



Qolilawa Darpan



THE NEWSLETTER OF THE FIJI LAW REFORM COMMISSION ISSUE 10 MAY 2004

From the Executive Chairperson



Alipate Qetaki, Executive Chairperson of the Fiji Law Reform Commission

I am delighted that *Qolilawa Darpan* has been revived as a vehicle for the dissemination of news and information about the Fiji Law Reform Commission (Commission) and its work as it addresses in part a key objective of the Commission which is to fully inform the community through communication services about its functions, initiatives and recommendations.

The Commission strives to be an independent, dynamic, innovative and effective law reform agency contributing to fair and just laws for a peaceful, prosperous Fiji. It is

developing a Strategic Plan (2004-2007) to provide a clear direction and to guide its reform programmes based on its core functions. It is also positioning itself to face the challenges ahead and to contribute effectively to the achievement of Government goals as stated in its current strategic development plan.

Cabinet had in February, 2004 approved the Commission's work programme for 2004-2005. The programme authorises the review of the Prisons Act and related subordinate legislation; Domestic Violence laws; Penal Code and Criminal Procedure Code; Mental Treatment Act; Trustee Act; Charitable Trusts Act; Registration of Religious Bodies Act and Gambling Act and Lotteries Regulations.

References have been issued in respect of the first three of these Acts of Parliament. These were issued by the Attorney General and Minister for Justice in accordance with Section 5(2) of the Fiji Law Reform Commission Act. The progress of these references will be

reported in future editions of this newsletter.

The review and reform of the administration and operations of the Commission was commenced in 2003. This will be continued as it is crucial that the areas identified as in need of change, including the restructure of the Commission's establishment, institutional capacity building and strengthening, and clarification of the Commission's mandate, require to be addressed to ensure that it functions effectively and meets the needs of its stakeholders.

It is hoped that through this newsletter you will be able to feel the pulse, nerve-centre and heart of the Commission as it undertakes the review process aiming to provide sound, just, equitable, relevant and cost-effective advice and recommendations leading to quality legislation that meets the needs of the people of Fiji.

In this Issue

This is the first issue of *Qolilawa Darpan* after 5 years, the last edition being Issue Nine of March 1999. We acknowledge the initiative of former Director Ms. Fenton in the creation of this outreach tool and the assistance of the Institute of Language and Culture in the coining of the title of this newsletter with "Qolilawa" and "Darpan". This is a bumper issue due to the length of time since Issue 9. More information on our activities can be found in our Annual Reports.

The introduction to the *Matabose ni Dikevi ni Lawa*, or the FLRC on Page 6 is a first for the Commission. This translation contains an update on the progress of the Commission's current work program and also introduces the Commission and its procedures, in the Fijian language. This was produced internally and the Commission is hopeful that in future we can have a translation into Hindi, Fiji's third official language.

Page 7 hosts a new column, the Law Reform Roundup which will become a regular feature of *Qolilawa Darpan*. It looks at legislative reviews recently approved by Cabinet, those being undertaken internally by Departments and the Bills gazetted for the current session of Parliament.

At Page 12, we list chronologically all the research papers, Issues Papers, Discussion Papers, Final Reports and Bills produced by the Commission. This is testimony to the hard work, initiative and commitment of Attorneys General, Chairpersons, Commissioners, Directors, Legal Officers and support staff of the Commission.

We hope you enjoy this issue of *Qolilawa Darpan* and take advantage of the opportunity to participate and be a partner in the law reform process!

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Tribute to the late former President, Prime Minister and Paramount Chief, the Tui Nayau Ratu Sir Kamisese Kapaiwai Tuimacilai Mara

"We shall have problems and difficulties to face, and there will be differences of views as to the best way to overcome them. But they will be overcome, if all of us put Fiji first, and when we differ, do so without rancour." Ratu Sir K.K.T. Mara

The Commission joins the people of Fiji, the Pacific Region and the world community in mourning the passing of the great Chief and Statesman, the late Ratu Sir Kamisese Kapaiwai Tuimacilai Mara, who led Fiji from independence for 17 years, the leader who achieved so much for his nation, his region and at the international level. Fiji Islanders have much to learn from the life of this great man, who excelled on so many fronts. For civil servants, he presents a challenge to balance vision, innovation and dynamism with pragmatism, practicality and efficiency. We hope that we can emulate the values which guided Ratu Mara throughout his lifetime, *vakarorogo, vakarokoroko and cakacaka vakagumatua*, obedience, respect and hard work.

Review of the Commission's Procedures and Strategic Direction

In 2003 the Commission took steps to review its administration and operation. The review is progressive and ongoing. A paper titled the "Fiji Law Reform Commission - The Way Forward" presented by the Executive Chairperson at the Attorney-General's Conference in November, 2003 contained the thrust of the reforms proposed. Some of the areas being reviewed include the following:

- **Functions and Objectives** - To clarify the functions and objectives of the Commission it will be necessary to amend the Act.
- **Strategic Plan** - Since 1999 the Commission had no Corporate Plan. One is needed to ensure the Commission is focused and to facilitate the performance of its work programmes. A Strategic Plan for 2004-2007 is currently being prepared.
- **Legal Officer's Manual for Running References** - A draft copy of the Manual has been completed. Its finalisation will be a priority for 2004. An Office Procedures Manual is also being prepared.
- **Formal Agreements for the Commission's Advisors** - It is noted that in the past some Reference Reports were not submitted on time, as required by the Terms of References. A Consultancy Agreement will ensure timely completion of References.

- **Expression of Interest (EOI)** - The Commission now invites Expressions of interest (EOI) specifying its requirements for a lone Advisor or Project Team to lead or undertake references issued by the Attorney General. This ensures that the best qualified applicant is recommended for appointment from the field of those who show an interest in undertaking a Reference.
- **Institutional Strengthening** - The Commission is reviewing its current structure against its objectives and goals with a view to retaining and strengthening capacity.
- **Professional development** - Discussions are also underway to allow professional staff to attend relevant trainings overseas, or undertake attachment in other Law Reform Commission offices, especially in Australia and New Zealand.
- **Co-operation with other Law Reform Agencies** - The Commission is a member of the Commonwealth Association of Law Reform Agencies (CLRA). The CLRA intends to provide a framework for co-operation between law reform agencies of the Commonwealth, encourage communication and liaison between members, as well as encouraging sharing of experiences of methods and practices of law reform.

Domestic or Family Violence Reference

The review of Fiji's Domestic Violence laws will commence in July 2004. The appointment of a suitable person to lead the review is expected shortly.

The Commission will be expected, under its Terms of Reference to consider the following:

- The nature and extent of domestic violence as a social and gender problem.
- The legal remedies available for complaints of domestic violence.
- Any changes to the law which may be necessary or desirable to bring greater protection of women and children and other victims of domestic violence.
- The need to give the Police and the Courts adequate powers to

effectively protect women, children and others from domestic violence.

- The steps that may be taken to bring the problem of domestic violence to greater public awareness.
- Examination of relevant legislations in other jurisdictions and propose a suitable legislative arrangement on domestic violence for Fiji.

A pivotal part of the law reform process will be its wide ranging community centred consultations with all stakeholders which include Government Ministries and Departments, community organisations, NGO's, churches and members of the public.

A work plan is being finalised and the Commission is to setup an Advisory and

Monitoring Committee to oversee the progress of the reference.

Under the stipulated work plan, the Advisors will be working under an Advisory and Monitoring Committee whose role is to monitor the progress of the review.

The review is to run until July 2005 at which point it is expected to submit to the Attorney General the following outcomes:

- Discussion Paper
- Final Report and proposals for reform
- Draft Domestic Violence Bill.

Penal Code and Criminal Procedure Code Reference

The Commission hopes to commence the review of the Penal Code (Cap 17) and Criminal Procedure Code shortly.

Under the Terms of Reference referred to the FLRC by the Attorney-General and Minister for Justice's, the Commission is

to inquire into and review the offences, Penalties/Punishments, Jurisdiction, defences contained in the Penal Code.

