

# Chapter 10

## Law Reform in Small States



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Chapter 10 turns to the particular challenges of law reform in small Commonwealth states and jurisdictions. Of the 52 members of the Commonwealth, 30 are classified as small states. In addition, law reform agencies exist in a number of non-state jurisdictions. Chapter 10 covers the challenges and advantages of a small population and land area, and the impact that can have on the structure of law reform agencies there, including the particular pressures on staffing. The chapter looks at how such agencies adapt the law reform process, and the particular significance of comparative research for them. It goes on to outline how, despite the challenges, small state and jurisdiction law reform agencies have made very considerable contributions to the law. Finally, the chapter assesses the particular utility of co-operation between law reform agencies, including through regional associations.

The globalisation and internationalisation of law has far-reaching implications for researchers, practitioners, policy-makers and reformers. Whether in a small state or large one, a law reform agency is able to take an inclusive, objective and professional approach to the reform of the laws that govern society. It is particularly suited to topics where independent, non-partisan investigation would assist in establishing the credibility of law reform proposals, or where collaboration or consultation with a wide range of stakeholders is needed. Projects undertaken by a law reform agency are usually substantial, possibly involving new concepts or fundamental review, which government agencies are sometimes unable to undertake because of time constraints and the electoral cycle. As an institution, a law reform agency, whatever the size of the jurisdiction, must always identify new concepts and new approaches to law, and consider ways of enhancing

*There are specific challenges and advantages involved in conducting law reform in small states.*

***Small states have to make difficult choices about allocating scarce resources. There is value in investing in a law reform agency because the benefits can extend beyond the justice sector.***

the engagement of the community it serves with the law and public institutions. This requires, of the law reform agency, that it periodically re-designs its methodology so that it remains creative and responsive.

Of the 52 members of the Commonwealth, 30 are classified as small states. As with other issues, law reform in small states (and non-state jurisdictions) has particular challenges, but also advantages.

Small states, for these purposes, are defined as those with a population of fewer than 1.5 million people. Some larger countries – Botswana, Jamaica, Lesotho, Namibia and Papua New Guinea – are also classified as small states, as they have similar characteristics.

A number of small states and other jurisdictions within the Commonwealth have established law reform agencies by statute: the Bahamas, the British Virgin Islands, the Cayman Islands, Dominica, Fiji, Jersey, Lesotho, Mauritius, Namibia, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Trinidad and Tobago, and Vanuatu. Most of these are still in place. They are all standard model law reform agencies.<sup>1</sup>

Establishing a law reform agency in a small state or jurisdiction may appear as a low priority activity when weighed against competing pressures to establish and support other justice agencies, initiatives and programmes that build capacity in the public sector. However, there are multiple long-term benefits in investing scarce resources in a law reform agency that extend beyond the justice sector. A well-designed programme can build much-needed legal policy skills that can become a resource for the use of other public sector ministries and government.

### **10.1 The challenges of law reform in small states and jurisdictions**

Despite their heterogeneity, small states share the constraint of ‘smallness’ – that is, a small population, limited human capital, the lack of economies of scale, a constrained domestic market, and increasing exposure to climate change and market shocks. Most small states have small land areas.

Many of the challenges faced by law reform agencies are very similar whether the institution serves a large or a small

***Limited financial and human resources pose significant challenges to law reform in small states.***

country. However, there are additional issues for small states and jurisdictions. Limited financial and human resources with a lack of the required local expertise in all sectors to enable specialised and effective law reform are some of the major challenges for law reform in small states. In order to undertake the many obligations imposed on a law reform agency, high-quality personnel are required. It may be difficult for an agency to attract and retain suitable persons, and to commit resources for the continuous capacity building of the institution.

Law reform agencies in small states also face the challenge of developing appropriate and effective law reform processes to ensure maximum input from stakeholders, thereby ensuring the agency's responsiveness to the developing needs of society.

