

To enquire and report to me on –

1. The review of the law relating to building standard in Solomon Islands.
2. Reforms necessary to meet the current needs of Solomon Islands in terms of safety for all.

Dated at Honiara this 1<sup>st</sup> day of May 1995.

O. ZAPO

Minister of Justice and Legal Affairs

NB: Explanation: The building code currently in use under the authority of Honiara Town Council is totally inadequate to meet the needs of Solomon Islands. This code should now be reviewed and further improved.

WHEREAS there is a need to review the law relating to the treatment of mental patients in Solomon Islands in view of the gradual increase in mental cases and the need to provide effective care and treatment for the benefit of the community.

AND WHEREAS the effective administration of the law in this regard is an essential component of the effective treatment of mental patients in Solomon Islands.

NOW THEREFORE in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994, I, OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following –

To enquire and report to me on –

1. The review of the law relating to the treatment of mental patients in Solomon Islands;
2. Reforms necessary to fulfil the needs of Solomon Islands.

Dated at Honiara this 1<sup>st</sup> day of May 1995.

O. ZAPO

Minister of Justice and Legal Affairs

NB: Explanation: Persons who suffer from mental illness are often forgotten and mistreated by society perhaps other than members of their own families. There is a law in Solomon Islands which governs the medical treatment of persons who are mentally sick. Although the number of mental patients in Solomon Islands is not that high, the law governing their treatment must be reviewed with the view of improving it for the welfare of persons or potential persons in this category.

WHEREAS the Penal Code and the Criminal Procedure Code are in need of reform after many years of operation in Solomon Islands.

NOW THEREFORE in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994, I, OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following –

To enquire and report to me on –

1. The review of the Penal Code and the Criminal Procedure Code;
2. Reforms necessary to reflect the current needs of the people of Solomon Islands.

Dated at Honiara this 1<sup>st</sup> day of May 1995.

O. ZAPO

Minister of Justice and Legal Affairs

NB: Explanation: The criminal law system in Solomon Islands has now been in operation for many years. Developments in new crimes, their nature and complexity have made it necessary to overhaul criminal law in general to keep it abreast with the modern needs of Solomon Islands.



WHEREAS the law of treason in Solomon Islands is the common law offence of treason inherited from the common law of England.

AND WHEREAS there is a need to reassess the suitability of the law of treason in view of the changing needs of Solomon Islands.

NOW THEREFORE in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994, I, OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following –

To enquire and report to me on –

1. The review of the law of treason in Part VII of the Penal Code in view of the changing needs of Solomon Islands.
2. Recommend changes in the law of treason to reflect the needs as the case may be.

Dated at Honiara this 30<sup>th</sup> day of May 1995.

O. ZAPO

Minister of Justice and Legal Affairs

NB: Explanation: The law of treason is about overthrowing the Head of State or the Government by force. Our law of treason represents the common law position of England which may be unsuitable for the current needs of Solomon Islands. It is therefore necessary to reassess the suitability of this law in Solomon Islands.

WHEREAS there is a need to review the current law of sedition to reflect the needs of Solomon Islands.

AND WHEREAS the present law of sedition may well be regarded as part of the criminal law system of Solomon Islands and should become part of the Penal Code.

NOW THEREFORE, in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994, I, OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following –

To enquire and report to me on –

1. The review of the sedition law in Solomon Islands
2. Recommend changes, if any, to reflect the current needs of Solomon Islands.

Dated at Honiara this 30<sup>th</sup> day of May 1995.

O. ZAPO

Minister of Justice and Legal Affairs

NB: Explanation: The law of sedition is about unlawful behaviour against the Head of State or the Government or causing hatred amongst the citizens of Solomon Islands against the good order and security of Solomon Islands and its citizens. The time has now come to review this law and bring about changes if necessary.

WHEREAS land in Solomon Islands is a resources of fundamental importance to the life of the people as well as to the Government of Solomon Islands.

AND WHEREAS land in Solomon Islands would include beaches/shores and land under the sea as far as the extremities of the continental shelf.

AND WHEREAS it is in the national interest that the ownership and control of land between mean high water mark and mean low water mark are clearly stated by the law in view of the public interest versus the call for return of such land to customary landowners as the case may be.

