

ANNEX 3 - VERBATIM – 2ND JUNE, 2016

VERBATIM REPORT OF THE MEETING OF THE PRIVILEGES COMMITTEE HELD IN THE COMMITTEE ROOM (WEST WING), PARLIAMENT COMPLEX ON THURSDAY, 2ND JUNE, 2016 AT 5.05 P.M.

Present:

Hon. Ruveni N. Nadalo, Deputy Speaker (Chairperson)
Hon. Faiyaz S. Koya, Minister for Industry, Trade and Tourism
Hon. Col. Inia B. Seruiratu, Minister for Agriculture, Rural & Maritime Development & National Disaster Management
Hon. Rosy S. Akbar, Minister for Women, Children and Poverty Alleviation
Hon. Aiyaz Sayed-Khaiyum, Attorney-General and Minister for Finance, Public Enterprises, Civil Service and Communications (*Withdrew from the meeting*)
Hon. Semesa D. Karavaki, Member (*Withdrew from the meeting*)

In Attendance:

Mrs. Viniana Namosimalua, Secretary-General to Parliament
Mr. Joeli Ditoka, Director, Legislative Process
Mr. Josua Namoce, Manager, Research and Library
Mrs. Kalo Galuvakadau, Manager, Committees
Ms. Heather Lyall, Consultant
Ms. Laisa Masirewa, Assistant Editor, Hansard

MR. CHAIRMAN.- Good afternoon, Honourable Members. I welcome you to the Privileges Committee.

Are there any apologies?

HON. A. SAYED-KHAIYUM.- We all know why we are gathered here today and it is matter of breach of privilege by the Honourable Draunidalo. It is only fair and it makes sense if she is not a member of the Committee that someone be sent in her place as a substitute.

MR. CHAIRMAN.- Thank you, Honourable Member, I was led to believe that there was another substitution for Honourable Draunidalo. Unfortunately, Honourable Member, you cannot sit as a Member. However, you are welcome to say your side of the story before you will vacate this room.

HON. ROKO T.T.S. DRAUNIDALO.- Honourable Chairman, can I just say that the last time the Privileges Committee met, the person who made the complaint sat, objections were raised and the person who has made the complaint is here. I do not see how the accused cannot be present.

MR. CHAIRMAN.- I will not allow that. We will allow you to sit as a witness to give your side of the story.

HON. S.D. KARAVAKI.- Mr. Chairman, I also concur with the Honourable Draunidalo. We had this same difficulty the last time, of which I had requested for the Honourable Attorney-General not to be part of the Committee because he was the complainant. His the complainant again in this situation. If the accused is not allowed to be present then the complainant also should not be present. It would be difficult for us to be part of this Committee if a decision has been made, it is obvious that our representation is no longer of any value. Decisions are coming down without taking into account our position, and we believe that she still can be part of this because it is exactly the same, his a complainant and the accused. They are part of the adjudication to be seen as fair. But if she is not allowed to partake and to be an observer, why was the Honourable Attorney-General not allowed to be an observer the last time?

The complainant, Sir, made the complaint and the last time I raised this, I said, "this is the complainant who is going to be prosecutor, the judge and the jury". Here we are of the minority party (Opposition), we are the minority of this Committee. Obviously our views regardless of its validity or substance that we have in our submission, it will not be regarded as anything because we are a minority in this Committee, and that is why the Committee should take into account our views because we are of the minority, have some leniency towards that because it is not going to be unjust for her to be present here. That is why, Sir, I am pleading that you take that into account and it is going to make it easy also for us because she is going to help us verify the things that are written over here, because she can contribute directly. That is my humble view, Mr. Chairman.

MR. CHAIRMAN.- Thank you, Honourable Member. As I already mentioned, she will be allowed to sit in as a witness, but I was looking forward to another Member replacing her. As I said, she will be here to give her side of the story, and after that she will be excused from the meeting.

HON. S.D. KARAVAKI.- Mr. Chairman, we still insist just like the last time, the Honourable Attorney-General did not move when the objection was raised, we also are not moving. We are pleading that we be present and be part of this, both of us. Thank you.

MR. CHAIRMAN.- Thank you. Your contribution, Director Legislature?

MR. J. DITOKA.- Just through you Honourable Chair, the difference in this is that the Honourable Speaker in her referral had instructed the Honourable Deputy Speaker already on this issue. Written correspondence went from the Office of the Speaker to the Office of the Leader of the Opposition advising her, I think it went up during the lunch break that an alternative Member would be allowed but not Honourable Draunidalo herself. As part of that, the Chair does not have that discretion at this point because the Speaker has already ruled on the matter. In fact the appointment is the Speaker's terms of the Committee. She does consult with the Honourable Prime Minister and the Honourable Leader of the Opposition but appointments to the Committee, those consultations are not binding on the Speaker and she has written to that effect to the Honourable Chair.

MR. CHAIRMAN.- Thank you, Honourable Members. Yes, there was a directive from Honourable Speaker that Honourable Draunidalo would not be sitting in this Committee. We will stick to that directive. But as I said before, she can give her side of the story after which she would be excused from the sitting.

HON. A. SAYED-KHAIYUM.- Honourable Chair, if I can take the Honourable Karavaki back to the last incident. What we had discussed then also was that, what is the prejudicial value (if you like) for me to stay on given that I am the complainant also. It is not a complainant in the normal sense of the word, but it is a matter that I have raised in the same way, for example, you have a Member objecting to someone calling them something. Now the point over here is very different to also the other previous matter that we dealt with and again we had the same position, in that, we had to more of an inquiry. In this one it is fairly straightforward.

In fact this is very straightforward, you have got the *Hansard* recording, you have got the video recording and it was played on national television about the words that were uttered, it is not in dispute. So, if it makes it easy, Honourable Chairman, and I think what you are saying is very reasonable, Honourable Draunidalo is going to be given, of course, the right to be heard notwithstanding the fact we know what she has said. She may want to explain why she interpreted what Honourable Reddy had not said, what he said. I, of course as a complainant can also lodge my complaint formally with you. So, she goes, I go. You want it that way? She goes, I go. You cannot have it either way. You go and you get called as a witness, I go and I get called as a witness and we will have someone to replace me, simple. Because your motive here is not honourable I think, because you come, you have known you have got a letter by the Speaker of the House to say that you need a replacement, you still turned up with Honourable Draunidalo and it is again an impediment to the proceedings, so we will allow the proceedings to go on; I leave, she leaves. Then I will send someone to replace me, I assume that is acceptable Honourable Chairman and then I will get called as a complainant, I will lay my side of the case, I have got my case law, I will present everything else and then she gets called in, she can explain what she needs to explain, whatever questions you may ask her and then we make a ruling. Agreed?