The objective of the Criminal Procedure Code review is to propose reform measures that ensure the fair trial of person's

accused of offences protect the rights and provide fair, effective, speedy & efficient procedures for the investigation and prosecution of offences. FLRC is to submit its final report with draft provisions to the Attorney General and Minister for Justice at the conclusion of the review.

Review of the Prisons Act and subsidiary legislation

Background

On November 27th 2003, the Attorney General and Minister for Justice, referred the Prisons Act (Cap 86), the Prisons Regulations, Prisons Standing Orders and Prisons Operational Standards to FLRC for review. The review was pursuant to Section 5 (2) of the FLRC Act.



Commissioner for Prisons, Aisea Taoka emphasising a point to the Review Team at the Suva hearing.

The objective of the review (as in the terms of reference) is to: revise and reform with a view to updating the Prisons Act and subordinate legislation to improve the quality of service delivery within Prison institutions in Fiji in conformity with international standards of human rights in International Conventions and Treaties and related legislation such as the UN Declaration on Human Rights and the UN Minimum Rules and Standards for the Treatment of Prisoners." The review is guided by our own constitutional requirements to honour treaty obligations and minimum international standards that Fiji has entered into, when having regard to its own domestic laws.



Eliki Tokoniono (Supervisor Western), Saimoni Sauliga (Officer in Charge, Ba Prison) flanking the Executive Chairperson and Project Manager, Alipate Qetaki.

The Term of Reference also points to previous work done in this area. There have been eight commissioned Reports in the past; notably the Bale Report (1980), the Nash Report (1981), the Sisareich

Report (1986), the Steele Report (1991), the Potch Report (1992), the Buadromo Report (1994), the UNDP/IJALS Report on HIV (1999) and the recent organisational review of the Prisons Department (the Biles Report) whose recommendations were duly considered. The aim of the present review is not to duplicate the past recommendations but to draw from them with a view to moving closer towards implementation.

The review objectives are also consistent with the provisions of Fiji's Strategic Development Plan 2003-2005 (Parliamentary Paper No. 72 of 2002). The plan concedes that "the prison population exceeds capacity and the staff prisoner ratio of 1:10 is well above the international standard of 1:4". The review has borne in mind the SDP goals to provide efficient and cost effective and rehabilitation services through:

- Reduction in repeat offenders by 5% per annum;
- 50 % reduction in escapees by 2004;
- A 10% annual decline for the prison population;
- Increased proportion of ex offenders successfully by completing rehabilitation programmes;
- Feasibility for contracting out some services established by 2003

The Review is expected to run until 31st December 2004, at which point it is expected to submit to the Attorney General the following outcomes:

- A Final Report with proposals for reform,
- Prisons and Corrections Draft Bill 2004
- subordinate legislation i.e. revised Regulations, Standing Orders and appropriate and workable operational procedures in the form of Manuals and Guidelines.

Key partnerships

The Review is facilitated by support given by the United Nations Development Programme & UNIFEM under their 2003-2007 MCPO. As the implementing Department that will be administering the proposed legislation, the Prisons Service has been an active key partner throughout. The Commission acknowledges their assistance, particularly the Commission of Prisons, Aisea Taoka in facilitating access to information and

general cooperation in allowing the review to progress unhindered.

To monitor the review, a Project Advisory Committee comprising Commissioner Prisons, the Ministry of Finance, the Public Service Commission, Human Rights Commission, Ministry of Justice, and Office of the Attorney General, UNDP and UNIFEM was set up in January. At their last meeting on the 29th April, the Project Advisory Committee vetted the working draft of the Prisons & Corrections Bill 2004 and tabled the first draft of the Final Report.

Engaging the community through consultations

Meaningful community participation on our proposals is crucial to law reform. The Review Team heard public submissions in Suva, Levuka, Lautoka and Ba and Lautoka from March 17th -24th March. Four Issue Papers focussing on the shift from containment to correction, Prisons Administration, Human rights and HIV/AIDS in the context of Prisons were made available prior as a tool to gauge feedback. These were distributed to line Government Ministries & Departments, community groups, churches and the public. Outside of Suva, copies were made available at the District Offices in Levuka, Labasa, Lautoka and Ba. Private consultations were also permitted for those who wished to make their submissions in this manner or in writing. Participants were also given the choice to make submissions in their vernacular, where they preferred.



Sikeli Koroivukivula and Nepetibuka Elesitira, giving their submission at the Labasa Public Hearings.

On Site Prison Visits

The team visited the Suva Prison, Naboro Prison High, (medium, low security and pre release accommodation), Suva Women's Prison, Nasinu Boys Centre (young offenders), Levuka Prison, Labasa prison (Vaturekuka), Natabua, and Ba Prison (Namosau) and met with Prison officials who administered the legislation on a day to day basis. The on site interaction with the Prison wardens was invaluable as it contextualised the issues articulated during the earlier course of the review, particularly the challenges posed by the existing framework.

On return to Suva, the verbal and oral submissions were transcribed and collated. A total of 45 submissions were received from line Government Ministries, church groups, community organisations and most current and former inmates.

These were incorporated into a working draft of the **Prisons Corrections Act 2004** and the accompanying **Final Report** for submission to the Attorney General & Minister.



Officer in Charge, Naboro Maximum Prison, S. Raitamata makes a point to the Review Team. Clockwise: S. Raitamata, Pita Toga, Sylvia Low (MINFO), R. Tuivaga, Graham Powell, Anthony Kelly.

Prisons Training Workshop: June 16th- 18th 2004

The Commission, in collaboration with the Prisons Service, is preparing for its three day training workshop to be held on June 16th - 18th, in Suva which will involve thirty prisons officials from the 14 prisons centres in Fiji. Resource persons Graham Powell and Anthony Kelly will facilitate the workshop. The sessions are aimed at being interactive and beneficial for all parties.

Finally, the Commission wishes to record its thanks to the Assistant Commissioner Prisons (Operations) Peniame Salacakau and the staff for their hospitality and co operation during the prison on site visits for the Project Team in particular Sikeli Tamani (Supervisor Central Eastern Division), Jope Caginadaveta Officer (in charge, Suva Prison), Laisenia Tuberi (Officer in charge Levuka Prison), Sitiveni Raitamata (Officer in charge Naboro Maximum), Koresi Rayawa (Officer in charge, Naboro Minimum), Sairusi Gauna, (Supervisor, Labasa Prison) Leliki Tokoniono, (Supervisor Western Division), Tevita Koroitamana, (Officer in charge, Lautoka) and Semesi Apati, (Acting Officer, Natabua Prison). Our appreciation also to the stakeholders and participants for their useful and comprehensive contributions made.

The Commission looks forward to your continuing participation in the law reform process.

Recently Completed References 1999 - 2004

The list of Final Reports, Discussion Papers and the resulting Legislative measures on page 11 is testimony to the hard work of the people who have staffed the Commission, and those eminent individuals who made the commitment to assist this country with the review of areas of the law in urgent need of reform. Not least, it is important to acknowledge those Government Departments and their leadership, who made the call for change to the law, the “client Ministry” and the group of stakeholders, intimate with that area of the law, who made up the working groups and advisory committees to each Commissioner and the Legal Officer with carriage of the reference. As well, we acknowledge those who participated in the law reform process, individuals, civil society and community organisations, Chambers of Commerce, Provincial Councils, Advisory Councils, without them, the Commission would not be able to fulfil the requirement to gauge the views of the general public and make appropriate recommendations to the Attorney General and Cabinet.

Committal Proceedings

This Report set out a comprehensive review of committal proceedings. The main recommendation was the abolition of the preliminary Inquiry procedures contained in Part VII and VIII of the Criminal Procedure Codes (Cap. 21). In its place is a simple system of transfer to the High Court for trial. This system will ensure that cases triable before the High Court pass through the Magistrate’s Court without undue delay. The Attorney General and Cabinet approved the report, and implemented with the enactment of the Criminal Procedure Code Amendment Act No.13 of 2003. Our gratitude to part-time Commissioner Mr. Justice Michael Scott and former legal officers Ropate Lomavata and Josefa Raikadroka and Sotia Coutts for their contributions to this Reference.

