



(Pierre W. Slicer) QC.  
**SUPREME COURT JUDGE**  
 Judge's Chambers



GOVERNMENT OF SAMOA

**SUPREME COURT OF SAMOA**

Telephone: (+685) 20507  
 Facsimile: (+685) 21050  
 Email address: [pslicer@bigpond.com](mailto:pslicer@bigpond.com)

P.O Box 49  
 Apia, SAMOA

17 March 2010

The Honourable Attorney General  
 Parliament House  
 Hobart  
**TASMANIA**

Dear Attorney,

Although I am serving as a Justice in Samoa, I remain a proud citizen and elector of the State of Tasmania. Friends and internet access have kept me informed of the various discourses between parties in the course of the election and you would be aware that I have recently been a signatory to an open letter to the three political parties represented in Parliament.

I am writing to urge you to firmly resist an attempt or proposal to entangle the judiciary in a process which ought to remain the province of Parliament. I have been sent a copy of the policy of Tasmanian Greens which includes prison reform including one to:

“legislate to give the fundamental democratic right to vote in election to all people serving custodial sentences.”

I have no great philosophical problem with that policy. Historically a prisoner was stripped of many civil rights including the right to vote or commence civil actions in the Courts. Many countries continue that policy. Some vary the proscription according to the length of the sentence served by the prisoners, an approach taken by the Commonwealth and Tasmania. I accept the validity of arguments both for and against a measured prohibition which ought remain the responsibility of the Parliament.

My concern is with the proposal by the Green's leader that in sentencing reform judicial officers would be required to consider and order the removal of “a prisoner's right to vote where there has been a particularly heinous crime committed”, and to do so retrospectively.

I suspect the proposal, made by a man whose intellect I respect, is a product of either a committee or a good idea at the time, but it is both against principle and silly in its application.

It is against principle because it will entangle judges in a political discourse which ought remain the responsibility of Parliament. Judges could be criticized depending on a perception of political bias. A judge perceived to be traditional might be accused of favouring his or her social

This letter and any accompanying documentation may contain privileged and confidential information.  
 If you are not the intended recipient, your use of the information is strictly prohibited.

.....

March 17, 2010

Page 2

class or distinguishing between groups or backgrounds. Any decision would require a separate consideration of the nature, heinous or otherwise of the crime. Should it be confined to any crime or offence of a sexual nature or extend to any act of violence against a person. Would Parliament specify the crimes warranting the removal of voting rights? If the test is determined by length of sentence it is one already recognised by Parliament. The objects of sentencing are retribution, punishment and removal from society with some allowance for reformation. It is the State exercising criminal power not that of determining civil rights. Judges should not be required to enter that area.

It is silly in its application. A citizen might have long served his or her community and engaged in the wider political processes. For one act that person might deserve a lengthy term of imprisonment. Another with no interest in the democratic processes might serve a lesser sentence for different conduct and be indifferent to losing the right to vote. Can a court weigh up their respective values. Failure to deprive a person of their civil right in almost every sexual case will create a different layer of criticism. Would the IQ of a prisoner be relevant as to whether that person would undertake an informed vote? These are but some examples of silly outcomes.

I do feel strongly on this because of its consequences for the judiciary which ought remain removed from this aspect of our democratic system. Thus I have no objection to the publication of this letter.

Yours Sincerely



Justice Pierre Slicer