Give us a few minutes, Honourable Chairman for me to find a replacement.

HON. S.D. KARAVAKI.- Mr. Chairman, we agree that. Just give us a few minutes to get a replacement.

HON. A. SAYED-KHAIYUM.- Sure, let us do it! Let us do it today.

MR. CHAIRMAN.- Yes, Honourable Members you may do that. Let me go back to the letter by the Honourable Speaker, which she gave this afternoon and I quote, "It is important to note that as a subject of the inquiry, it is not appropriate that Honourable Draunidalo sit on the Committee. I therefore advise that in the event of either Honourable Semesa Karavaki or the Honourable Salote Radrodoro are unavailable, you must nominate a member." This was the letter that was also sent to the Leader of the Opposition. Did she consult you before coming to the meeting?

HON. S.D. KARAVAKI.- Mr. Chairman, we deliberately come in this way, in order to seek audience and to make our plea and request. This is why we are coming this way. I respect what the Honourable Attorney General had put forward, that is why I requested the Chairman for your ruling on that. If that is the way that we agree to that, we agree to go that way.

MR. CHAIRMAN.- Both the parties agreed to that?

HON. A. SAYED-KHAIYUM.- Mr. Chairman, the Honourable Koya makes a valid point. I think it should be recorded for the purpose of this meeting that notwithstanding the fact that the Opposition received a letter by the Honourable Speaker to say they must give a substitute, the Opposition deliberately ignored that letter by the Speaker and decided to do what they have done by turning up with Honourable Draunidalo. I think that should be recorded because it is only fair because you, Mr Chairman will have to go back and explain to the Speaker because we are in a way defying what she had said should happen. It is only logical and the only reason why I have decided to do what I am doing is because in the interest of getting this matter expedited, because we have got work to do, we have to go back to the office. We do not have games to play and they are playing games and I think that needs to be recorded for the purpose of this meeting.

If I could take leave now, Mr. Chairman, for me to go and find someone now.

HON. S.D. KARAVAKI.- Your decision, Mr. Chairman, because if you need to consult the Speaker now before you make any decision or are you in a position to make a decision now?

MR. CHAIRMAN.- Thank you, Honourable Members. I will need to consult Speaker on this.

Shall we go for a break and be back in 10 minute's time?

The Committee adjourned at 5.17 p.m.

The Committee resumed at 5.40 p.m.

MR. CHAIRMAN.- Thank you, Honourable Members. The Honourable Speaker has been advised, so we can now proceed with what was proposed about having substitutions for the Honourable Attorney-General and the Honourable Tupou Draunidalo. They can be called in later to present their views before the Committee.

HON. S.D. KARAVAKI.- Mr. Chairman, I think it is due to the shortage of time given that we are unable to get someone to replace Honourable Draunidalo. Also I am thankful for the decision that has been made. Unfortunately, Mr. Chairman, reflecting on what the Honourable Attorney-General had stated earlier of which he stated that the *Hansard Report* is very clear. To me, that is pre-judging, it is not even very clear to me what was said and what the intention was.

On that note, Mr. Chairman, in my view Honourable Draunidalo had been pre-judged and despite our presence over here, a part of this Committee, the conclusion is already determined. For that reason, Mr. Chairman, I do not see any reason why we should be participating in this Committee. We would respect the Members of the other side compiling their report and we would be contributing in the House when the discussion is made in the House.

I would therefore with due respect, Mr. Chairman, like to excuse myself too from this Committee. Based on that that we no longer believe that is going to a fair hearing done in this respect because what I heard, it has already been pre-judged on the against Honourable Draunidalo. I would therefore like, Mr. Chairman to be excused now.

MR. CHAIRMAN.- Honourable Karavaki, even if you will be excused from here, we still have a quorum.

HON. F.S. KOYA.- May I, Mr. Chairman and Leader of the House, would be grateful if you would please take a sit and just here us. We do have something to say about what you have just raised.

HON. LT. COL. I. B. SERUIRATU.- Mr. Chairman, for us it is sad that the other party has decided to do this because:

- a) We are undermining this Committee; and
- b) We are defying the orders given by the Honourable Speaker.

This Committee has a responsibility, it is Parliament who is going to do the judgement, we are just here to ascertain the facts and present the facts to Parliament and Parliament will deliberate on it. We have co-operated, our Member has gone and unfortunately I still see the Members on the other side up there and for them not to come be present, it is pre-judgement already which undermines the work of this Committee. We have a responsibility to the House, Sir, and may be Honourable Koya can add to what I have said, but that is what I wanted to say, Mr. Chairman.

HON. F.S. KOYA.- Mr. Chairman, it is our responsibility as the Committee to make recommendations to the House, that is all. We do not judge while sitting here, that is the difference. The

difference is, we are a Committee, similar to any other Committee of the House. We are a Committee that makes recommendations to the House. We have not pre-judged, we will not pre-judge. The responsibility of what happens afterwards, the judgement is actually given by the House itself, we are not in any way judge, jury, executioner like you pointed out earlier, we are absolutely not. I totally hundred percent agree with Honourable Seruiratu. This is a Committee that gets formed under the direction of the Speaker, as it is, we had to change what the Speaker has asked in her letter to do as a must, okay that was sought out, but we are actually disrespecting where we are sitting right now, if you do leave. And it is most definitely not something that we judge on. I think the fact that the Honourable Attorney-General pointed out that the thing speaks for itself, it is not really a judgement but it is just, the evidence is there, that is all that was said as to what happens with it, is entirely the House's prerogative. Thank you, Mr. Chairman.