NOW THEREFORE in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994, I, OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following –

To enquire and report to me on the following –

1. The current legal position regarding the ownership/control of beaches/shores and land below high water mark and low water mark;
2. The true position of ownership of beaches/shores and land below high water mark and low water mark in terms of customary land tenure;
3. Right of use of beaches/shores and land below high water mark and low water mark in custom;
4. The pros and cons pertaining to the current legal position in this regard;
5. Changes in the law to reflect the true aspirations of the people of Solomon Islands.

Dated at Honiara this 1<sup>st</sup> day of May 1995.

O. ZAPO

Minister of Justice and Legal Affairs

NB: Explanation: Beaches/shores and land under the sea are currently owned by the Commissioner of Lands on behalf of the State under statutory law. This position has been questioned as not representing customary law. What then is customary law regarding ownership of beaches/shores and land below low water-mark?

There are also two conflicting interests at stake, namely, call for change in the law so that all land in this category be returned to customary landowners as opposed to other developments associated with the tourist industry in Solomon Islands. The position should therefore be further investigated to find a permanent position based upon compromise or otherwise.

WHEREAS it is necessary to review the penalty provisions in the Customs and Excise Act (Cap. 58) with the view of increasing them to accord with the current needs of the country.

NOW THEREFORE in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994, I, OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following –

To enquire and report to me on –

1. The review of the penal provisions in the Customs and Excise law in Solomon Islands;
2. Reforms necessary to reflect the need of the Customs & Excise Division and the country as a whole.

Dated at Honiara this 1<sup>st</sup> day of May 1995.

O. ZAPO

Minister of Justice and Legal Affairs

NB: Explanation: Penalties for offences against Customs & Excise law were prescribed many years ago and now are out of tune with the current needs in the country. It is therefore necessary to overhaul them with the view of increasing them to acceptable levels.

WHEREAS the penal provisions of the Customs & Excise Act (Cap.58) are already under review by the Commission by virtue of a previous reference dated 1<sup>st</sup> May, 1995.

AND WHEREAS the Controller of Customs & Excise has further requested that the whole of the current Customs & Excise Act be reviewed at the same time together with the previous reference.

AND WHEREAS in view of this further request, a supplementary reference now becomes necessary.

NOW THEREFORE in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994, I OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following:-

To enquire and report to me on-

1. The review of the provisions of the Customs & Excise Act (Cap.58);
2. Reforms necessary to reflect the needs in the country of an effective customs and excise law.

Dated at Honiara 2<sup>nd</sup> day of February 1996.

O. ZAPO

Minister of Justice and Legal Affairs

NB: Explanation: Apart from the need to increase the penalties in the Customs & excise Act, the review of the main Act itself is also overdue. It is therefore necessary to review the main Act as well.

WHEREAS in terms of Section 76 and Schedule 3 of the Constitution, the Acts of Parliament of the United Kingdom of general application and in force on 1<sup>st</sup> January, 1961 shall have effect as part of the law of Solomon Islands subject to minor non-substantive changes as may be deemed necessary.

AND WHEREAS the High Court has grappled with this situation in a number of cases brought before it on several occasions in this jurisdiction.

AND WHEREAS it is time the National Parliament enacted legislations to replace these often out-dated and inappropriate Acts of the Parliament of the United Kingdom.

NOW THEREFORE in exercise of the powers conferred by section 5(1) of the Law Reform Commission Act, 1994, I, OLIVER ZAPO, Minister of Justice and Legal Affairs hereby refer to the Law Reform Commission the following –

To enquire and report to me on –

1. The study of each Act of the Parliament of the United Kingdom from time to time in terms of section 76 and Schedule 3 to the Constitution;
2. Desirability for modernising the relevant Act as far as the circumstances in Solomon Islands may allow;
3. Reforms as may be necessary to ensure the continuance or otherwise of that law in the current context of the needs of Solomon Islands.

Dated at Honiara 1<sup>st</sup> day of May 1995.