A further major challenge for a law reform agency in a small state is to foster trust and confidence among all its stakeholders in its usefulness and the necessity of its existence as an independent and politically neutral agency. There is a need to cultivate political goodwill in support of its activities, the more so given the particularism of relationships in small jurisdictions. A Commonwealth Secretariat paper on small states and law reform notes:

*A major challenge for smaller [law reform agencies] is to cultivate political will. On occasion a government may suspect that [a law reform agency] is inclined to advance either a donor agenda or the opposition agenda, due to the [law reform agency's] independence from mainstream government and its unusual funding arrangements. On the other hand, others may on occasion suspect that a government uses its [law reform agency] mainly as an indication of its democratic credibility and as a means of securing donor aid rather than recognising the [law reform agency] for what it is.<sup>2</sup>*

There may also be the challenge of living up to expectations. This requires keeping up with demand by avoiding taking on too many projects for their limited capacity. An allied criticism often levelled against law reform agencies is that time frames are unduly long. The agency can be faced with the challenge of convincing government, stakeholders and donors that adequate time frames are necessary to allow for proper research and consultations and that these processes are indispensable in law reform.

**Fostering the trust of stakeholders, and maintaining independence and neutrality, can be particularly challenging in small states.**

## 10.2 The contribution of small state law reform agencies to the development of the law

*With adequate resources, law reform agencies in small states are able to make significant contributions to law reform.*

For all these challenges, in a small state, a law reform agency does not have to be large or expensive to make a worthwhile contribution to the development of the laws of its country. It suffices that it has adequate resources put at its disposal and that it operates in an environment conducive to law reform. Reference to the publications referred to below can be found on the websites of the law reform agencies concerned.

In the Caribbean region, the Law Reform Commission of Trinidad and Tobago has made proposals for change in relation, for example, to the law on compensation for victims of crime, the law on computer misuse, adoption law, judicial review and the mechanisms for the protection of human rights. The Cayman Islands Law Reform Commission has recommended reforms for the development of the law with regard to, among other topics, landlord and tenant law, legal aid, the practice of law by legal practitioners, consumer protection law and contempt of court.

The Jersey Law Commission, with a very modest budget, has made proposals for reform of the law in relation to matters such as trust law (the rights of beneficiaries to information regarding a trust, the prohibition on trusts applying directly to Jersey immovable property), evidence (best evidence rule in civil proceedings, corroboration of evidence in criminal trials), law of *tutelles*, *dégrévement*, law of real property, *voisinage*, law of contract, law on charities, law on security on immoveable property, law of partnership, bankruptcy, divorce, administrative redress and appeal against criminal convictions.

Law reform agencies in the Pacific Islands have been active in reviewing various aspects of the laws relating to their legal systems in order to respond to the needs of their societies. The Fiji Law Reform Commission has, since its establishment in 1979, made recommendations for changes to the law on aspects such as community-based alternatives to imprisonment, child abuse, duty solicitor scheme, abortion, drink driving, juvenile justice system, intellectual property and copyright, insurance, legal aid, solicitors trust accounts and legal practitioners fidelity fund, family law (divorce, affiliation, de facto relationships, maintenance, separation, custody and access, structure of family/domestic court), wills and succession, law regulating

legal practitioners, criminal evidential rules (recent complaint, corroboration, confessions, competence and compellability, unsworn evidence, right to silence), bail, police powers, consumer protection, committal proceedings, liquor, bribery and corruption, prisons administration and domestic violence.

The Solomon Islands Law Reform Commission has, over the years, reviewed the Penal Code, and, also a matter of fundamental importance to the life of its people, the law on the land below the high water mark and the low water mark.