Family Law Act 2003

The *Family Law Act 2003* which implements the recommendations of the Commission contained in its final report: “*Making a difference to families in Fiji 1998*” was passed by Parliament on 24 October 2003, and assented to by the President on 6 November 2003. The new Act envisages the establishment of a Family Law Court and counselling facilities to accommodate the shift from litigation centred disputes to that of settlement and mediation. The Minister has set January 1st, 2005 as the date on which the Act comes into force. Discussions are underway for the establishment of the new structures required by the Act. The enactment of the Bill was the culmination of a six year project for the Commission, which commenced in 1996 when the then Attorney General referred Fiji’s Family Laws to the Commission for review. The Commission acknowledges the assistance of Imrana Jalal, part-time Commissioner and former Senior Legal Officer, Asenaca Uluviti, Legal Officers Daiana Buresova, Anare Tuilevuka, Sharvada Sharma and Graduate Trainees, Apolosi Bose and Chetan Lakshman for their extensive work in the preparation of Discussion Papers and the Final Report and Draft Bill. We also acknowledge the assistance of the New Zealand Government for assistance in the drafting of the Bill and in particular Justice Alan Bartlett, former Chief Judge of the Family Law Court of Australia who led the drafting of the Bill. For their assistance in raising awareness of the Bill, the Commission recognises the assistance of Legal Officers Ropate Lomavata, Suliana Tabaiwalu, Sainivalati Navoti and former Acting Director, Kiniviliame Keteca, as well as civil society efforts to educate the public about the Bill, in particular Asenaca Colawai, the Advocacy Officer of the Fiji Womens Rights Movement. Further involvement of Commission’s staff included appearances and presentations on the Bill before the Parliamentary Sector Committee intended at clarifying some of the contentious provisions of the Bill. Now that the Bill is enacted, an implementation committee chaired by the CEO for Justice and other stakeholders is looking at the new structures and procedures to implement the Family Law Act. The Commission has an advisory role with this Committee.

Wills & Succession Reference

The Commission was tasked by Terms of Reference issued in 1998 by the Attorney General to review the law relating to Wills and Succession with the view to providing a

comprehensive succession statute that simplified the law, to enable better effect to be given to the will maker taking into account the diversity of Fiji families. Professor Bob Hughes, head of the Law School, University of the South Pacific was appointed Commissioner to lead the reference. A Discussion Paper was issued in 1999 and focused consultations were held with stakeholders. The Final Report was completed and handed to the Attorney General and Minister for Justice, Mr. Qoronias Bale in December 2001. Cabinet approved the recommendations in 2003 and the legislation to effect the recommendations drafted by the First Parliamentary Counsel. The three Bills to implement the Final Report have been recently gazetted for tabling at the May 2004 Parliamentary session:

- A Bill for an Act to amend the Wills Act (9/04)
- A Bill for an Act to amend the Succession, Probate and Administration Act (10/04)
- A Bill for an Act to provide for testamentary dispositions and for related matters (11/04)

The Commission wishes to record its appreciation to Commissioner Professor Hughes for his commitment and perseverance to ensuring the completion of the reference.

Liquor Act Reference

The Commission’s Final Report was submitted to the Minister in mid-June 2003. The major recommendations were in respect of: trading hours of licensed premises; establishment and composition of licensing authorities; bootlegging; classification of liquor licenses; penalties; raising standards in licensed premises; enforcement; disciplinary actions against licensees; sale of liquor to persons under the age of 18; and social awareness education. In December 2003, Cabinet had approved that a Bill to amend the Liquor Act be prepared by the First Parliamentary Counsel. Our thanks to Commissioner Mrs. Emelita Wilson, former Acting Director, Mr. Kiniviliame Keteca and Legal Officer Sotia Coutts for their contribution to this reference.

Bribery & Corruption

The Report was completed and submitted to the Minister in July 2003 by the Chief Justice Daniel Fatiaki who led the committee of Commissioners for this reference and his fellow Commissioners Mr. Tomasi Vakatora and Ms. Vasantika Patel. To them the Commission owes a debt of gratitude for their commitment and wise counsel in the completion of this Reference. The Report is currently being considered by the Minister and copies were sent to the Commissioner of Police, Director of Public Prosecutions and Solicitor-General for their comments. Comments are being collated by the Executive Chairperson and a paper will be prepared for Cabinet containing the Minister’s recommendations, in 2004.



L-R: Chief Justice Daniel Fatiaki, Chairperson of the FLRC Bribery and Corruption Reference Committee, Commissioner Vasantika Patel, Attorney General Senator Qoronias Bale, Director of Public Prosecutions, Josaia Naigulevu and Deputy DPP Peter Ridgeway at the AG’s Boardroom, on the occasion of the briefing of the FLRC’s Final Report on the review of the laws relating to Bribery and Corruption “Building an anti-corruption culture for Fiji”. The briefing by the FLRC Bribery and Corruption Commissioners was held in July 2003, a month after the Final Report was formally handed over to the AGMJ and copies distributed to the Solicitor General, DPP and Commissioner of Police

Na Matabose ni Dikevi ni Lawa

Kena Tauyavu

Ena nona vakadonuya na Bose Lawa ena 1978 na *Fiji Law Reform Commission Act, Wase 26*, a tauyavutaka rawa kina na Matanitu na Matabose ni Dikevi ni Lawa (se na yacana kilai levu ena vosa vakaperitania, na Fiji Law Reform Commission).

Sai tavi levu ni Matabose oqo me vakadikeva lesu na lawa ni noda vanua, me vakavoutaki ka me veiganiti kei na gauna oqo, me vakarawarawataki, me kua ni tiko kina na veivakaduiduitaki, me veiraurau na lawa kei na i sau ni kena cakacakataki se yadrava, ka me vukeya na noda vakayagataka na lewenivanua.

Nai Tukutuku Taumada

E vakadinata na noda Bose Lawa ena 1978 ni levu na noda lawa ese sema tu ga ki na draki ni bula veidonui kei na gauna vakoloni, me vaka ga eda raica ni se so nai vakarau kei nai tikotiko ni veiqaravi ena gauna oqo ni matanitu ese "*vakaPeritania*" tu ga.

Ia sa veisau na gauna kei na draki ni bula ni gauna oqo mai na gauna vaKoloni. Na veisau oqo e sega ni yavalata walega na nodai tovo kei na veitikotiko, ka ni sa tara sara ga na nodai vakarau ni bula ena veisiga. Kenai balebale qo ni vei lawa mai na 1920s me yacova beka mai na 1960s era sa na sega sara ni vakaibalabale se veiganiti ki na veisau ni vakarau ni cakacaka kei na vakarau ni bisinisi kei na noda bula ena gauna qo. Sa yaco gona kina me kunei ni levu na lawa e sa sega ni veiganiti, e tu kina na veivakaduiduitaki, e sega ni matata ka dredre na noda kila vakavinaka na lewenivanua, ka vakaberaberataka na noda bula ena veisiga.

Sa tauyavutaka kina na Matanitu na Matabose ni Dikevi ni Lawa me walia na veidredre vakalawa vakaoqo ena noda vakatarogi na lewe ni vanua me baleta na noda nanuma, ka veidutaitaka se vakatautauvatataka na vei lawa qo kei na kena mai na veimatatanitu tale eso, ni bera ni kau yani na nona vakatutu ni vakavou kei na vakarawarawataki ni lawa, vua na Vu ni Lawa Levu (Attorney General).

Na kena dikevi lesu na lawa e vauca na valeniveivesu

Ena yabaki oqo, 2004, sa tekivuna na Matabose na kena raici lesu na lawa e vauca na vale ni veivesu (Prisons Act). E rau sa digitaki mai vua na Vu Ni Lawa o Anthony Kelly, e dua na kena dau ni veiqaravi e vale ni veivesu vata kei Graham Powell, e dua na kena dau ni volai ni lawa vakaturi me rau dikeva lesu na lawa oqo. Sa tekivuna na Matabose na kena rogoci na domo ni lewe ni vanua kei ira era vauci ena lawa oqo. Keitou a gole ki Lautoka, Labasa, Ba kei Levuka me keitou vakarogoca na domodra na lewenivanua. A rogoci na domodra e so ka era vesuki tu e valeniveivesu ena gauna oqo, ka vaka kina na Matabose ni Dodonu ni Lewenivanua (Human Rights Commission). Eratou a tadu yani ki na valenivolavola ni matabose e 15 na talatala ka liutaki ira yani o Rev. Manasa Lasaro, na 1 talatala era dau veiqaravi ena vale ni veivesu.