O. ZAPO

Minister of Justice and Legal Affairs

NB: Explanation : Section 76 (a) of the Constitution as read with paragraph 1 of Schedule 3 to the Constitution are transitional provisions allowing Acts of the Parliament of the United Kingdom which are of general application and are in force on 1<sup>st</sup> January, 1961 to be part of the law of Solomon Islands subject to cosmetic changes. Identifying which Acts these are is a practical problem for Solomon Islands. Also, these Acts have already been replaced in the United Kingdom with modern modifications to suit modern circumstances. Such modifications though useful and necessary would not be part of the law of Solomon Islands if they are in force after 1<sup>st</sup> January, 1961. These are the problems that need immediate attention. The Acts must therefore be identified, studied and if required, modernised to suit the current needs of Solomon Islands.



## Appendix 2

### Law Reform Commission Legislation

#### **LAWS OF SOLOMON ISLANDS**

[1996 EDITION]

#### **CHAPTER 15**

#### **LAW REFORM COMMISSION**

#### **AN ACT TO ESTABLISH A LAW REFORM COMMISSION IN SOLOMON ISLANDS**

[18th February 1994]

*4 of 1994*

#### **Short title**

1. This Act may be cited as the Law Reform Commission Act.

#### **Interpretation**

2. In this Act, unless the context otherwise requires—

"Commission" means the Law Reform Commission appointed under section 3;

"Commissioners" means the Commissioners appointed under section 3; and

"Minister" means the Minister for the time being charged with responsibility for Justice.

#### **Establishment of the Commission**

3. (1) There is hereby established a Commission to be known as the Law Reform Commission.

(2) The Commission shall consist of—

(a) a Chairman appointed by the Judicial and Legal Service Commission on the recommendation of the Minister; and

(b) four other Commissioners who shall be appointed on a part-time basis by the Minister.

(3) In appointing the four Commissioners referred to in paragraph (2)(b) of this section the Minister shall appoint persons who appear to him to have knowledge and interest in the following—

(a) social welfare and religious affairs;

(b) criminal administration; or

(c) sociology, anthropology or Solomon Islands culture.

(4) The Chairman shall be a person qualified to practise as a barrister or solicitor in any country in the Commonwealth and has been so qualified for not less than five years.

#### **Term of office of Chairman and the other Commissioners**

4. (1) The Chairman shall hold office for a period of five years.

(2) The Commissioners excluding the Chairman shall be appointed for a period of four years.

(3) The Commissioners including the Chairman shall be eligible for re-appointment.

(4) The Chairman and Commissioners shall be paid such salaries and allowances as specified in the instruments of appointment.

#### **Functions of the Commission**

5. (1) The functions of the Commission are, in accordance with references to the Commission made by the Minister, whether at the suggestion of the Commission or otherwise—

(a) to review laws with a view to the systematic development and reform of the law, including—

- (i) the modernisation of the law by bringing it into accord with current conditions;
- (ii) the elimination of defects in the law;
- (iii) the simplification of the law; and
- (iv) the adoption of new and more effective methods for the administration of the law and the dispensation of justice;

(b) to make recommendations in relation to the making of laws to which this Act applies;

(c) to make recommendations in relation to—

- (i) the consolidation of laws; and
- (ii) the repeal of laws that are obsolete or unnecessary;

(d) to make recommendations in relation to the restatement, codification, amendment or reform of traditional or customary laws; and

(e) to make recommendations in relation to the development of new approaches to and new concepts of the law in keeping with the changing needs of Solomon Islands society and of individual members of that society.

(2) The Minister may—

(a) modify the terms of any references; and

(b) give directions to the Commission as to the order in which it is to deal with references.

(3) The Commission may for the purpose of this section hold and conduct such inquiries as it thinks fit.

(4) For the purposes of any inquiry under this section the members of the Commission shall have all the powers, authorities, protections and immunities conferred on a commissioner under the Commissions of Inquiry Act.

*Cap. 5*

### **Powers of the Commission**

6. Subject to this Act, the Commission has power—

(a) to consult with—

- (i) any Government department;
- (ii) any Government institution, authority, organisation, instrumentality or body;
- (iii) any other institution, organisation or body that, in the opinion of the Commission, would be affected by any proposed change in the law; and
- (iv) any member of the public;

(b) with the approval of the Minister, to provide advice and information to any Government department and any other Government institution, authority, organisation, instrumentality or body concerned with proposals for the reform or amendment of any branch of the law;

(c) to receive and consider any proposal for the reform of the law which may be referred to it;

- (d) to hold seminars and conferences on legal issues;
- (e) to undertake research and study programmes in order to provide itself with material upon which to base its recommendations on law reform matters, particularly in the field of customary law;
- (f) to use any information, advice or assistance available to it from any source whether within or outside the Government;
- (g) to obtain information on the laws and legal systems of other countries as a means of providing ideas for the reform and development of the law of Solomon Islands; and
- (h) to do all things necessary or convenient to be done for or in connection with the performance of its functions.