The Samoa Law Reform Commission has reviewed and recommended proposals for change on various aspects of its law: alcohol legislation, child care and protection legislation, civil procedure rules, commissions of inquiry legislation, coroners legislation, the Crimes Ordinance, the Criminal Procedure Act, laws relating to the judicial system (the District Court Act, the Judicature Ordinance), the law governing media regulation, legal practitioners legislation, national heritage legislation, prisons law, the Convention on the Elimination of all forms of Discrimination Against Women legislative compliance review, the law on the abuse of power by a paramount chief (*Pule a le Matai Saò*), sexual offenders' register legislation, the protection of Samoa's traditional knowledge and expressions of culture, and the Village Fono Act.

The Vanuatu Law Commission, which became operational only in 2011, has already considered dangerous drugs legislation, public health legislation, water legislation, the law on marriage and civil status registration, the Leadership Code Act and the Ombudsman Act.

The Papua New Guinea Constitutional and Law Reform Commission has, during the past 10 years, reviewed and submitted proposals for change on aspects of the law on the criminal justice system (committal proceedings, indictable offences triable summarily, the law on sorcery and sorcery-related killings, penalty provisions for criminal offences, laws on alcohol and drugs, review of district court practices and procedures), *ex parte* proceedings, proof of business and electronic records, incorporated land groups and the design of the system of voluntary customary land registration, environmental and mining laws relating to the management and disposal of tailings, and laws on the development and control of the informal economy, city planning and urban development.

The Commission has also reviewed the ‘Implementation of the OLPG & LLG (Organic Law on Provincial Government and Local-level Government) on Service Delivery Arrangements: A Six Provinces Survey’.

In the African region, the Namibia Law Reform and Development Commission, which has recently celebrated 35 years of operation, has reviewed and recommended changes to various aspects of laws in order to enhance social justice and entrench a human rights culture in all spheres and aspects of the lives of Namibian citizens, uplift vulnerable communities (pre-independent Namibia was characterised by institutionalised discrimination, which was based on race, gender and some other forms of discrimination) and ensure that those that seek remedies for wrong-doing are appropriately assisted through various institutions and roles. Aspects reviewed relate to family law (including the status of married women, maintenance, marital property, divorce, succession and estates), domestic violence, rape, customary law, public gatherings, the electoral system, fisheries, criminal procedure, domestication of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, administrative justice, insolvency law, traditional authorities in Ovambo communities, Government Institutions Pension Fund Legal Framework and the transformation of the Polytechnic of Namibia into the Namibia University of Science and Technology.

Many of the recommendations of the Namibian Commission have been implemented, such as the discriminatory concept of marital power, which was abolished by the Married Persons Equality Act; the recommendations arising from the Domestic Violence Project have been implemented; and the Combating of Rape Act and the Combating of Domestic Violence Act have been enacted, both aimed at combating violence against women.

The Mauritius Law Reform Commission, in 2006, after its reformation, embarked on a comprehensive review of Mauritian law and has submitted to the Attorney-General a significant number of reports and papers, with recommendations for change. The recommendations are aimed at:

- strengthening the rule of law, consolidating good governance and democracy, and reinforcing the human rights protection system;

- improving the judicial system, the operation of the legal profession and the provision of legal services;
- modernising the civil justice system;
- modernising the criminal justice system:
  - criminal investigation procedures;
  - law on bail;
  - rules as to disclosure;
  - rules as to costs;
  - criminal evidential rules;
  - effective handling of criminal cases; and
  - mechanism for the review of miscarriages of justice and for the correction of errors;
- renovating the criminal law in accordance with human rights norms and best international practices;
- modernising the Code Civil Mauricien:
  - law on persons and '*Droit extra-patrimonial de la famille*';
  - law on succession and matrimonial regimes ('*Droit patrimonial de la famille*');
  - law on obligations and specific contracts;
  - property law (including the law on '*co-propriété*');
  - law on '*sûretés*' and credit transactions;
  - law on prescription; and
  - aspects of private international law;
- improving the legal infrastructure for business:
  - reform of the Code de Commerce;
  - reform of the regulatory framework for the activities of real estate agents;
  - reform of the consumer protection regime; and
  - mediation and conciliation as mechanisms for settlement of disputes in commercial matters.