Esa ciqomi oti ena gauna oqo e 75 na vakatutu se vakananani ni lewenivanua me baleta na lawa oqo, oqo e wili kina e 21 na soqosoqo wili kina e vica na tabana ni Matanitu, kei ira na lewenivanua era laurai yani kina valenivolavola ni Matabose ka vakatalega kina nona laki vakarogoci ira na lewenivanua na timi eratou dikeva tiko na lawa oqo e Lautoka, Ba, Levuka, Labasa kei Suva. Ia se ciqoma tikoga na vakatutu ena gauna oqo na Matabose, mai vei ira na lewenivanua era vola yani na nodra vakatutu me baleta na tuvaki ni lawa e vauca na valeniveivesu. Ena qai vola na Matabose na nona ripote kei na lawa vakaturi na Matabose me qai soli ki vua na Vu ni Lawa, ni bera ni kerei na veivakadonui ni Bose Yaco. Sa kerea tu na Vu ni Lawa me yaco yani vei koya na ripote ni Matabose ni bera na 31 Tiseba ni 2004.

E namaki me dikeva talega na Matabose ena yabaki oqo na lawa ni Penal Code; na lawa e baleta na qaravi ni mate na mona (Mental Treatment Act) kei na lawa e baleta na nodra vakararawataki na Marama (Domestic Violence). Ena yabaki 2005, sa vakadonuya na Bose Yaco me dikeva na Matabose na lawa ni Qito I Lavo (Gambling); Trustee Act; Lawa e vauca na nodra cakacaka na vei Matalotu (Religious Bodies Registration Act); kei na lawa e vauci na nodra cakacaka na veisoqoso era register ena ruku Charitable Trusts Act.

Nai Vakarau ni Cakacaka ni Matabose

Ena kena vauci tu vakalawa na Matabose, ena rawa ga ni dikeva lesu e dua na lawa ni sa vakasalataki mai vua na Vu ni Lawa. Kevaka e gadreva na Matanitu levu me vakavou e dua na lawa, na kena soli nai vakasala mai vua na Vu ni Lawa ki na Matabose me cakacaka kina, e dua ga na sala e rawa ni veisautaki kina na noda lawa. Ena rawa talega ni cakacakataki ga ena loma ni bai ni dua na i tikotiko ni veiqaravi se tabacakacaka se soli yani vua e dua na timi meratou dikeva e dua na tiki ni lawa. Ia eso na lawa e gadrevi me rogoci kina na domoda na lewenivanua ni bera ni soli na vakatutu ni veisautaki ni lawa ki vua na Vu Ni Lawa. O ira na lawa oqo e vakasalataka na Matabose na Vu ni Lawa me dikevi.

Nai tuvatuva ni vakavou se veisautaki ni lawa sa na vakatau ki na gagadre ni Matanitu e veilitaki tiko, ka vakatalega kina na veivakatutu mai vei keda na lewenivanua, mai vei ira na lewe ni Bose Lawa, kei na veisoqosoqo ni lewe ni vanua (community organizations) vua na Vu ni Lawa kei na Bose Yaco. Ni sa taura na Matabose nai vakaro mai vua na Vu ni Lawa, sa na digitaka sara na Vu ni Lawa e dua na Commissioner me sa na liutaka na dikevi lesu na lawa.

Na Veirogorogoci Taumada

Sa dau ka bibi e nai lakolako ni dikevi lesu ni lawa sai koya na kena raici sara vakavinaka na nodra nanuma o ira e tarai ira se vauci ira tiko na lawa me veisautaki. Ni oti na kena rogoci na domo ni lewe ni vanua, sa na qarava sara na Matabose na cakacaka ni veidutaitaki kei na kena vakatautauvatataka na noda lawa sa tu rawa, kei na lawa ni veimatatanitu vakaPeritania ka tautauvata tu na nodrai vakarau vakalawa (legal systems) kei keda. Sa qai mai laurai vata yani oqo kei na nanuma ni lewe ni vanua kei ira e vauci ira na lawa qo ni bera ni vakarautaki na i vola-tukutuku ni vakatutu ni veisau vua na Vu ni Lawa.

Na Vu ni Lawa kei na Bose Yaco ena vakatulewa ki na Vakatumu ni veisau ni Lawa

Sa na vakatau vua na Vu ni Lawa na kena vakadonui na vakatutu ni Matabose. Ni sa vakadonuya na vakatutu ni veisau ni lawa na Vu ni Lawa, e na vakarautaka e dua na pepa vakarautaki me veivosakitaka na Bose Yaco. Ni oti na veivakadonui ni Bose Yaco, sa na la'ki vakarautaka na kena Lawa Vakaturi na Vu ni Lawa me laveta ki na Bose Lawa.

Veivuke eso ni Matabose ni sa vakadonui na Vakatumu

E sega walega ni yaco e na kena vakarautaki na vakatumu nai tavi ni Matabose. Kevaka e sa la'ki vakadonui mai na Bose Yaco na Lawa Vakaturi se "Bill", sa na dau veivuke na Matabose ena kena vakamatatataki na veisau ena veivakavulici vei ira na lewe ni vanua kei ira na mata ki Bose Lawa, wili kina na vei komiti ni Bose Lawa.

Law Reform Roundup

This column is another first for this edition of ***Qolilawa Darpan*** and will become a regular feature. It is intended to outline briefly other initiatives to reform the law undertaken by other Government Departments.

While the National Strategic Development Plan 2002 - 2005 identifies 26 pieces of legislation for review or amendment, recent Cabinet decisions approve the following:

- i. Review of the Public Enterprises Act - 24 March 2004
- ii. Native Land (Trust Funds Investments) Regulations 2004 - 24 March 2004
- iii. Illicit Drugs Bill for tabling in the May Parliamentary session - 24 March 2004
- iv. Endangered and Protected Species Regulations 2004
- v. Fijian Affairs (Great Council of Chiefs) Regulations 2004 - 05 April 2004
- vi. Fijians Trust Funds Bill - 27 January 2004
- vii. Foreign Investment (Amendment) Bill 2004 for May Parliamentary session - 10 March 2004

Other reviews being undertaken include:

- The Ministry of Health's Legislative Subcommittee is presently reviewing the Public Health Act
- The Ministry of Justice is reviewing Financial Reporting Procedures pursuant to UN Security Council Resolutions to prevent money laundering and terrorism financing.

2004 Bills and Acts:

- i. A Bill for an Act to establish the Agricultural Marketing Authority (1/04)
- ii. A Bill for an Act to amend the Constitution(02/04)
- iii. A Bill for an Act to amend the Income Tax Act (Budget Amendment) (03/04)
- iv. A Bill for an Act to amend the Gambling Turnover Tax Decree (04/04) - enacted 09/03/04 as Act no. 5 of 2004
- v. A Bill for an Act to amend the Value Added Tax Decree (5/04)-enacted 09/03/04 Act no. 3 of 2004
- vi. A Bill for an Act to amend the Income Tax Act to provide miscellaneous amendments to the Audio Visual Incentives (6/04)
- vii. A Bill for an Act to regulate and control the cultivation,

manufacture, importation, exportation, sale, supply, possession and use of Illicit Drugs (8/04)

- viii. A Bill for an Act to amend the Wills Act (9/04)
- ix. A Bill for an Act to amend the Succession, Probate and Administration Act (10/04)
- x. A Bill for an Act to provide for testamentary dispositions and for related matters (11/04)
- xi. A Bill for an Act to alter the Agricultural Landlord and Tenant Act (12/04)
- xii. A Bill for an Act to alter the Native Land Trust Act (13/04).
- xiii. A Bill for an Act to amend the Income Tax Act (14/04) - enacted 9 March 2004, Act no. 4 of 2004
- xiv. A Bill for an Act to appropriate a further sum of \$10,282,500 and \$1,642,500 (15/04)

These Bills are available from the Government Printer and the Library, Research and Information Unit have posted the legislation brief by the Policy and Analysis Unit on the Fiji Parliament website: <http://www.parliament.gov.fj>

How does the Commission work?