HON. S.D. KARAVAKI.- Mr. Chairman with due respect, I do respect the views of Honourable Seruiratu and Honourable Koya, but my view is still the same. Mr. Chairman, the trend of activities is the trend of thought of what happens in this Committee and in the House. We are sitting here to determine something but as instructed and what always happen, always happens because the Government wants something to happen and it happens in the way they wanted it to be so getting to the House will be the same thing. The victimisation and the pre-judging of us on this side is nothing that I can explain it again, you said something that this is already clear. I hope that the trend of thoughts and things that happened in the past would go in contrary to what I am saying. I still stand by that, Mr. Chairman and I apologise for that and that is why I am seeking for your leave to excuse myself. Whatever the Committee will decide I respect that, that is the Committee's decision in view of our presence or not, it will still be there and we will discuss it in the House. Your Committee and I hope, in our absence, it will bring some kind of common sense to the thinking of the Members who are left behind. Thank you, Mr. Chairman.

HON. F.S. KOYA.- Mr. Chairman, I must add to that and say, that the fact something is brought up about pre-judging, Honourable Karavaki, I think you have pre-judged the Committee and that is not fair, this is an institution that needs to be respected and there is a pre-judgement on what the judgement is going to be, there is a pre-judgement on how the Committee thinks and basically now you have based with the same brush on yourself.

HON. LT. COL. I.B. SERUIRATU.- Mr. Chairman, if I may add, you have talked about the Honourable Attorney-General making statements on pre-judgement, the Honourable Member as well made those statements in Parliament today, maybe this my last statement. The Honourable Member made that statement as well in Parliament when she addressed Parliament today. But we await your decision, Mr. Chairman. We acknowledge the fact that it is their preference that they proceed without us and we leave it to your capable hands, Mr. Chairman.

HON. F.S. KOYA.- Mr. Chairman, if I may, because of the power of appointment to this Privileges Committee lies with the Speaker herself, we have now made re-arrangements and the fact that if you are to leave, Honourable Karavaki, we are again back to square one. We do have a quorum, I think it may be recorded that you respect the fact that there is a quorum and you choose not to be here.

MR. CHAIRMAN.- Thank you, Honourable Karavaki, we respect your decision but we will still go ahead with our discussions.

HON. F.S. KOYA.- Mr. Chairman, if I may ask, does that mean that we will not be able to call Honourable Draunidalo?

MR. CHAIRMAN.- Honourable Karavaki had just excused himself but we will still call Honourable Draunidalo in.

(Honourable S.D. Karavaki excuses himself from the Committee)

MR. CHAIRMAN.- Honourable Members, we will proceed as we have a quorum. As you may be aware, a matter of privilege was raised with the Honourable Speaker this morning and she has referred this matter to the Privileges Committee for its deliberation. The Honourable Speaker has ruled that the Committee must report back to Parliament on Friday, 3rd June, 2016.

The Honourable Speaker has referred it as a *prima facie* breach and I will request the Director of Legislative Process to explain what this means and also explain the process which the Committee will follow.

MR. J. DITOKA.- Mr. Chairman, and I do this with some reservations as a Senior Counsel is here in the room, but a *prima facie* breach means Honourable Members the Speaker's opinion there has on the face of the matter been an apparent breach of privilege which is tantamount to contempt of Parliament, and the matter has now been referred to the Committee and the Committee's processes here are potentially much simpler than in the inquiry regarding Honourable Ratu Naiqama Lalabalavu because you are looking at potential sanctions that the Committee can recommend to Parliament. For that purpose, we have Mr. Josua Namoce, our Manager Research and Library Services as well as well as Ms. Heather Lyall a Consultant from the Scottish National Assembly here with us and we have gathered some precedents also. So if the Honourable Members have any questions, they can direct it to the Secretariat and we will attempt to assist in whatever way possible. These are actually similar to the precedents that we have provided in the previous inquiry of this Committee and I hand over back to you, Mr. Chairman.

MR. CHAIRMAN.- Thank you for the explanation, but before I open up the floor for discussion, I would like to call upon the Honourable Attorney-General.

Witness No. 1: Hon. Aiyaz Sayed-Khaiyum

Thank you, Honourable Attorney-General. Before you this afternoon are the Members of the Privileges Committee. We would like to hear your position on what has been raised as a matter of privilege and referred to the Committee, however, the Opposition have excused themselves from this sitting but since then we still have a quorum and we will still go ahead with the sitting.

HON. A. SAYED-KHAIYUM.- Thank you, Mr. Chairman. Mr. Chairman, if I could, for the record, please, state that I am a permanent Member of the Privileges Committee as nominated by the Honourable Prime Minister. My being a non-member for the purposes of this particular complaint is not in any way setting a precedent that in the future that I will always excuse myself because the fact of the matter is

that this Committee does not decide as to the sanction against any Member, against whom a complaint is lodged. Ultimately the decision is made by Parliament itself, not by this Committee. The Committee simply hears the complaint and I think it is, therefore, inappropriate to say or claim by the Opposition that by the complainant sitting in it somehow or the other prejudices the findings of the Committee or that one Member can unduly influence the hearings.

Mr. Chairman, also again as a complainant lodge my dismay, if you like, in the manner in which the Opposition have conducted themselves. Firstly, defying the request and the direction of the Honourable Speaker where they had requested that Honourable Draunidalo be replaced by someone else given the fact that a complaint is being made against her.

Secondly, after we had all agreed that I would step aside as a Member of the Privileges Committee, they have now I understand chosen not to participate even though they had agreed.

Mr. Chairman, this complaint or reference to the Privileges Committee stems from the events of yesterday that took place in Parliament. As the *Hansard* record shows that when Honourable Minister for Education, Dr. Mahendra Reddy was speaking, as has been the practice in this Parliament and indeed in many other Common Law Parliaments where people generally use witty comments in their responses or response to a response or even their interjections. In this particular case when Honourable Dr. Mahendra Reddy was talking about the education system and free education, and I understand it was to do with the Petition which was on the floor, he had said, "if there are any Toppers on the other side, they would not have raised this petition. Madam Speaker, unfortunately, they need to have some Toppers here. I tell you in another 10 or 5 years' time, there will be some Toppers seated on that side but they will be part of this Government."