A significant proportion of the final recommendations of the Mauritius Law Reform Commission have been implemented:

- the recommendations contained in the report *Opening Mauritius to International Law Firms and Formation of Law Firms/Corporations* (May 2007);
- the recommendation contained in the report *Relationship of Children with Grandparents and other Persons under the Code Civil Mauricien* (June 2007);
- the recommendations in the report *Law on Divorce* (December 2008);
- the recommendations in the report *Bail and Related Issues* (Aug 2009);
- the recommendations and observations of the Commission in the report *Prevention of Vexatious Litigation* (October 2010) and in the opinion paper 'Appeal by Vexatious Litigant' (April 2011);
- the recommendations contained in the report *Crédit-Bail & Location Financière* (November 2011); and
- the recommendations contained in the report *Mechanisms for Review of Alleged Wrongful Convictions or Acquittals* (Nov 2012), which were partly approved and implemented.

Observations contained in reports/papers submitted by the Commission have also been taken into account by the legislature.

### 10.3 The structure and resources of law reform agencies in small states

#### 10.3.1 Commissioners

As is common in standard model law reform agencies elsewhere, law reform agencies in small states and jurisdictions often include a member of the judiciary, often as the chair. When the Law Reform Commission of Mauritius was restructured in 2006, the previous lack of a judicial member was seen as a weakness, and was corrected in the new commission. Other members of the commissions are usually drawn from the ranks of practising lawyers and academia.

Some make provision for non-lawyer or lay members. An unusual feature of the membership of the Papua New Guinea Constitutional and Law Reform Commission is that it requires a

member to have qualifications and experience in anthropology, sociology or political science. A similar provision exists in relation to the Solomon Islands Law Reform Commission.

It is a feature of small state and jurisdiction agencies that a number make provision for government law officers or other public sector lawyers to be members of the commission, such as in Mauritius, Lesotho and Namibia. In the Cayman Islands, there is no statutory obligation to do so, but it has become customary for the Solicitor General and the Director of Public Prosecutions to be appointed commissioners. The Constitutional and Law Reform Commission of Papua New Guinea is constituted by six prominent citizens: two are serving Members of Parliament, one has qualifications and experience in constitutional law, one has qualifications and experience in anthropology, sociology or political science, one is nominated by the Papua New Guinea Council of Churches to represent the Churches, and one is an *ex officio* member, namely the Dean of the Faculty of Law of the University of Papua New Guinea.

### 10.3.2 Staff

The viability and performance of a law reform agency is heavily dependent upon it having core personnel with a high degree of professional skills, committed to comparative legal research and able to engage meaningfully with stakeholders. It is important therefore that the Act establishing a law reform agency deals with staff matters and confers power to recruit personnel.

In some small Commonwealth states, the Act establishing a law reform agency does not deal with staff matters, which can be a serious impediment to a law reform agency realising its mission. It may be difficult for the chair, or a commissioner, appointed on a part-time basis, to act also as a research officer.

In other small Commonwealth states, provision is made in the Act for the law reform agency to be assisted by officers and employees of the public service made available to it. This arrangement may be practical, but may turn out, on occasion, not to be satisfactory. For example, in Mauritius the Law Reform Commission, which was first established in 1992 and operated until 2006 when it was abolished and a new Commission set up, could not operate effectively because of the unavailability of staff:

***Retaining staff is a major challenge in small states.***

*The Commission at present does not have any staff. The Act envisaged that the Attorney-General's office would provide 'officers to assist the Commission in the discharge of its functions'. This has never materialised. The Commission understands that the Attorney-General's office is under heavy pressure as far as staffing is concerned and understands that it may not be in a position to delegate any officer to the Commission to assist it... The lack of staff seems to have been the major stumbling block to the proper operation of the Commission. Researching a theme, debating on it and writing up a report are all time consuming. It was not very realistic to have expected part-time members and a part-time Chairman to undertake the work in the absence of officers delegated by the Attorney-General's Office.<sup>3</sup>*