**Appointment of Secretary**

7. (1) There shall be a Secretary to the Commission who shall be the Executive Officer appointed by the Public Service Commission.
- (2) The terms and conditions of appointment and service of the Secretary shall be as specified in the instrument of appointment.

**Other staff**

8. (1) Subject to subsection (2), any staff (other than the Secretary) required for the purposes of this Act shall be officers or employees of the Public Service.
- (2) Nothing in subsection (1) prevents any person from being employed on contract or otherwise, under any other law to perform functions in relation to the Commission.

**Expenses of the Commission**

9. The expenses of the Commission, including the remuneration and allowances of Commissioners, and all other expenses incurred in the working and administration of this Act, shall be defrayed out of moneys provided by Parliament for the purpose.

**Annual report**

10. (1) The Commission shall prepare and submit to the Minister an annual report of its operations during the year.
- (2) The report submitted pursuant to subsection (1) shall be laid before Parliament by the Minister.

**Regulations**

11. The Minister may in consultation with the Commission make such regulations as may be necessary for the purpose of giving effect to the principles and provisions of this Act and particularly in respect of the procedure for the submission of proposals for review and reform.

**CHAPTER 15  
LAW REFORM COMMISSION**

Subsidiary Legislation

**THE LAW REFORM COMMISSION REGULATIONS**

*LN 47/1995*

(Section 11)

[26th May 1995]

**Citation**

1. These Regulations may be cited as the Law Reform Commission Regulations.

**Proceedings of the Commission**

2. (1) The Commission shall meet from time to time at such places and times as the Chairman directs.

(2) The quorum for a meeting shall be three Commissioners.

(3) In the absence of the Chairman from a meeting the Commissioners present may choose one of themselves to preside.

(4) The Commission may regulate and conduct the proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.

(5) The Chairman shall preside at all meetings at which he is present and, in the event of the votes being equal, shall have a casting as well as deliberative vote.

**Delegation**

3. Subject to the provisions of the Act, the Commission may delegate to any of the Commissioners any of its powers, authorities, duties and functions.

**Reports**

4. (1) The Commission may from time to time make to the Minister an interim report on its work under any reference.

(2) The Commission shall at the completion of its work under any reference make a final report to the Minister on its work under the reference.

(3) A report signed by the Chairman shall be a report of the Commission for the purposes of the Act.

**Decision by circulation of papers**

5. (1) Subject to paragraphs (2) and (3), where it is so agreed by a majority of members of the Commission that any business of the Commission be despatched by circulation of papers, the Secretary shall circulate papers to all the members of the Commission who may signing their decision in writing addressed to the Secretary.

(2) If a member requests, in writing addressed to the Secretary, a meeting to discuss any business so circulated the decision of the Commission shall not be reached until such a meeting has been held.

(3) A decision may be reached as a result of circulation of papers notwithstanding that a member does not respond if a majority of the members concur in the decision.

**Legal Research by Commission**

6. The Commission may institute and conduct legal research through its officers for the purposes of carrying out its functions.

**Individuals and Committees**

7. The Commission may appoint individuals or committees, of persons who may or may not be members of the Commission and may refer any matter to such individuals or committees for consideration and report to the Commission.

**Inquiries**

8. When the Commission is of the opinion with respect to any matter under reference under section 5 of the Act that it would be desirable to ascertain the views of any person, body or the public, the Commission may—

- (a) receive representations and submissions from any person, body or the public; or
- (b) hold a public hearing for the purpose of receiving representations and submissions.

**Submissions and public hearings**

9. The Commission may prescribe the terms and conditions under which representations or submissions may be received or a public hearing held and may prescribe the procedure at any public hearing.

**Views may be sought through communication**

10. Nothing in regulations 7, 8 or 9 shall prevent the Commission from seeking or ascertaining the views of any person or body on any matter through direct communication.

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