Then I heard through my ears, Honourable Draunidalo called him a fool as the *Hansard* does report, it says that I said, "Hey, do not call him a fool, you called him a fool." And Honourable Reddy keeps on speaking and then there is interjection saying "I was a Topper". Then I decided to stand up and raise a Point of Order and as recorded in the *Hansard*, "Point of Order, Madam Speaker. Honourable Draunidalo called the Minister for Education a fool." Now that was the extent of my participation in those proceedings.

What then happened and I will tell you the full story, Mr. Chairman. When we broke for morning tea, I met Honourable Draunidalo and I said to her, "why do you get so violent in your reactions?" So sort of smiles, I have known her from before, in fact she worked for me, I was her Manager when I was working for the Colonial Group of Companies. So I do have a relationship with her and I asked her, "Why do you get so violent?" I said, "You did not have to call him a fool." I said, "You could have come up with a smart response like, 'well, we are not as obtuse as you are.'" Obtuse means thick, you could have said that and that is acceptable. She said, "Aw, I am not as eloquent as you are" and that is where we left it. I then went and sat down, Mr. Chairman, to have my morning tea. I then received a text message and I have got copies of that here, which I am quite happy to pass on to the Committee, from Vijay Narayan who is a News Editor of Communications Fiji Limited and the Legend News Station and he said:

"Bula Sir, you had raised a Point of Order saying that Draunidalo called Reddy a fool, she then got up and said 'calling us dumb natives, you idiot'. Will this matter be taken further? Thanks, Vijay."

My response was, "I did not hear the second part, did you hear it?"

He then responded and said: "I have the recording, *Hansard* should have it, it was clear."

I then said, "okay."

I then immediately went to the Honourable Speaker and showed her this text message. I said I did not hear it, and she said that she did not hear it and then I said, "Well, let us see what the *Hansard* says", for me to be able to respond to Vijay.

Vijay then in the afternoon at 16.06 texts me and says: "Hi Sir, Vijay here, any comments on that Draunidalo comment in Parliament? Will any action be taken?"

I responded and said, "We need to hear it ourselves before making any comment." Then he says: "Thanks, we will wait for that."

That was the end of the exchange with him.

When we broke for Parliament for the day, we went and sat down where we normally have morning and afternoon tea and Fiji One News was going on and that exchange was played and those words were heard. Those words in question subsequently as confirmed by a recording of the *Hansard*, and I have a copy of that on a flash drive (which I just had, I do not know where I put it but I can provide that to you) which I also showed it to the Honourable Speaker. When the news was going on, Honourable Vuniwaqa, Minister for Lands said to me, "Didn't you hear it, she said it". And as the *Hansard* says, Honourable Draunidalo, not apparently but she did say it, there is no question about it, it is recorded, "And he implied first in his speech calling us dumb natives, you idiot!" Now one would assume that when she responded because I had just raised a Point of Order saying, "She called him a fool." She responded and said, "And he implied first in his speech by calling us dumb natives, you idiot!" I assume the idiot was me, whether the idiot was me or whether the idiot was Honourable Dr. Reddy or anyone else in the room that in itself is offensive. But what I find more offensive, Honourable Deputy Speaker, is that she said, "And he implied first in his speech calling us dumb natives." He never said that. *Hansard* will show you, he did not say it. The video recordings will show you, he never said it. If you are calling him in as a witness, he will tell you that he never said it.

The reality is, Mr. Chairman, is Honourable Draunidalo who has a habit since this Parliament has been convened post- Elections invariably takes everything from a racist perspective and from an ethnic perspective. The *Hansard* clearly shows he did not say that, he was being witty, he said, "that side aren't Toppers", he did not say, "all indigenous Fijians are not Toppers." He did not say that all indigenous Fijians are dumb, he did not even say that nor did he say natives.

The word “native” in the 21st Century connotes a negative connotation. If you say to someone that you are a native, it basically says you are uncivilised, you are barbaric, you have a very rudimentary lifestyle. Natives was what was used in the 18th and 19th Centuries, that is why till today we have the Native Lands Commission, we have the Native Lands Trust Board it is now called *iTaukei* Lands Trust Board.

And for her to deduce herself to him by saying that you are not Toppers, to say he is casting an aspersion on all indigenous Fijians and calling them “natives” is a real stretch of the imagination. That goes to show a huge complex on her part. It also goes to show, Mr. Chairman, that she views everything in that House ethnically. Unfortunately that seems to be the trend by most of the Members on the other side.

What, Mr. Chairman, is scandalous and I think is a breach of the privileges that are given to us as Members of Parliament, we can say anything we like. But we are guided by the Standing Orders and I refer you to Standing Order 133, says:

- “(1) Every member, and any other person speaking in Parliament has:
- (a) freedom of speech and debate in Parliament, subject to these Standing Orders; and
 - (b) parliamentary privilege and immunity in respect of anything said in Parliament, to the extent provided by any written law governing Parliament.”

Now it is guided by Standing Order 62, which states:

“Prohibited references

- (1) When speaking a member must not impute improper motives to any other member.”

And then it says about the President’s name.

Now what is of relevance to us is Standing Order 62 (4), it says:

“It is out of order for a member, when speaking, to use:

- (a) offensive words against Parliament or another member.”

The word “fool” is an offensive word against a Member. The word “idiot” as has been deemed is offensive. Now I accept the fact that in some jurisdictions and even Common Law jurisdictions they let you use the word “idiot”. Recently on *YouTube* you can see the British Prime Minister, David Cameron calling the Opposition Leader a “blithering idiot”. Unfortunately the level of maturity in our Parliament is not there for that to take place. As we saw today that when I was using some wit to say that the Honourable Prem Singh who is a cane farmer specialist, has now become a passport specialist, he did not object to it.

Honourable Draunidalo stood up and objected to it and then I was asked to withdraw it. So there are no clear boundaries but most definitely what she said is in breach of Section 62 (4) (d): "It is out of order for a member, when speaking to use words that are likely to promote or provoke feelings of ill-will or hostility between communities or ethnic groups within Fiji." That is precisely what she did.