In a number of small Commonwealth states, although the members of staff are public servants recruited by a public service commission or other equivalent body, provision is also made for the recruitment of personnel by the law reform agency. In small states, it is much to be preferred that the law reform agency be entrusted with the power to recruit personnel on such terms and conditions as it may think fit (having regard to pay grading in the public service and the need to recruit and retain competent personnel). This point was made in the report of the then Mauritius Law Reform Commission, *The Reform of the Law Reform Commission*, as a result of which the Commission was reconstituted.

The Samoa Law Reform Commission points to inadequate salaries as one reason for a lack of senior staff to support the Executive Director and Assistant Executive Director. The Commission also suffers a high rate of staff turnover, a serious problem for law reform projects, which, because of their nature, can be lengthy. The Commission relies on a volunteer for some policy and information and communications technology work, and on an unpaid short-term internship programme.

In order to enable a law reform agency to evolve into a strong institution, it is important that it should have high-level core personnel who can develop expertise in law reform and provide momentum over time. Members, who more often than not are part time, and will all, most likely, be at the law reform agency for a relatively short determinate term of office, are unlikely to be able to provide that sort of momentum.

Staff must be managed, supervised and given a sense of direction. It is therefore not uncommon for Acts establishing law reform agencies to make provision for the appointment of a chief executive, secretary or similar officer to lead the staff.

A lack of resources and limited professional networks may also mean that the adequate training of staff is a problem.

There may be options for innovative approaches to staffing that small state and jurisdiction law reform agencies could explore. It may be possible, for instance, to secure government commitment to allowing staff lawyers from the attorney-general's office to work for the agency for a defined number of hours per week. Such an arrangement may provide useful career experience for the member of staff, and allow them to undertake a more interesting and varied range of work. That in turn might help the attorney-general's office to retain staff.

Similarly, it may be possible for the law reform agency to agree partnership arrangements with universities. It may be possible, for instance, for a doctoral candidate to work part time on a project that was directly relevant to their thesis. Alternatively, a member of staff of a law school might offer assistance, if in doing so they could expect to write an article for an academic journal on the strength of the experience.

### 10.3.3 Consultants and other specialists

A law reform agency in a small state may be called upon to review aspects of the law requiring specialised knowledge, and in respect of which members and staff may not have the required expertise. Most of the law reform agencies in small Commonwealth states have been conferred the power to recruit consultants for any of their projects.

#### **Mauritius: Use of outside experts**

According to the Mauritius Law Reform Commission Act 2005, the Commission may engage, on such terms and conditions as it may determine, persons with suitable qualifications and experience as consultants to the Commission. Pursuant to the Act, Robert Louis Garron, Professeur Honoraire at the Faculty of Law of the University of Aix-Marseille, has been working for the Commission as Law Reform Consultant for the reform of the Code Civil Mauricien, the Code de Commerce and the Code de Procédure Civile. Professor Romain Ollard, Vice-Doyen of the Faculty of Law of the University of Réunion, is currently providing assistance on an *ad hoc* basis as consultant for the reform of the Criminal Code.

Law reform agencies also have the power to establish an advisory committee or panel for advising and assisting it during any particular project, which may consist of persons having specialised knowledge in, or particularly affected by, the matter to be studied.

### 10.3.4 Funding and operational capacity

*Funding is challenging in all jurisdictions, but especially in small states.*

The operating expenses of law reform agencies in small states are met by annual budgetary allocations provided by parliament, with provision being made for them to be able to benefit from donor assistance. Funding is a critical issue for any law reform agency, but the difficulties may be magnified in small states and jurisdictions, which are typically developing countries with limited resources (perhaps with the exception of a small number that are established financial centres).

