



**NATIONAL PARLIAMENT OF SOLOMON ISLANDS**

**BILLS AND LEGISLATION COMMITTEE**

**REPORT**

**ON**

**THE CORRECTIONAL SERVICES BILL 2007**

*National Parliament Paper No. 42 of 2007*

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## TERMS OF REFERENCE

To examine and report to Parliament the Committee's observations and recommendations on:-

**"The Correctional Services Bill 2007"**

### 2. FUNCTIONS

In accordance with Section 62 of the Constitution as read with Section 71 of the Standing Orders, the Bills and Legislation Committee's functions in addition to the provisions in Standing Orders 50 and 55, shall be to:-

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee's deliberations.

3. **MEMBERSHIP**

The Membership of the Bills & Legislation Committee is made up of:

Hon. Edward J. Huniehu (Chairman)

Hon. Peter Boyers

Hon. James Tora

Hon. Seth Gukuna

Hon. Laurie Chan

Hon. Fred Fono

4. **PURPOSE OF THE BILL**

The Correctional Services Bill 2007

**Objects and Reasons:**

The Prisons Act was passed in 1972 and last amended in 1978. The Prisons Regulations were first passed in the 1973 and was last amended in 1980. The Commissioner's Orders and Commandant's Order were passed over a period of time. The current legislation is a product of the British Colonial administration and now out of date. It reflects an internal system that stresses the need for separation of prisoners and imposes discipline and labour punishment. It also does not contain provisions for rehabilitation as required under the United Nations Minimum Standards. Therefore, this Bill emphasizes rehabilitation in accordance with the Standard Minimum Rules for the Treatment of Prisoners as enshrined under the International Conventions on Human Rights.

The proposed Bill recognizes the need for people to be reintegrated back into their communities after serving their sentences. With this recognition, the Bill focuses on a system of correctional services such as education, rehabilitation, reconciliation and re-integration for offenders. It also allows for the continuation of family and social relationship within the Correctional Centre. Furthermore, it paves the way for the cultivation of

partnerships with local communities, churches, traditional elders, chiefs and other respected persons.

The Bill provides for the basic rights of a prisoner. It ensures that services provided in the correctional centres meet international standards and are provided with adequate basic services such as education and proper health services. It also places responsibility on the Commissioner to ensure that the prisoners' rights are met.

The proposed Bill also provides for equal opportunities and removes gender bias thus enabling correctional officers to be selected and promoted on the basis of merit.

Finally, this Bill repeals the Prison Acts, and associated regulations and Commandant's Orders and focuses on the administration, management and rehabilitation of offenders in accordance with internationally recognized standards.

## 5. OBSERVATIONS

The Bills and Legislation Committee met on Tuesday 14 August 2007 to examine and make its observations and recommendations on "**The Correctional Services Bill 2007**".

### **General Observations on the Bill**

- The Committee noted that the current Bill is promoting a system that provides a modern approach to managing those who have broken the law, by offering better correctional services through the establishment of education and skills training useful for future employment. This is good outcome for Solomon Islands society if it reduces future incidence of crime and anti-social behaviour. However, the Committee is concerned that basic service provision to prisoners should be approached from a holistic view that acknowledges the capacity of the government to provide adequate services to all citizens. Prisoners should not be provided with

greater services than can be provided to ordinary law-abiding Solomon Islanders and who also have rights to such basic services. Furthermore, the Committee is gravely concerned that such initiatives can possibly have the adverse effect of encouraging youths who have dropped out from formal education to get involve in criminal activities and once in prison utilize the free training and education offered.

- The Committee is concerned with the fact that there was not wider consultation on the Bill. This is a very important and substantial piece of legislation and therefore should be given wide consultation. This was evident in the fact that Members of Parliament were not consulted or presented with the draft Bill so that members could discuss the proposal with their constituents.
- The Committee has raised concerns to the provisions relating to early release, work release and release into the Community, that on such release, there is a certain level of risk posed to the Community. There should be stringent safeguards formulated to ensure that in such situation, the Correctional Services will know what approaches to take.

## 6. SPECIFIC OBSERVATIONS

- Clause one (1) of the Bill that stipulates that the commencement of the proposed bill is the responsibility of the Minister to appoint a date and publish it in the gazette. The Committee continues to raise this as a matter of concern in that legislation may not be implemented efficiently after it has been passed by Parliament but rather at the discretion of the Ministry. The Committee notes that regulations to support the provisions in the Bill are currently being developed.
- Section 25 of the proposed Bill provides for restricting certain rights of correctional services officers in the interests of national


security and public safety, whereby it imposes restrictions in terms of their affiliation to trade Union or industrial associations. What this section implies is that there is a permanent interest of national security and public interest in relation to correctional services. This section contravenes the rights under the Constitution of Solomon Islands for an individual to freely associate with groups or other persons. Because this section restricts the rights of the Officers for freedom of association under the Constitution it should be given greater consideration and clarification. With current policy, officers can be part of their internal association under regulation by the Minister but are prevented from being represented by the appropriate public sector union in relation to important matters such as pay and conditions. The Committee believes that Constitutional rights should not be overridden in legislation and the Bill would be greatly improved by providing for the Minister, in times of national emergency, to limit the right by correctional service officers to strike. The Committee believes an appropriate amendment should be moved by the Minister.

- The Committee notes that clause 5 of the Bill provides for the Minister by regulation to declare any land, building property, vessel, or vehicle to be a correctional centre. The Committee was advised that this is a new provision in the Bill that changes the conventional definition of a prison as four walls of a prison. Under this provision inmates are still technically considered in a prison in the prescribed items, so for example , a vehicle is also a correctional centre for the purposes of taking a prisoner to court.
- The Committee is concern that Section 6(1) is drafted in a way that with the word " may" is enabling and depends on the circumstance. It is a concern, as to use an enabling word is very open and leaves such an important appointment open to Ministerial interference. For example, the Ministry being directed in its recommendation to the Police and prison Services Commission. In summary, the Committee is concerned that the provisions "may" be open to

abuse when it comes to the selection of a Commissioner for the Correctional Services.

- The Committee noted the fact that the purpose of a parole board is to advise and make recommendation to the Minister in relation to conditions relating to release on license. However, the committee has the same apprehension in the appointment of the parole Board as it does with the appointment provisions of the Commissioner. The members of Parole Board, though, expressly stated in section 73(2) as to their qualification, provides the Minister discretionary power to make appointments. The Committee believes that this power given to the Minister should be given to an independent body so that the process is open and accountable.

The Committee therefore recommends that the Bill be debated in Parliament, however, asks Parliament to consider these issues raised by the Bills and Legislation Committee particularly in relation to the recommendation for an amendment to section 25 of this proposed Bill.



Hon. Edward J. Huniehu

Chairman

Bills & Legislation Committee