Mr. Chairman, on *Facebook*, Mr. Pita Waqavonovono, I understand who is an employee of SODELPA immediately went on just 11 hours ago, printed just earlier on today:

"Dear World, the Minister for Education, Mahendra Reddy just referred to Members of the Opposition as "dumb natives" while referring to himself as a Topper. I just hate racists who rely on these stereotypes to look smarter. Honourable Tupou Draunidalo rose to call him an "idiot" for making such a revelation.

So, this is what *FijiFirst* is all about, labelling and sidelining the indigenous because we are natives and assumed dumb, stupid, uneducated."

And what has happened, Mr. Chairman, is a plethora of comments, and this has gone viral viral, one would say, where you have people now commenting, saying, "how dare these people say this. We are not dumb, we are not natives." Then there are other people saying, "well you indigenous people are stupid for voting *FijiFirst* in the first place."

This is the spiralling effect of a comment made by an Honourable Member of this House, when she imputed that a Honourable Honourable Minister when he said something that he must have said that you are dumb native and she has done this deliberately, I would say, Mr Chairman, to conjure up those racist feelings but also ethnic tension. We are completely abhorred and it is an abomination on the new Fiji that we are setting.

We cannot expect such behaviour. We have an Honourable Member of the House who has been debarred for two years for bringing in to disrepute the Office of the Speaker which is the embodiment of Parliament. We have had four removals of Governments. When we call it removal, I call the first three *coups*, I call the fourth one something else, whatever you may call it, but most definitely the three incidences prior to 5th December, 2006 was predicated on divisive politics was predicated on painting one side as evil and the other side not good, whatever the case may be. It has been the bane of Fijian society from the Colonial times until now and the *FijiFirst* Government has tried to remove all of that. We have removed ethnic voting, the legal enforcement of that and all sorts of other discriminatory practices. Even within the *iTaukei* people themselves and to impute such an assertion when none was said nor even intended and let it go.

Mr. Chairman, if she said that, maybe in a moment of rush of the blood to the head and suddenly she saw this happening, if she was an honourable person, she would have immediately probably gone to the media or *Facebook* page and said, "look, it is my mistake, that was my own deduction, Honourable Reddy did not say that." That would have been the honourable thing to do, but they have allowed this to happen. In fact it has now gained it is own momentum and today unfortunately, we are sitting here talking about this.

I believe, Mr. Chairman, with respect that this particular action and the words spoken by this Honourable Member is an anathema. It is an anathema to the 21st Century parliamentary system in Fiji, that we are trying to create where we form a united country, leave aside all the politics and she has deliberately allowed this to happen and the machinations of the SODELPA and the NFP parties have fanned the flames of fire.

Mr. Chairman, you can see from even these pictures. We now have pictures of me, for example, saying "Fijians are monkeys". This is from this statement. I never said that. I am a Fijian too. But if they mean by *iTaukei*, I never said that. My wife is an *iTaukei*, my children are half *iTaukei*, if you want to go down that path of ethnicity. This kind of behaviour should be punished severely. This kind of person does not belong in the Fijian Parliament. That is my submission.

Mr. Chairman, you have cases before the High Court, you have Honourable Anand Babla and this matter was taken even to the High Court of Fiji before Honourable Justice Tuivaga, the then Chief Justice where the fact that Anand Babla even said that what the Speaker said about him was wrong was suspended. The Privileges Committee then held that it constituted contempt just by him standing up and saying, "no, you are misquoting me." There is this case here. There is also the case of Butadroka. These are the common case laws, but this type of behaviour is unprecedented.

Mr. Chairman, it is my submission that there has been a breach and it is also my submission that there is no doubt about the words that have been uttered, there is no doubt about the interpretation of the words that have been uttered. As you saw in the previous matter in Honourable Lalabalavu's case because it was in a vernacular, there was a whole issue about what is actually meant, whether it was as severe or not and of course that came up with some conclusions. In this case, all the words have been spoken in the English language, and in this case it has not been refuted by the person who uttered the words and in this case the recording is absolutely clear.

Unfortunately, Mr. Chairman, in this case it is a very severe breach of the privilege that is accorded to all of us in this House and it must, given the fact that no remorse, no retraction has been shown. It must be punished severely. That is my submission as a complainant in this particular matter. Should you have any questions, I am quite happy to answer your questions.

MR. CHAIRMAN.- Thank you, Honourable Attorney-General for taking your time to come and give your submission. I leave the floor open for any questions to the Honourable Attorney-General.

I thank you once again, Honourable Attorney-General for your time and participation. We will leave it to the Committee to deliberate on it.

HON. A. SAYED-KHAIYUM.- Thank you. Would you like me to give you the *Facebook* printouts that I am referring to?

MR. CHAIRMAN.- Please.

HON. A. SAYED-KHAIYUM.- I have got the references to the Lalabalavu and Anand Babla cases, if you wish to have that and also the Sakeasi Butadroka case here to.

MR. CHAIRMAN.- Honourable Attorney-General, do you still have the usb?

HON. A. SAYED-KHAIYUM.- I hope I did not leave it there. I am sorry, I have got it here, there you go. It is all there.

(Audio recording played to Members)

MR. CHAIRMAN.- Thank you.

HON. A. SAYED-KHAIYUM.- Sorry, Mr. Chairman, if you do not mind me also saying, what it has also done, it has caused a huge amount of reputational damage to the Honourable Minister for Education. The Honourable Minister for Education is responsible for the administration, the welfare of pre-school children up to high school, all the way to tertiary education and now technical college. He is seen as a person who is responsible for that, who looks after their welfare, he goes on a daily basis sometimes to various schools, 70 percent of our population is below the age of 40, therefore many of them are students till today. Can you imagine how they are viewing this Honourable Minister now who is a victim of the wild imagination, if I can just be so diplomatically saying that, of one individual Member who has got a warped mind when it comes to things like not being able to listen to the other side make any form of criticism? And because of that he is now facing an uphill battle in trying to spend probably the next one whole year not just in social media, or probably the damage is done a lot longer than that, not just in social media but in day to day interactions because as we know, Mr. Chairman, many people in Fiji when they see something in writing they believe it. So, if we see the trend in the threading on Facebook, because someone has written that, they believe it is true.