Funding must be sufficient to enable the agency to effectively discharge its mission with competent and motivated staff operating in a conducive environment (adequate office space with the required logistics). The Samoa Law Reform Commission's budget is monitored by the Ministry of Finance. Although there is adequate funding to carry out the Commission's work, greater investment is needed to ensure that the work of the Commission is effectively carried out, especially in relation to raising awareness, conducting public consultations and office space. The Commission currently does not have access to any online subscription legal services.

The potential difficulties were graphically illustrated by Dr Guy Powles, a lawyer and judge with experience of the Pacific region, who has written that

*There appears to be a lack of appreciation on the part of finance ministers and treasury officials that law reform requires more than a lawyer and a computer... in the absence of adequate funding and personnel, it is difficult for full consideration to be given to law reform techniques and processes.<sup>4</sup>*

While aid funding clearly has a place, it is important that small state and jurisdiction law reform agencies are able to educate the relevant financial authorities of the need for reasonable and stable funding.

## 10.4 Functions and methodology

As with law reform agencies elsewhere, the law reform agencies in small Commonwealth states and jurisdictions are mandated to review the law and to make recommendations for reform. Also like other law reform agencies, the statutory provisions setting out the functions of the law reform agencies are often based on the United Kingdom's Law Commissions Act.

In some states, such as Namibia, Papua New Guinea, the Solomon Islands and Vanuatu, law reform agencies are tasked with reviewing customary law, or harmonising it with statute and common law. The Vanuatu Law Commission, exceptionally, is empowered to submit comments on any bill before the legislature.

The Commission in Papua New Guinea was formed by the amalgamation of a Law Reform Commission (which had become inactive) with the Constitutional Development Commission to form the Papua New Guinea Constitutional and Law Reform Commission. As a result, it is required to review the workings of the constitution, as well as to undertake law reform.<sup>5</sup>

The statutory provisions relating to the initiation of law reform projects are similar to those of other law reform agencies, as is the practice of relations between governments and commissions.

In some instances, law reform agencies are also requested, when making recommendations for reform, to prepare draft legislation (see Chapter 8). There is express reference to such a possibility in the legislation of the Namibian and Mauritian Commissions. Although there is no express provision in the Samoa Law Reform Commission Act 2008, the Commission in practice sometimes attaches draft bills to its reports; for example, a draft bill was attached to the final report on the reform of the Sex Offenders' Register.

The working methodology of small state law reform agencies is, again, similar to that adopted by other law reform agencies, as set out in this guide.

There is a particular commitment by small state and jurisdiction law reform agencies to comparative legal research. This arises both from a desire to evaluate the merits and demerits of the state's law in light of the experience of other

*In addition to the usual functions, law reform agencies in some small states are mandated to review customary law.*

*Comparative legal research is of particular value to small states. As always, care must be taken to adapt lessons to the local context.*

### Vanuatu on the approach to comparative law research

Vanuatu is one of the smallest Commonwealth states, with a population of under 300,000 and a land area of 12,000 km<sup>2</sup>.

In his presentation at the Australasian Law Reform Agencies Conference 2008 'The Birth and Rebirth of Law Reform Agencies: The Establishment of the Vanuatu Law Commission', Mr Al Kalsakau, Attorney-General of Vanuatu, emphasised the importance of care in the use of comparative research:

*New laws in all jurisdictions are often inspired by foreign experiences... in developing countries 'legal transplants' or imported laws are common practice. Whilst well intentioned, donors and law reformers need to avoid the trap of drafting new laws to effect change and overcome loopholes or deficiencies with current systems without fully appreciating and understanding the role of custom traditions and the way institutions and enforcement agencies function and are resourced. New laws do not solve problems simply by virtue of the fact they exist, and laws and regulations that are overly complex or fail to take local context into account will not be effective and can in fact create more problems than they solve.<sup>6</sup>*

jurisdictions, and from a conviction that the laws of a small state should reflect best international practices. Concomitant to this is an understanding that legal transplants must be made to adapt to the local context. Laws must reflect and advance a country's social and economic interests. A law reform agency would have to be mindful of avoiding importing 'models' and transplanting laws that are inconsistent with national legal, customary and socio-economic norms.