Establishment

When Parliament passed the Fiji Law Reform Commission Act, Chapter 26, in 1978, the Government was able to set up the Fiji Law Reform Commission. Its role is to review Fiji's laws in order to make them modern, simpler, fairer, more cost-effective and accessible.

Background

Fiji is a plural society with a colonial legal history. The laws presently on our statute books reflect this colonial legacy, just as our norms and institutions reflect the British systems of government.

However society has changed since colonial times and these changes not only affect our values and institutions, but also the very conditions of everyday life. This means that laws from the early 1900s or even the 1950s may not be appropriate for today. This has resulted in laws that may be inappropriate, unfair, outdated, uncertain and expensive.

The Commission was established to resolve these difficulties with the law by asking the public for their views and then comparing our existing law with developments in other countries before making proposals to the Attorney General for the modernization and simplification of the law.

How the Commission works

Under our Legislation, the Commission receives instructions from the Attorney

General before looking at a particular law.

Just as Fiji's resources are limited, so are the Commission's. This means that the Commission cannot look at every existing law. It is only those laws that the Government considers in urgent need of reform that the Attorney General refers to the Commission.

Our reform agenda therefore is influenced by the main concerns of the Government of the day. As well, the Attorney General receives suggestions from Parliamentarians, Community Organisations and other interested groups.

Once the Commission receives an instruction from the Attorney General, a Commissioner is appointed by the Attorney General to be in charge of the review.

Consultation Process

An important part of our review process is the assessment of the views of those directly affected by the law, often called stakeholders. We also receive the views of members of the general public, those with an interest and whom the particular law indirectly affects.

We hold public hearings after advertising in the newspaper and radio asking the public to attend and give their views. We also invite written submissions from the public and any organization especially community and

non-government organizations who wish to comment and give us their views. Once the public hearings are completed, the Commission will compare our existing law with the law of other countries. We usually compare the laws of Commonwealth countries who have similar legal systems. We also take account of community experience (expressed in the views of the public and stakeholders) before preparing our advice to the Attorney General for changes to the law.

The Commission then submits its Final Report with its proposals to the Attorney General.

The Attorney General and Cabinet decide on our proposals for change

Our recommendations may include policy changes to strengthen the enforcement or implementation of the existing law, or if the law must be changed, a draft legislation to be presented to Parliament by the Attorney General. If the Attorney General agrees with our proposal for legal changes, he will then submit draft legislation to Cabinet. Once Cabinet approval is given, the Attorney General may then table the Bill in Parliament.

Assisting with implementation of our proposals

If a draft legislation or Bill results out of our proposal for change, we may assist in educating the public about the proposed changes.

Law Library Corner

By Navinesh Kumar, TRCO, FLRC Library

I am extremely happy and greatly honoured to be given an opportunity to give a contribution to **Qolilawa Darpan** about the Commission's Library. The Library is classified as a specialist Law Library. Law Librarianship is distinguished from an academic/or school and public library due to the type of classification that it uses. The classification used is known as *Moys Classifications*.

The small number of Law libraries play a pivotal role in a Lawyer's daily performance, for example, asking for the location of either a court judgement, periodical or a report of a case from the many sources of law reports available. In the past years the former Librarians have purchased text books, reference materials, law reports and other very useful materials. These purchases have been carefully scrutinized by the library committee before placing orders with overseas suppliers.

Two weeks ago the Commission renewed contacts with Dr. Gambattista and Alex Haley, acquisition specialists of the US Library of Congress, Hawaii. The Library of Congress maintains a database and collection of all publications and has a small

collection of the Commission's reports.

AUSAID FLJSP Assistance

It is indeed a privilege to have Ms Lorraine Weinman of AusAid and its Law and Justice Sector Programme. Ms Weinman conducted a two day Law Librarian's workshop at Attorney General's Chambers on the 5th and 6th of May 2004. The Solicitor General, Mr. Nainendra Nand opened the workshop and emphasised the critical role of Librarians as facilitators of the work of Government lawyers, judges and in the formulation of Government policy. The workshop was very informative with getting to know and meet other Law Librarians around the country. The general discussion included the "Core Business" of agencies and libraries-how they mesh together including Library layout, Acquisitions, Cataloguing and classifications, Library equipments, Human resources, Finance & Budget, Inter-Library Loans, Security of collections and Information Technology. We were also able to further our discussions on assistance from outside agencies such as *Twining* programs and forming a Law Librarians Networking Group in Fiji. A follow up workshop was held at the Commission's boardroom on 19 May 2004.



The one-day follow up held at the FLRC on 19 May.

The workshop has really helped the Librarians to set their priorities right. An endless number of details from the workshop which made it possible for me to concentrate on the creative area of my library, for example, electronic judgements, more relevant texts to LRC, cataloguing and better equipment, website for all libraries, electronic texts and coordination between libraries.

Last but not the least, my advice to all the Law Librarians is to make the library a place where your users will feel at ease and where they will enjoy working. Greet them when they come in, even if you are feeling grumpy. Make yourself and your library essential and invaluable.

Vinaka, Dhaanyabaad and Thank You
NK



Fiji Law Librarians at the workshop held at the Attorney General's Chambers Conference Room on Tuesday 4th and Wednesday 5th May 2004.

Standing: Left - Right : Ms. Susana Macanawai, Librarian, Institute of Justice and Applied Legal Studies, USP; Ms. Rasieli Bau, Librarian, Parliament of Fiji; Ms. Vitalina Tubuna, High Court Library, Lautoka; Ms. Maca Pasi, Fiji Police Academy, Suva; Ms. Hadassah Duaibe, Assistant Librarian, Attorney General's Chambers Library; Mrs. Vere Bavadra, Librarian, Fiji Human Rights Commission Library, Suva.

Sitting: Left-Right: Ms. Janet Maughan, Agency Advisor, AUSAID, Mr. Navinesh Kumar, Relieving Librarian, FLRC, Mrs. Lorraine Wineham, AUSAID Law Libraries Advisor, Mr. Shalen Kumar Librarian, Director of Public Prosecution's Office.

Information Technology Corner

The Commission's Strategic Plan 2004- 2007 recognises the following priorities for the Commission to strengthen and develop its IT & communication services :

- (i) facilitate the work of the Commission through building its research capacity and the swift dissemination
- (ii) making FLRC Issue papers, DP's & Reports & material available to the public electronically
- (iii) security and storage of e information through appropriate mechanisms. An internal Internet Protocol based on ITC guidelines is something that the Commission has identified as a priority.
- (iii) build technological capacity through investing in publishing software in order to produce in house publications internally and professionally.

Australasian Law Reform Agencies Conference:

Access to Justice: Rhetoric or reality

Executive Chairperson, Mr. Alipate Qetaki attended the Australasian Law Reform Agencies Conference (ALRAC) held in Wellington, New Zealand from April 13th to 16th.

The conference was hosted by the New Zealand Law Commission and attended by law reformers from Canada, Namibia, Australia, India, Tonga, Northern Ireland, Cook Islands, Bangladesh, England, Kenya, Malaysia, Kiribati, Malawi, Ireland, Papua New Guinea, South Africa, Sri Lanka, Samoa, Vanuatu, Fiji and New Zealand.

Mr. Qetaki presented a commentary on a paper presented by His Excellency Tuiloma Neroni Slade, Judge of the International Criminal Court who addressed the potential for law reform in the Pacific area. In his paper, His Excellency Justice Slade stated: *“The proposition that there is law reform potential in the Pacific area would need to be assessed against the conditions of the Pacific of today, the priorities and challenges that call for response, and in light of the diversity in the law reform experience in the Pacific. There are marked contrasts between the established and comparatively well-resourced law reform institutions in Australia and New Zealand, on the one hand; and the much less developed, often ad hoc arrangements in the smaller Pacific Island States, on the other.*

His Excellency Justice Slade then elaborated on the effects of global concerns on the legislative programs of the region’s Attorney Generals, including terrorism, transnational crime, and environmental degradation. Regional efforts led by the regional organisations, SPC, Forum Secretariat, SPREP with regard to the environment, law and order, intellectual property in the development of model legislation and the recognition by the regions leaders at these fora of the need for a coordinated, regional approach to these issues and the need for legislation in member countries to be modernised and inline with international standards.