This man called Pita Waqavonovono who was standing outside when we worked out earlier on, and I said to him "hey, it is you" and I said "why are you lying to the Fijian people?" and he just walked away. Because of this conspiracy, the Honourable Minister for Education's reputation has been severely undermined and curtailed and his ability to deliver the best to the students of Fiji and the young people is also been undermined because of this. Thank you.

MR. CHAIRMAN.- Thank you, Honourable Attorney-General. I once again would like to take this opportunity to say a big *vinaka vakalevu* for your coming in and giving your side of the story. We will now leave it to the Privileges Committee to deliberate on that. *Vinaka vakalevu*.

(Witness No. 1 leaves the room)

Team Members, we will hear from the Honourable Draunidalo. For the time being, if you would like to have a cup of tea or coffee, please do so.

MR. CHAIRMAN.- Thank you, Honourable Draunidalo. Thank you once again for coming in. Before you this evening are Members of the Privileges Committee, we would like to hear your position on what has been raised as a matter of privilege and referred to the Committee.

However, the Opposition have chosen not to participate and since we have a quorum, we will still go ahead with the meeting.

Witness No. 2: Hon. Roko T.T.S. Draunidalo

HON. ROKO T.T.S. DRAUNIDALO.- Thank you, Mr. Chairman. I wanted to be noted that I do not think I will get a fair hearing and so I am not going to take my right to silence and if I may be excused from the meeting.

MR. CHAIRMAN.- Thank you, but we will still proceed with the meeting.

(Witness No. 2 leaves the room)

Honourable Members, I will now open the floor for discussions on the matter before us.

MR. J. DITOKA.- Honourable Members, just to restate what we had stated earlier, there is a wide range of penalties which can be recommended to Parliament, ultimately the decision is the Parliament's as a whole, but I just take this moment to request Ms. Lyall to just take us through some of the sanctions that you can recommend to Parliament; the range from the light to the most severe then the Members will deliberate on where they believe it falls on that scale and make recommendations to the House.

HON. LT. COL. I.B. SERUIRATU.- Mr. Chairman, if I may, before we go on to penalties and I think it is only fair for justice sake that first the Committee has to determine whether she is guilty of the offence based on the *prima facie* regulation and then we can go on to discuss the

MR. CHAIRMAN.- I thank you for that Honourable Seruiratu. I am opening the floor now so we need to come up before we go onto that.

MR. J. DITOKA.- Just to go back to the *prima facie* in law, it simply means that there is enough evidence on the face of it towards each element of what constitutes a breach. So, in the opinion of the Speaker and her referral to the Committee, she had already determined that at least some evidence that does not determine how much stock is placed in the evidence itself but there is evidence towards each element of what would constitute a breach. So that is in the opinion of the Speaker and then you are invited to discuss. That would be the first question, if the Members present believe that there is enough evidence before them to concur that there has or has not been a breach of privilege in this instance.

HON. LT. COL. I.B. SERUIRATU.- Therefore, Mr. Chairman, I would say that for us Members, based on the evidence, let us have it on record that it is unfortunate that the Honourable Draunidalo opted not to give a statement and exercise her right to remain silent. But based on the audio and the *Hansard Report*, it is plain clear that she is guilty. Thank you.

HON. F.S. KOYA.- If I may, Mr. Chairman, I think one of the most important issues also is, she has come, she obviously invoked her right to be silent and not say anything. I agree with the Honourable Seruiratu that on the face of it, obviously she has uttered those words and I think what also must be noted is that at the time of this *Hansard* coming before Parliament, those words were not disputed by her

nor did she say she disagreed what this particular *Hansard* in the Minutes, she did not say that at any time and that sort of goes quite deep, and if she did deny that she say that, it would have been something towards some mitigation at least in any event. There has been none, we are not here, as we said earlier to decide as to the guilt or not, but at least the facts must be correct and the facts are as they stand that *Hansard* states what she said, the audio recording states what she said. I think the evidence also that has been given by the Honourable Attorney-General as to the ramifications of what she has said are quite extensive and very damaging.

I think really not much else can be said apart from what we have before us in terms of *Hansard* and the audio recording. I would also say that, the fact that she chose to remain silent, it is her right, but in light of what we have got before us, even there was nothing there to say, "Okay, well I have said it but I am remorseful for it et cetera", so she has not at all. Again, we are not here to judge what the punishment will be but we need to put the facts before Parliament tomorrow morning. There enough evidence, I am in agreement with what the Speaker has said, on the face of it, there is enough evidence to say that those words were uttered. I think also there is enough evidence to say that it falls within the bounds of prohibited references where she has used words that are likely to provoke ill-will or hostility between communities. It has happened already in light of what has actually come out on social media and it is probably going to get worse.

The other issue also is that, as pointed out by the complainant, the issue of tremendous damage to the Minister himself. The words are e very different, there is no interpretation that I can see, if the Members agree with me or not but there is no interpretation that I can see from the *Hansard Reports* that would even lead you to believe that the words "dump natives" can be construed from that. Mr. Chairman, I think it is probably at this stage may be unless the other Committee Members have other things to say, it is good for us to just hear what has happened in previous cases and hear some information from you the Research team. . Thank you, Mr. Chairman.

MR. CHAIRMAN.- Thank you, Honourable Koya. Honourable Rosy Akbar.

HON. R.S. AKBAR.- Thank you, Mr. Chairman. I think I would also like to go on record by saying it is not only unfortunate but sad that the Opposition Members have decided to absent themselves from this Privileges Committee meeting, and at the same time Honourable Draunidalo has also absent herself from this meeting. I believe, like she said, she will not get a fair hearing, so that basically in other words is undermining the Privileges Committee as mentioned, the Committee is not to decide but to make recommendations to the Parliament and it is for the Parliament to decide on that.

But one thing I think has been ascertained and that is that a breach of privileges has been made and I think we will work with what has been presented to us. We have heard the audio, we have read the *Hansard Report* and because Honourable Draunidalo has opted to remain silent and claims that she would not be given a fair hearing, I would like to say that that is very sad. She would have, if she had not pre-assumed the outcome of this Privileges Committee meeting and I think it is a pity.