For small state and jurisdiction law reform agencies, consultation is no less significant than for other law reform agencies, and may indeed be more so. Small states have known their share of political conflict, and as Mr M Qetaki, Executive Chairman of the Fiji Law Reform Commission, has said:

*Without consultation, without engagement with the law reform process, there can be no sense by the 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 the potential for conflict and political upheaval.<sup>7</sup>*

The result is that, for all the challenges they face, small state and jurisdiction law reform agencies have made substantial contributions to the law for which they are responsible for reform.

## 10.5 Co-operation and regional law reform initiatives

A law reform agency in a small state stands to benefit from co-operation with other law reform agencies in its region or across the Commonwealth in order to tap the wealth of experience that other law reform agencies have. Despite great variation between law reform agencies, the features that law reform agencies have in common are more important than their differences. They have the same core functions and they experience very similar successes and difficulties.

It clearly makes sense for a law reform agency in a small state when reviewing an area of law to consider any reviews of that area that have been conducted elsewhere. Having made due allowance for all the differences between the jurisdictions and the factors surrounding the area of law, a law reform agency can often find extremely useful ideas in the reports of another law reform agency. The experience of other law reform agencies on methods and best practices about the manner in which the law reform process could be carried out can also be of great assistance.

Participation in both formal and informal international associations of law reform agencies is valuable for all law reform agencies, but particularly so for small state and jurisdiction agencies. The two more formal associations are the Commonwealth Association of Law Reform Agencies and the Association of Law Reform Agencies of Eastern and Southern Africa (see Appendix 2).

More informally, there are close links between the Australian, New Zealand and Pacific agencies, arising from the conferences organised from time to time under the banner of the Australasian Law Reform Agencies Conference.

A law reform agency in a small state may find it advantageous to develop twinning arrangements with larger law reform agencies; mutual support can be particularly helpful when facing new trends or difficulties. Interaction with other law reform agencies by way of visits, exchanges, secondments and internships may prove valuable for the capacity building of a law reform agency.

Involvement in regional arrangements would also be very helpful, such as membership of the associations described in Appendix 2 below.

*A law reform agency in a small state may find it advantageous to participate in a regional body or to develop twinning arrangements with larger law reform agencies.*

A law reform agency in a small state also needs to be involved in regional law reform initiatives if there is great potential for such development in its region; this is the case particularly in the Caribbean and the Pacific regions.

## Notes

- 1 Jamaica has a Legal Reform Department located within government. The Jersey Law Commission is unusual in having all part-time and unpaid commissioners.
- 2 [LMSCJ (07)11], presented at Meeting of Law Ministers and Attorneys General of Small Commonwealth Jurisdictions, 4–5 October 2007, Marlborough House, London.
- 3 Pages 18–19 of report of the Law Reform Commission of Mauritius (2004).
- 4 G Powles, 'Challenge of Law Reform in Pacific Island States', in B Opeskin and D Weisbrot (eds), *The Promise of Law Reform* (Federation Press, Sydney, 2005), p 414.
- 5 Ibid, pp 414–415.
- 6 [http://www.pacii.org/other/conferences/2008/ALRAC/Papers/Session%202/Session%202%20\(Kalsakau\).pdf](http://www.pacii.org/other/conferences/2008/ALRAC/Papers/Session%202/Session%202%20(Kalsakau).pdf)
- 7 Mr M Qetaki, 'Law Reform in the Pacific Area', quoted in G Powles, 'Challenge of Law Reform in Pacific Island States', in B. Opeskin and D. Weisbrot (eds), *The Promise of Law Reform* (Federation Press, Sydney, 2005), p 421.