His Excellency Justice Slade then discussed the International Criminal Court, established by over 93 nations of the international community, in acknowledgement of the need for international criminal justice and for a permanent Court to administer it. He stated that *“The ICC needs to rely substantially on the willingness of States and of international organisations to provide support and to assist in its work.”* As well, major Governments and the non governmental community are now widely advocating the enactment of clear and strong implementing legislation among States

Code of Conduct Bill

In March 2004, the Executive Chairperson of the Commission, Mr. Qetaki led a Fiji Government Delegation to Papua New Guinea to study the operation of the PNG Leadership Code.

The Constitution at section 156 provides that all persons who hold public office must not:

- place themselves in positions in which they have, or could be seen as having, a conflict between their private interests and their public duties;
- compromise the fair exercise of their public duties;
- use their offices for private gain;
- allow their integrity to be called into question; or
- cause respect for, or confidence in the integrity of the Government to be diminished.

Parties. Implementing legislation would set out the domestic legal and procedural framework for carrying out the State Parties’ obligations to cooperate and adopting the ICC crimes into domestic law. In our region, only Australia and New Zealand have enacted such legislation.

In his commentary, Mr. Qetaki acknowledged His Excellency Justice Slade’s statement that *“real choices and alternative opportunities”* can exist for the smaller jurisdictions. Mr. Qetaki opined that the issue will ultimately be a balance between the considerations of the domestic issues and the impact of the pressures from the international community. He raised the issue of whether smaller economies have the resources to resist any international pressure if it does not meet their domestic needs, whether they could carry the burden imposed by international obligations, for example imposed model laws with respect to particular environmental issues, quarantine matters or even drug or people trafficking, and that ultimately it is essential to maintain their sense of themselves, their unique identities.

Mr. Qetaki then raised the importance of consultations, as *“without engagement with the law reform process, there can be no sense by community of the relevance of the laws to their way of life and the importance of the rule of law in their day to day business. Without this engagement, there is always potential for conflict and political upheaval”*

Mr. Qetaki concluded that Fiji and other small island developing states in the Pacific are small players in the international arena, given the recent experience of Nauru and the Cook Islands, with regard to financial legal reform. He added that the ALRAC conference was an opportunity to let the more developed Commissions and Governments know of the constraints on SIDs, and to ascertain the opportunities for bilateral assistance and cooperation. He added: *“The key to any future success in the Pacific ... is not necessarily founded on the imposition of an international or regional framework instrument or arrangement on human or cultural rights based on international standards in any process of modernisation but on the basic principles of good law reform - consultation with the community to make laws that reflect the community itself... international obligations without relevance to the local community have a greater potential to fail...”*

Section 156 further requires that Parliament enact a law to more fully implement these rules and for the monitoring of standards of conduct.

Also attending the tour was the Ombudsman and Chairperson of the Fiji Human Rights Commission, Mr. Walter Rigamoto, (formerly the Director of the Fiji Law Reform Commission and Supervisor of Elections) and Mr. Malakai Tadulala, Deputy Secretary from the Office of the Prime Minister. The Code of Conduct Bill (CCB) gazetted in 2002 envisioned the extension of the duties of the Ombudsman to overseeing and policing of the operation of the CCB. A comprehensive report has been submitted to the Attorney General on 22 March 2004.

Staff Movements

Earlier this year, the Commission bid a fond farewell to :

- **Legal Officer Mr. Sotia Vuli Coutts** who resigned in February 2004, to greener pastures with the Fiji Human Rights Commission. The Commission is grateful for his contributions on the Liquor, Committal Proceedings, Wills & Succession Reviews; and to the Commission's Operations Manual; Annual Report and Strategic Plan. We look forward to further collaboration with Sotia as the Senior Legal Officer in the FHRC's Policy Section;
- **Library Assistant, Ms. Millen Chan** resigned to pursue full time studies at the University of the South Pacific, the Commission is grateful to Ms. Chan for her

assistance and contributions to the Library Users Manual;

A warm welcome to our new staff and volunteers:

- **Mr. Josefa Vulavou** the Commission's Driver;
- new temporary Messenger, Ms. Kinisimere Ditukana;
- **Mr. Navinesh Kumar**, appointed TRCO to man the Commission's Law Library;
- **Ms. Kloudagh McGoon**, a volunteer, mainly assisting with the Commission's Registry.
- **Ms. Jolene 'Akolo**, an LLM student from Waikato University, who is on a three-month attachment with the Commission.



FLRC Staff

Standing: L-R: Acting Principal Legal Officer, Raijeli Vasakula Tuivaga, Clerical Officer, Kenneth Gortz, AUSAID Library Advisor, Lorraine Weinman, Library staff, Navinesh Kumar, Executive Officer, Vanavasa Tabaka, Acting Senior Legal Officer, Vukidonu Qionibaravi

Sitting: Graduate Trainee, Jolene Akolo, Typist, Karalaini Umu, Messenger Kinisimere Ditukana, Typist Salanieta Nawaqavou.

AUSAID Fiji Law and Justice Sector Program

As part of the AusAID Fiji Law and Justice Sector Program, Janet Maughan has been appointed Justice Agencies Support Adviser to continue with the work commenced by Graham Powell who is currently working on the FLRC Prisons Review 2004.

She is working with many agencies across the Justice Portfolio including the Ministry of Justice, the Solicitor General's Chambers, First Parliamentary Counsel, Law Reform Commission, the Office of Law Revision, the Legal Aid Commission and the Office of the Director of Public Prosecutions.

The Fiji Law and Justice Sector Program which is a joint initiative of the Governments of Fiji and Australia seeks to support a robust, accountable, transparent and efficient law and justice sector as a pre-condition for the minimization of internal conflict, maintenance of social stability and sound economic growth.

The program commenced in June 2003 and applying a sector wide perspective, the design framework replicates the current goal of the Fiji Law and Order Strategy. There are three main objectives: --

- To effectively and efficiently maintain internal security and public order in an impartial and transparent manner.
- To provide an independent and impartial judiciary and associated legal services, capable of efficiently and effectively discharging its obligations; and
- To provide efficient and cost-effective prisons and rehabilitation services.

There is a team of four people working in the program. Larry Proud is the Team Leader and is working with the Fiji Police. Kevin Maguire is working with the Courts and the Judicial Department and David Evans is working with Social Welfare and

Prisons. Janet Maughan is working with the Justice Agencies listed above.



L-R: Agency Advisor, Janet Maughan, Team Leader, Larry Proud, and Lorraine Weinman, FLJSP Law Library Advisor, at the Commission

Currently there are 6 technical components and 1 management component: these are not agency specific but impact across the entire justice program. They include

- Crime prevention and community safety.
- Investigation and enforcement
- Equitable access to the law
- Prosecution, trial and civil proceedings
- Sentencing and rehabilitation
- Future directions, strategy and planning
- Program management.

Most aspects of this program involve the participation of many agencies, stakeholders and counterparts and it seeks to meet as many priority needs as possible (without spreading the Australian assistance too thinly for it to be effective). Each of the 4 technical advisers has a multiple agency role in order to maximize the level of integration and the span of coverage.

Janet Maughan also assists the Commission's Executive Chairperson Alipate Qetaki, also the Commissioner for the Law Revision Commission, with the Law Revision Project. She also provides advisory support to the Law Reform Commission's work and initiatives.

Commission News



Director, Alberta Law Reform Institute, Dr Peter Lown QC meeting the Solicitor General, Mr. Nainendra Nand.



Dr. Lown at the Office of the Commission: L-R: V. Qionibaravi, Executive Chairperson A. Qetaki, Dr. Lown, R. Tuivaga, J. Akolo

Dr. Peter Lown QC, Executive Director of the Alberta Law Reform Commission visited Fiji on 1st and 2nd May 2004. Executive Chairperson Mr. Alipate Qetaki introduced Dr. Lown to Solicitor General Mr. Nainendra Nand. The Commission staff also had opportunity to meet Dr. Lown and discuss aspects of law reform work, community involvement, and the challenges of implementing recommendations. Dr. Lown was particularly helpful regarding the issue of domestic violence laws as the ALRI had recently completed and implemented its recommendations for better protection of women and children.