It is a pity that we have come to this and it is really sad that we have one Honourable Member of the House damaging the reputation of another Honourable Member of the House and in this case it is our Honourable Minister for Education. The effect of the comment made against the Honourable

Member, I would say is going to be traumatic and it is also going to be a long term effect. People do not forget these kinds of things, whether it is a truth or a lie, people will always remember and with the Honourable Minister's portfolio, I think it will also affect his work especially when he is going to face his staff as his a Minister, and when such things go out in public especially social media, it becomes viral. The damage has been done and on the other hand no remorse has been shown by the Member uttering the words that has caused the damage.

I think as a Committee we need to seriously look at that so that we are able to put a stop to such derogatory comments that is damaging impacts of comments made by Honourable Members, whether it within the House or outside the House. For a simple fact, it is totally against what we are trying to promote out there and when we make we make comments that create ill-will and hostility between people and communities, then instead of moving forward as a united country, I think we are sort of taking a step back, and that should not be allowed, should not be condoned and should not be accepted by anyone.

MR. CHAIRMAN.- Thank you. Do you want to contribute again, Honourable Koya?

HON. F.S. KOYA.- Yes, I just like to add something and I must make sure that this is on the record that from the outset at the sitting of the Committee the Opposition has been given every opportunity to partake and they are part and parcel of this particular Committee, they chose not to do so. The directive has been given by the Speaker, the Speaker has a right to appoint the Committee, she did that and they chose to defy that also and they also chose not to inform the Honourable Speaker that it would take a different format.

We have had to change in midgame really and after having agreed that the Honourable Attorney-General remove himself from the Committee because he was the complainant, again they have come back and changed and decided not to be part of the proceedings. That must be noted properly because we obviously as a Committee need to be fair and Parliament must be aware that, that is what they chose to do, and also that Honourable Karavaki did mention that he would respect the decision that was made.

Am I correct in saying that? Yes. It is very important and that must come out that that was done.

I think it is probably best now unless the Honourable Seruiratu has other issues to add. Now we hear regarding the sanctions that can be given, obviously we are not to decide, it is a recommendation that needs to be given where as a Committee we will need to deliberate after what you have tell us. It is a shame. Honourable Draunidalo is a lawyer by profession and I also know her, I have practiced with her and it is a shame that it has come to this.

MR. CHAIRMAN.- Thank you, Honourable Koya.

MS. H. LYALL.- Good evening, Honourable Members. Within the time allowed between and the end of the sitting and the meeting starting, the Research Team conducted a brief look at both Australia and New Zealand Parliaments in order to establish what sanctions could possibly be used and the situation. We are going to give you an example and you may determine what you feel is the most appropriate.

Start at the least level of sanction and that is:

- to request a formal apology from the Honourable Member that can be both written and oral within the Chamber;
- ask for the Honourable Member to retract the statement that was made;
- the Speaker may determine whether they wish to formally censure the Honourable Member within the Chamber and have a session which says that they do not appreciate the language and that is not something to be used within the Chamber.
- suspension of the Honourable Member for a period of time to be determined by the Parliament;
- exclude the Honourable Member not only from the Chamber but also from the Parliamentary grounds and the building itself; and
- expulsion and that just means that they will not be allowed to enter into the Parliamentary building or have access to the Opposition Offices.

MR. J. DITOKA.- I should have mention that in the Fijian jurisdiction once you suspend a Member that penalty is automatic.

HON. F.S. KOYA.- What is your definition of expulsion?

MR. J. DITOKA.- That Member would vacate the seat.

HON. F.S. KOYA.- Vacate the seat.

HON. R.S. AKBAR.- Mr. Chairman, do you mean vacate the seat for the rest of the term?

MR. J. DITOKA.- In the Fijian jurisdiction an expulsion would result in triggering the process to fill the person's seat, the next person in the party list.

MR. CHAIRMAN.- Honourable Koya?

HON. F.S. KOYA.- Mr. Chairman, are we sure of that? Correct me if I am wrong but expulsion would mean someone else comes along in terms of like we have done before if someone has gone to another job et cetera, is that the correct case or they lose their seat altogether?

MR. J. DITOKA.- Yes, losing their seat altogether not the party because we only have by-elections if all the party list candidates are exhausted then you have a by-election.

HON. F.S. KOYA.- Yes, so the next person steps up?

MR. J. DITOKA.- The next person steps up. It just triggers that process in the Electoral Commission but in Fiji, I think suspension is probably the high end that we have reached. I think Honourable Ratu Naiqama's case is the harshest that has been in our history.

HON. F.S. KOYA.- Sorry, Mr. Chairman. Mr. Chairman, have we had some examples in different jurisdiction of a similar offence?

MS. H. LYALL.- There have been examples in other jurisdictions of potentially offensive language being used within the Chamber and I think it has been determined by the Speaker, the level of that offence and how they wish to deal with it. I think at times they may have simply asked for an immediate apology and retraction actually in the Chamber and they may have asked the Member to vacate the Chamber immediately and then there is also potentially other cases in which it has proceeded to more in-depth and in Committee proceedings.

HON. F.S. KOYA.- Mr. Chairman, just specifically with respect, because of the gravity of what we actually have before us causing, provoking ill-will, ill-feeling and hostility between communities, that is the kind of thing I am actually asking about. Has there been something similar to that extent in other jurisdictions?

MS. H. LYALL.- I could not give you an accurate answer to that at this moment in time. However, if you would like us to go away and see if we can find more information on that but I would not be able to say at this moment.

MR. J. DITOKA.- That is an option, Mr. Chairman. There is dinner provided for the Committee Members and if that specific request is there, the Research Team could attempt to find some answers but making no promises because of the short timeframe.

HON. F.S. KOYA.- Mr. Chairman, that would be helpful to us, I think.

MR. CHAIRMAN.- Yes, it will be only fair if we wait here.

HON. F.S. KOYA.- I think also because it is grave and this is why we need to cover all the bases in respect of finding what has been done in our jurisdictions and if it is not, then we have our own things to look at.

MR. CHAIRMAN.- Thank you, we will now break for another 20 minutes.

MR. J. DITOKA.- An hour would be more realistic, Mr. Chairman.

MR. CHAIRMAN.- Do we all agreed to that?

HON. MEMBERS.- Thank you.

MR. CHAIRMAN.- Thank you. We will wait for an hour. In the meantime dinner is ready.

