



GOVERNMENT OF NIUE

REPORT OF THE CONSTITUTION REVIEW COMMITTEE

June 2021

The Objective of this report is to present to the Legislative Assembly the work of the Constitution Review Committee (CRC) which includes but is not limited to the progress of reviewing Niue's Constitution ("The Constitution), the PROCESS adopted by the CRC, its FINDINGS and RECOMMENDATIONS to the Assembly.

Background

Following the General Elections and Swearing in of the Legislative Assembly in 2020, the Select Committee namely the Constitution Review Committee was established on 24th June 2020.

The motion for a Review of the Constitution was tabled in the Assembly on the 17th December 2020 by Premier Dalton Tagelagi. This received unanimous support of the members and was subsequently passed.

It was also agreed to engage two local consultants to assist with the review, being Hon. Billy Graham Talagi as Advisor, and Ms. Sinahemana Hekau as Legal Consultant.

The CRC resolved that a review of the entire Constitution would be a massive and lengthy undertaking and was so that the review would only focus on Part I and Part II of the Constitution.

In February 2021 the work of the CRC commenced by inviting the Village Assemblymen to inform people in their villages of the proposed review taking place and encouraged them to become involved and interested in this political process that enables them to have a 'Say' on the principles upon which their Island Niue is organised and governed.

This was done in the form of Public Submissions and a couple of months was allowed for people to respond. Information was provided on the Government website and targeted audience of Niuean's living locally and abroad.

Radio consultation in New Zealand courtesy of Pacific Media Network was also another opportunity taken to inform Niuean's living there as well as our own Broadcasting Corporation of Niue, and Publication in the Niue Star.

Public Submissions were due 3rd May 2021 and at the closing date, a total 36 submissions were received, 4 of those submissions came from New Zealand.

In receipt of these submissions, the CRC held two meetings to consider and deliberate the submissions and discuss the review process going forward. These meetings are summarised in the following –

Day 1: Thursday 6th May 2021 – Consideration of Public Submissions

As above, 36 public submissions in total were received and were summarised for ease of the CRC discussions.

The Chair introduced everybody involved with the review, including the roles of the Consultants, clerical staff and Crown Law Office.

As advised by the Solicitor General Justin Kamupala, the next part of the process was to assess the submissions received and break these down into a shortlist relevant to prioritise the more significant matters for review.

Under the direction and guidance of the Chair and Vice Chair of the CRC, the Committee was divided into two groups – Group 1 to focus on Part I and Group 2 on Part II – and were directed to further consider and discuss the submissions.

After lengthy consideration and discussions, each group returned with shortlists of prioritised Articles.

Group 1 presented their findings on Part 1 (Article 1 – 15) and submitted the following:

- *Article 2 – Cabinet of Minister of Niue*
- *Article 4 – Premier of Niue*
- *Article 5 – Appointment of Ministers after election of Premier*
- *Article 8 – Temporary Ministers*

Group 2 presented their findings of Part 2 (Article 16 – 36) and submitted the following:

- *Article 16 – Niue Assembly*
- *Article 23 – Languages*
- *Article 26 – Dissolution of the Niue Assembly*
- *Article 28 – Powers to make laws*
- *Article 33 – Special provisions with regard to measures affecting Niue land*

Day 2: Monday 17th May 2021 – Discussions on Shortlisted Articles

At the first committee meeting, each group only identified the prioritised articles but did not have the opportunity to present and discuss their individual findings with the other group. Hence the purpose of the second meeting was to further discuss the shortlisted articles with the entire committee.

For the purpose of reporting the summary of these discussions to the Assembly, the decision on each shortlisted article are presented in abstract.

Article 2 – Cabinet of Ministers

- Increase number of Ministers
 - More responsibility on Ministers in this modern age
 - Make changes to provide for Associate Ministers to assist Ministers in their roles

- Only 1 additional Minister to take up Premier's portfolios; Premier not to have portfolios but general oversight over Cabinet / Government
- Maintain current Cabinet of 4
 - Too many Ministers given Niue's small population
 - Too costly to increase number in Cabinet
 - If the concern is demanding workload on current Ministers, hence the purpose of SOG and Directors General are to assist the Ministers
- **Recommendation** – the Assembly to decide.

Article 4 – Premier of Niue

- Change title of Premier to Prime Minister
 - Committee disagrees.
 - The title 'Premier' does not mean the leader of our country is less entitled and less recognised by other international leaders and countries.
 - Changing to Prime Minister to seek further international recognition does not justify a name change.
- **Advice:** maintain use of the 'Premier' title.

Article 8 – Temporary Ministers

- Point of discussion; Clarification of period of '7 days or longer'.
- **Advice:** Leave unchanged.

Article 11: Allocation of Responsibilities to Ministers

- Delegating of responsibilities / portfolios to Ministers already happens when Premier appoints Cabinet.
- Any allocation of Ministerial responsibilities should include the SOG and Directors General.
- **Recommendation:** Leave unchanged. Portfolios already allocated to Ministers. Allocation to SOG and DGs should not be in Constitution.

Article 16: Niue Assembly

- Too many Members of Parliament
- Reduce number of Members
 - Reducing would mean forfeiting some village members / representation in the Assembly
 - Villages will not agree
- Maintain current representation: 14 village seats and 6 Common Roll seats
 - Committee agrees
- **Recommendation:** Maintain current provision as people will not support reduction. Assembly to decide.

Article 19: Members disqualified from becoming Public Servants or interested in Government contracts

- Discussions on Article but undecided.
- **Advice:** Assembly to decide.

Article 22: Procedure of Niue Assembly

- Discussion – these are already addressed in *Standing Orders* as per Article 22(10).
- **Advice:** Leave unchanged. Assembly to decide.

Article 23: Languages

- Amend reference of 'Niuean language' to 'Vagahau Niue'
- Officially using 'Vagahau Niue' in the Constitution would highlight Government's commitment to prioritising and promoting the use of Vagahau Niue
- New Zealand recognises 'Te Reo Maori', we should give the same significance to our own.
- **Advice:** Committee agrees. Recommends amendment to add 'Vagahau Niue'.

Article 28: Power to make laws

- **Advice:** Leave unchanged.

Article 33: Special Provision with regard to measures affecting Niuean land

- Discussions on family land gifted to Government and church
- Discussions on the need for reform of Niue land laws
 - This should be dealt with as a separate matter altogether, not as part of this review
 - Any discussion on land reform will be subject to Commission of Inquiry as per this Article
- **Recommendation:** Leave unchanged.

The Chair of the CRC seeks that the Assembly endorse this report and take note of the Committee's discussions and recommendations. The Chair welcomes the Assembly's discussion on the report and review.



Hon. O'Love Tauveve Jacobsen
Chairperson
Constitutional Review Committee