



CYBERCRIME LEGISLATION IN TONGA



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TONGA'S CYBERCRIME LEGISLATIVE FRAMEWORK

- Main legislation:
 - Computer Crimes Act;
 - Evidence Act;
 - Criminal Offences Act;
 - Foreign Evidence Act;
 - Mutual Assistance in Criminal Matters Act; and
 - Extradition Act.



TONGA'S CYBERCRIME LEGISLATIVE FRAMEWORK

- Two cybercrime cases since Computer Crimes Act 2003 was enacted:
 - R v Tovi: Interference with data in a telecommunications company (adding phone credit to friends and family);
 - R v Piukala: Illegal access of a protected computer of a electricity company (entering main server after termination of employment).
- 'Data prosecution' case was successful before a jury – received monetary fine and suspended imprisonment sentence;
- 'Illegal access' case was withdrawn by the complainant



TONGA'S CYBERCRIME LEGISLATIVE FRAMEWORK

- Other electronic evidence related cases :
 - Bank fraud (interference with data);
 - Forgery (use of computers to produce forged documents);
 - Counterfeit currency;
 - Criminal defamation/malicious emails; and
 - Pornography (stored on mobile phones)



REVIEW OF CYBERCRIME LEGISLATIVE FRAMEWORK

- **2010:** Initial introduction to CoE
- **2011:** Cybercrime Legislative Framework Workshop, and Tonga's attended OCTOPUS 2011
- **2013:** Establishment of Cyber Challenges Taskforce
- **2013:** Tonga requested CoE to consider inviting Tonga to accede
- **Jan 2014:** Tonga part of GLACY Project
- **Oct 2014:** CoE invited Tonga to accede



REVIEW OF CYBERCRIME LEGISLATIVE FRAMEWORK

- **2013:** COE analysis of Commonwealth cybercrime legislation
- **2013:** World Bank Consultants review (King & Wood Mallesons)
- **2014:** Australian Attorney General's Department review 2014
- **2015:** CoE Consultant review (Jamil & Jamil Associates)



REVIEW OF CYBERCRIME LEGISLATIVE FRAMEWORK

- **FOCUS OF LEGISLATIVE REVIEW:**
 - Increasing criminal sanctions;
 - Widening procedural powers; and
 - Strengthening MLA powers and functions



CURRENT STATUS OF REVIEW

- **RECENT ACTIVITIES:**

- Drafting instructions from Attorney General's Office & Ministry of Information and Communications (MIC)
- Finalise drafting instructions
- Sourcing legislative drafting consultant



LEGISLATIVE PROCESS

- **Final Draft** approved by Cyber Challenges Taskforce (Public & Private Stakeholders), on advice of AGO and MIC;
- **Policy Submission** to Cabinet from Cabinet Taskforce;
- Referral to **Cabinet's Law Committee** to vet drafting and policy;



LEGISLATIVE PROCESS

- **Final Policy Submission** to Cabinet to table before parliament;
- Approval by **Legislative Assembly**
- **Royal Assent** by HM the King;
- **Promulgation** to set effective date.



WAY FORWARD

- **Main Cybercrime Activities:**
 - **Review and Update Legislation:** reflect best international practices;
 - **Capacity Building for law enforcement, prosecutors and judiciary:** training of law enforcement officers (computer forensics), GPEN training, establishment of CERT's and 24/7 network;
 - **Develop International cooperation capabilities:** MLA, agency-to-agency cooperation, asset recovery, foreign evidence requests, extradition



WAY FORWARD

- **Monitoring and Evaluation of Legislation:**
 - Not normally part of legislative implementation plan;
 - Recent consideration by AGO to introduce the monitoring and evaluation of the effectiveness of legislation;
 - Adopted M&E methodology through PILON (Pacific Islands Law Officers Network)



OTHER RELATED ISSUES

- Cybercrime public awareness;
- Public-Private-People Partnerships on Cybercrime;
- Regulating service providers;
- Development of national strategies;



CONCLUSION

- Tonga is committed to accede to the Budapest Convention by end of 2015 or early 2016;
- Tonga is already, and willing to champion cybercrime in the Pacific region; and
- Message for Octopus:

“We may be isolated, small and under-resourced, PLEASE DON’T FORGET THE PACIFIC!”



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THANK YOU
MERCI