Profile: Lorraine Weinman, AUSAID Law Libraries Advisor

The Commission welcomes Mrs. Lorraine Weinman, the AUSAID Law Libraries Advisor, who is based at the Commission while undertaking training with Librarians in the Law and Justice Sector, under the Australian Government's AUSAID Law and Justice Sector Strengthening Program.



We interviewed Ms. Weinman on Monday 17 May 2004. We thank Mrs. Weinman for her candid responses and wish her the best of luck.

May we ask how long you've been a librarian? not that long I suppose, 26 years.

And how did you come to specialise as a law librarian? I started work in the federal public service - in Canberra, in the department of external territories - working to bring PNG to independence. Then in 1974, on the eve of PNG's independence, I began looking for another job as the Department was packing up. In August 1974 I was appointed Deputy Librarian at the Federal Attorney General's Office, I was there for 23 years until 1997, and for 16 of those years, I was in charge as Principal Librarian. It was a very big library; we had 21 staff and 120,000 books. In the AG's portfolio, there were 50 librarians - in State AG's branches liaising directly with each other. I used to organise a workshop every year - got them meeting and talking. We formed the AG's portfolio network and we were very helpful to each other because of that contact.

Did you enjoy your time in the Federal Attorney General's Office? I enjoyed it very much - the work I did today, I read about it

in the papers tomorrow - it is a job that needs precision and such a quick response.

Was there a special course or training you undertook to be a law librarian? There is no special course or training, some people do the 3-year degree in librarianship, then do the 4-year law degree, most of the time, you have to go into a library and learn from someone else. And this can be hard because law is difficult - if librarians are isolated, then they cannot learn and help each other. In Australia there are nearly 700 law librarians, the second largest grouping in the world after the American Law Librarians.

How many other countries have you worked in - either as a law librarian or as an advisor? While I was at AG's in 1991 we talked about the Pacific, because we got requests a lot of the time. I suggested there that we might twin so we knew what a particular library actually needed. So Jackie Elliot, the High Court librarian and I set it up. The Federal Attorney General's Library twined with its counterpart in Samoa, Nauru and Tonga. So I used to go once a year with another librarian to catalogue. I also assisted with cataloguing in the Cook Islands after the AG's library was burnt down. Then after I left the Federal Attorney General's Library, I went as a volunteer to Kiribati to set up its Parliamentary Library, then Papua New Guinea and now I'm in Fiji

How long have you been here in Fiji - how do you find the law libraries you have seen so far? I love Fiji and I think the libraries are reasonably well equipped, compared to some other countries where there is only 1 computer for the whole AG's department, including for the lawyers, and some have no electricity. However there is much room for improvement because there is no librarians' course in Fiji, so there are issues of formal qualifications and training but also of positions.

Will you hold any more training? Yes they asked for a follow up this Wednesday 19th May and we're trying to do hands-on cataloguing. Cataloguing means we can put numbers on books, so we put all the evidence books together, etc. There is a

UNESCO indexing program available free since the 80s, for all law libraries, so they can have the same system. Half the problem with setting up a system is to set up the index, there needs to be support, a manual and maintenance. So it is perhaps better to get the system that UNESCO is supporting, and its enhancements and updates. If we can install it in all the libraries, then they can use it.

Will you return for any follow-up training? There is plenty of follow up work, but this depends on the program.

Where to from here? I don't know I'm retired, it'd be nice to come back but that depends on the program. There is also room for training in legal research. There are plenty of experts in Australia who can teach the librarians, the lawyers, even eminent legal persons, can be taught individually.

What is your advice to law librarians? To think about their users first of all because that is why they exist and if they give good service to their agency, the agency should look after them. Their first responsibility is to give a service to their users, not a perfect library which no one borrows from.

Do you have any advice for those thinking of becoming a specialist law librarian? It is the best job in the world. The urgency of court deadlines, the knowledge that what you're doing has repercussions in court, so people's lives may depend on it, someone may get convicted or not - it can be a terrible responsibility, but it pushes you to do your best. It's up to you to push for your resources - the lawyers may know what they need, but not necessarily how, so it's up to you to get it. It's your responsibility to contact other people, other librarians, or getting on the internet. It may also be appropriate to ask your boss to find it in the budget, this means - we must have input into the budget, knowing that we may have to order new texts or journals to meet the library users needs. There's also a great comradeship in law librarianship - one can form great friendship that can last all your life, and we help each other and it's based on reciprocity.

The Commission's Research Papers, Bills and Final Reports.

- 1981 Final Report of the Royal Commission on the Treatment of Offenders Part I.
- 1983 Final Report & Bill: Unit Titles.
- 1983 DP* on The Problems of Child Abuse.
- 1983 DP: Alternatives to Imprisonment.
- 1983 Annual Report 1982
- 1983 DP: The Duty Solicitor Scheme.
- 1983 Annual Report
- 1984 DP: Review of the Prisons Act and subsidiary legislation.
- 1984 DP: The revision of laws relating to copyright in Fiji.
- 1984 Annual Report 1983
- 1984 Issues Paper: Imprisonment and Community based alternatives to imprisonment.
- 1986 Final Report: An examination of the laws and practices relating to Penal Policy in Fiji.
- 1986 Annual Report 1985
- 1986 Final Report: A review of the laws and practice of copyright and neighbouring rights in Fiji.
- 1993 Position Paper: Abortion law in Fiji and Proposals for Change
- 1995 Final Report: Insurance Law Reform.
- 1996 Final Report: Legal Aid
- 1996 DP: Rehabilitation and the problem of old convictions
- 1996 Final Report: Solicitors Trust Accounts and Legal Practitioners Fidelity Fund Report.
- 1996 Working Paper: Family Law Working Group
- 1996 Position Paper: Abortion law in Fiji and Proposals for Change
- 1996 Annual Report 1994 - 1996
- 1996 Final Report: Legal Practitioners Act Law Reform.
- 1997 DP: Family Law: Divorce
- 1997 DP: Family Law: Affiliation
- 1997 DP: Family Law: De Facto Relationships
- 1997 DP: Family Law: Maintenance and Enforcement of Maintenance Orders
- 1997 DP: Family Law: Marriage and Separation
- 1997 DP: Family Law: Financial Support
- 1997 DP: Family Law: Custody and Access
- 1997 DP: Family Law: Structure of the Family/Domestic Court
- 1997 Final Report: Drink Driving Report.
- 1997 Draft Bill: Juveniles Act Amendment Bill 1997
- 1997 DP: Evidence law: Recent Complaint
- 1997 DP: Evidence law: Corroboration
- 1997 DP: Evidence law: Confessions
- 1997 DP: Evidence law: Competence and Compellability
- 1997 DP: Evidence law: Unsworn Evidence
- 1997 DP: Evidence law: Right to Silence
- 1997 DP: Evidence law : Expert Opinion Evidence
- 1998 Final Report & Bill: Bail Law Reform Report.
- 1998 Issues Paper: Police Powers in Fiji
- 1998 DP: Police Powers: Sources of Police Powers in Fiji
- 1998 DP: Police Powers: Arrest and Detention
- 1998 DP: Police Powers: Search and Seizure
- 1998 DP: Police Powers: Investigation Procedures
- 1998 Final Report: Police Powers in Fiji
- 1998 Final Report & Bill: Intellectual Property and Copyright Law Reform in Fiji.
- 1998 Final Report & Bill: Consumer Credit, Hire Purchase; Bills of Sale Act & Sale of Goods Act.
- 1998 Final Report: Bankruptcy of Persons and Insolvency of Companies.
- 1998 Draft Bill: Criminal Procedure Code Amendment Bill 1998 (Bail can be appealed to the High Court)
- 1998 Draft Bill: Court of Appeal Act Amendment Bill 1998 (Bail) (jurisdiction of COA to entertain Bail appeals)
- 1998 Final Report: Swordsellers - Recommendations for law reform.
- 1998 DP: Cameras in the courtroom - televising coverage of court proceedings
- 1998 DP: Revision of the Part VI and VII High Court Act
- 1998 Final Report & Bill: Revision of the Part VI and VII High Court Act.
- 1999 Draft Bill: High Court Act Amendment Bill 1999 (increase in number of Puisne Judges to 12)
- 1999 Draft Bill: Penal Code Amendment Bill (penalty increase for Sacrilege)
- 1999 DP: Sexual Offences Against Children in Fiji
- 1999 DP: Working Children in Fiji
- 1999 DP: Children and Drugs
- 1999 DP: Juveniles Justice in Fiji
- 1999 Bulletin 1: Sentencing in Fiji
- 1999 Bulletin 2: Sentencing in Fiji
- 2000 Issues Paper: Sentencing law reform in Fiji
- 2000 Final Report: Sexual Offences.
- 2000 DP: Wills and Succession law reform in Fiji
- 2000 Final Report: FLRC Report for Children 2000.
- 2001 Final Report: Wills and Succession Law in Fiji.
- 2002 Final Report: Committal Proceedings in Fiji.
- 2002 Annual Report 1997 - 2001
- 2002 Issues Paper: Liquor Laws in Fiji
- 2003 Final Report: Bribery and Corruption.
- 2003 Final Report: Review of Liquor Laws in Fiji
- 2004 Issues Paper: Prisons: Aspects of Prisons Administration
- 2004 Issues Paper: Prisons: Matters promoting a shift from containment to corrections
- 2004 Issues Paper: Prisons: Human Rights Considerations
- 2004 Issues Paper: Prisons: HIV/AIDS in the Prisons Context
- 2004 Annual Report 2002 & 2003