The Committee adjourned at 6.49 p.m.

The Committee resumed at 7.55 p.m.

MR. CHAIRMAN.- Honourable Members and the Secretariat, I would like to thank you for your patience. The Research Team has come back and looks like there is no finding, I will ask Mr. Ditoka to enlighten us.

MR. J. DITOKA.- Honourable Members, as the Honourable Chairperson had highlighted, the Research Team was unable to find a scenario similar to that which the Committee is currently considering and upon consideration we believe it is because Standing Order 62 (4) (a) and (d) in which has been contravened in this particular scenario does not seem to have a counterpart in other jurisdictions. It is not unusual that we cannot find similar cases, but also because of the short time, generally this kind of research takes a lot longer. With the time we had, that is what the Research Team is able to provide. However, the sanctions that were highlighted in the beginning are the general sanctions beginning from the milder ones including apologies, exclusion from the precincts, formal censure, suspension, expulsion, even fine and imprisonment although that has not been exercised in any jurisdiction for a long time. So, depending on how the Members view it, you have already indicated you unanimously in agreement that there has been a breach of privilege and so depending on how severe you perceive that breach to be, you choose within those range of sanctions and exercise some discretion in recommending to Parliament what you believe the best sanction or the best course of action the Parliament should take.

MR. CHAIRMAN.- Thank you, Mr. Ditoka. Honourable Koya any comments?

HON. F.S. KOYA.- Just one question, Mr. Chairman. You did not actually find anything in terms of not that which would have gone to court but something in a similar jurisdiction or something to that effect that would have taken place and the sanctions that were given in Parliament by other Parliaments, did not find anything like that or the severity?

MS. H. LYALL.- Specifically in relation to inciting ethnic tension and within the timeframe we did not find anything. It is not to say that there is not anything out there, it is just that within the hour we were not able to provide you with that.

HON. F.S. KOYA.- In light of what we have before us, I think we just need to deliberate between the three of us with respect to the sanctions.

MR. J. DITOKA.- Would you like us to leave the room?

MR. CHAIRMAN.- Do you prefer the Secretariat to leave the room now while you deliberate?

HON. R.S. AKBAR.- Given the time restrictions as you have said, we have not been able to find similar instances of the breach, in this case especially creating ill-will and hostility amongst different communities. Should a longer time span being given, do you think there is any possibility we would come across something like that from your experience?

MR. J. DITOKA.- It is possible, Honourable Members but it is also impossible for us to gauge, we do not know what we missed and what might be out there in terms of precedents..

MR. CHAIRMAN.- And the other thing Honourable Akbar is that we have been mandated to report back tomorrow.

HON. R.S.AKBAR.- This is in fairness to give this issue. I think we agree because of time limitations.

The Committee adjourned at 8.01 p.m.

The Committee resumed at 8.10 p.m.

MR. CHAIRMAN.- Thank you. We will continue from where we left of.

MR. J. DITOKA.- While the Honourable Members were outside, we have managed to find one link. It is British MP from the Labour Party. She made some comments in the social media about Israel and in one she joked about having it moved to the United States and also made some comments to the effect of "give them some pocket money." She did not lose her Parliamentary seat but she was suspended from all her party functions by her political party. So it is not quite the same but it is probably the closest we could find about race-based slurs, anti-semitic comments. It was part of what she had to do. She had to apologise publicly from the floor of the House. They were made in jest.

MR. CHAIRMAN.- Thank you, the floor is still open.

HON. LT. COL. I.B. SERUIRATU.- Mr. Chairman, we see this as, again it is a serious offence given the implications that it comes up with as well. We have come up with three recommendations for Parliament-

- i) Apology from the Honourable Member to the Minister specifically because now people are attacking the Minister on social media and how is he going to face his staff;
- ii) Apologise to the citizens of the country as well, this is going to the world as it is on social media. It is going to create racial disharmony, hatred and animosity;
- iii) Suspension for the rest of the term of Parliament.

Those are the three recommendations. Again it is unfortunate that the Honourable Member has opted to remain silent, they are no mitigating factors or whatever which probably the Committee would have, if she had retracted. So, that will be the recommendation that we are proposing for the Committee to put before Parliament tomorrow.

Unless the Members wish to add any other words that effect.

MR. CHAIRMAN.- Honourable Koya, any comments?

HON. F.S. KOYA.- I think what must reflect on the record is the severity of what has happened and rightfully the Honourable Seruiratu has pointed out that this has now gone viral as they say, it has gone worldwide. We do not want to be known as a nation divided by race, colour or creed. It is extremely sad and it is a grave, grave breach which obviously requires a recommendation to that effect.

MR. CHAIRMAN.- Thank you. Honourable Akbar?

HON. R.S. AKBAR.- I totally agree with the recommendations as put forward to the Committee. Again, if I may draw the attention to, like Honourable Koya has said, the severity of the breach and the fact that this is not something that is going to be forgotten or taken off the minds of the people. As indicated, it is going viral on social media. It takes time for news to go and this will interest the public, reflects very poorly on us Members of Parliament who are the people's representatives. I think our role

is to unite the country and not create divisions. This remark made by the Honourable Member which is not even true, because this remark according to the *Hansard*, the Honourable Member never made it, and that is what that makes it worse. So, I also agree with the recommendation, yes a formal apology to the Honourable Reddy and of course the people of the country also need to know the truth. So, the nation also needs to know that Dr. Reddy did not lie, he never made any such comment as alluded by Honourable Draunidalo and the final recommendation that she be suspended for the rest of the Parliament term. I think we will send a strong warning to all the Members of Parliament that this is something that Parliament should never condone.

HON. F.S. KOYA.- Mr. Chairman, there was another one also, it was the apology in its format obviously and censure. For purposes of clarity I think the apology format needs to encapsulate what has happened about those words not being uttered by the Honourable Minister for Education and I hope we can encapsulate that in the apology.

MR. CHAIRMAN.- Thank you, Honourable Members. This concludes our meeting for the day. Thank you for your deliberation this evening. The Secretariat will put together a report which will be emailed to the Honourable Members for any further amendments or corrections before final copies are printed and tabled in the House tomorrow morning. I once again thank you.

The Committee adjourned at 8.22 p.m.