LEGISLATION & Subsidiary Legislation resulting from FLRC references

1. Unit Titles Act Cap.274 (No.13 of 1985)
2. Insurance Law Reform Act 1998;
3. Insurance Act 1998
4. Legal Aid Act 1996
5. Rehabilitation of Offenders Act 1997 (Irrelevant Convictions)
6. Trust Accounts Act 1996
7. Legal Practitioners Act 1997
8. Land Transport Act 1997 - breathalyser regulations
9. Juveniles Act Amendment Act 29/1997 (Child Pornography)
10. Bail Act 26/2002
11. Copyright Act 1999
12. Consumer Credit Act 1999
13. Criminal Procedure Code Amendment Act 37/1998
14. Court of Appeal Amendment Act 38/1998
15. High Court Amendment Act 27/1998
16. High Court Amendment Act 37/1999
17. Penal Code Amendment Act 42/99
18. Civil Evidence Act 2002
19. Penal Code Amendment Act 2003
20. Criminal Procedure Code Amendment Act 2003
21. Family Law Act 2003

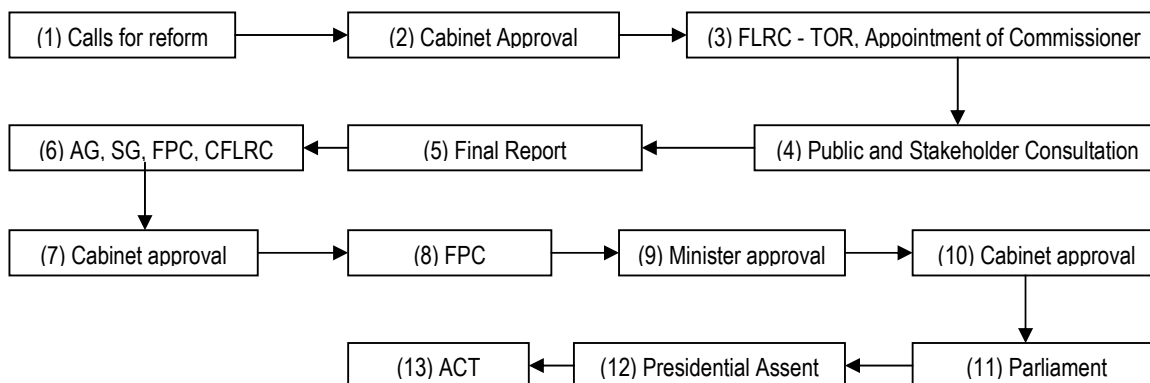
Bills presently before Parliament:

1. A Bill for an Act to amend the Wills Act (9/04)
2. A Bill for an Act to amend the Succession, Probate and Administration Act (10/04)
3. A Bill for an Act to provide for testamentary dispositions (11/04)

* Discussion Paper

Review Procedures and Process

The Commission's review process and procedures can be best described in the following diagrams.



Notes

- (1) This may be made by Parliamentarians, civil societies, relevant stakeholders, Ministries, or any reputable organizations.
- (2) The Attorney General must obtain Cabinet approval for any review to take place.
- (3) The Terms of Reference (TOR) must state the area of the law to be reviewed, the scope of the review, and the duration of the review. The Part-Time Commissioner is appointed from individuals professed in the area of the law under review.
- (4) The Consultation process involves drafting and distribution of Discussion Paper, public hearings, and consideration of the laws and report of other jurisdictions.
- (5) The Reports contains the recommendations for reform.
- (6) The PTC submits the Report to the Chairman of the Fiji Law Reform Commission. The Chairman forwards a copy of the Report to the Attorney General, the Solicitor General, and the First Parliamentary Counsel. The PTC formally presents the Report to the Attorney General in the presence of the CFLRC, SG and FPC.
- (7) The Attorney General prepares a Cabinet Paper based on the recommendations on the Report and submits it to Cabinet for discussion and approval. The Paper aims at the drafting of a Bill to incorporate the recommendations for amending the existing Act.
- (8) Once Attorney General authorises the First Parliamentary Counsel to draft necessary Bills incorporating the recommendations of the Report or those approved by Cabinet.
- (9) The Attorney General must approve of the Bill.
- (10) The Bill must be approved by Cabinet, through its Subcommittee on Legislation.
- (11) The Bill is tabled in Parliament and debated upon by both Houses.
- (12) The President must assent to the Bill before it becomes law.
- (13) The Bill becomes law and effectively amends an existing law or create a new one.

Why a newsletter

As this is the first Issue of **Qolilawa Darpan** after some time, we decided to remind our readers of the *raison d'être* of the newsletter. We have borrowed from the first Issue of **Qolilawa Darpan** of December 1996:

The Law Reform Commission is the body empowered by the legislature to keep under review all laws applicable to Fiji. Its primary role is the simplification, the improvement and the modernisation of the law.

Such objectives can be reached by maximising mutual consultations envisaged in section 5 of the FLRC Act Cap. 26, between the Attorney General and the Commission. Such a process exists and its continued exploitation will result also in the achievement of the positive purposes of the law for national growth.

The consultative process anticipated under the empowering enactment also provides a useful and necessary bridge between the Commission and the legislature.

For the layman as well as the lawyer, the law should be certain and predictable. Whenever possible improvements to and modernisation of the law should be regarded as a single objective. It follows that a new law or legal machinery needs to be substituted for the old, where the latter no longer has any practical application or has otherwise become an impediment to the achievement of national goals.

A distinctive feature of the procedure of the Fiji Law Reform Commission is its participatory nature. "*Taking law reform to the people*" has become a distinctive feature of our law reform process.

It is imperative that the Commission facilitate effective and productive consultation with specialist, professional and other public interest groups in the community. Public hearings provide invaluable guidance and context to issues under reform. Such a process permits the cross-fertilisation of ideas from different levels within society and across boundaries as well. To inform the public and raise awareness of the Commission's role and activities, the Fiji Law Reform Commission will continue putting out its newsletter.

To those of you who are not familiar with our newsletter, the Fijian term is derived from two words: Qoli (*which means to fish*) and Lawa (*which means a net or indeed, the law*). Darpan, means "mirror" or "to reflect".

The concept which **Qolilawa Darpan** tries to capture is the process of dissemination of information, consultation and the gathering in of the views and opinions as many people as possible. This process enables the Commission to arrive at recommendations for reform which are appropriate and representative of the diverse multi-cultural community of Fiji

Qolilawa Darpan

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This issue of **Qolilawa Darpan** is for: