



PRIVILEGES COMMITTEE

Report on Referral of a Matter of Privilege

RE: Hon. Tupou Draunidalo



PARLIAMENT OF THE REPUBLIC OF FIJI
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COMMITTEE MEMBERS

The members of the Privileges Committee are:

- Honourable Ruveni Nadalo, Deputy Speaker (Chairperson)
- Honourable Inia Seruiratu, Leader of the Government in Parliament and Minister for Agriculture, Rural and Maritime Development and National Disaster Management
- Honourable Faiyaz Koya, Minister for Industry, Trade and Tourism
- Honourable Rosy Akbar, Minister for Women, Children and Poverty Alleviation

CHAIRPERSON'S FOREWORD

A matter of privilege was raised with the Honourable Speaker pursuant to Standing Order 134(1) on Thursday, 02 June 2016.

The Honourable Speaker ruled that in her opinion there had been a *prima facie* breach of privilege and she referred the matter to the Privileges Committee and directed that a report be tabled in Parliament no later than Friday, 03 June 2016.

This Report differs from those of Standing Committees in that the proceedings were held *in camera*.

I thank all Honourable Members of the Committee for the hard work and determination shown and respectfully commend this Report to Parliament.

Hon. Ruveni Nadalo

Deputy Speaker and Chairperson

SUMMARY OF PROCEEDINGS

Thursday 02 June 2016:

The Committee convened at approximately 5.15 p.m. upon adjournment of the proceedings that sitting day. A copy of the Speaker's Ruling and referral were made available to the Members for the purposes of the deliberation.

There was a request by Government Members that it be put on the record that notwithstanding the correspondence from the Speaker, the Opposition proceeded to insist on Hon. Draunidalo's participation.

The Hon. Attorney-General proposed that in order to overcome the impasse that both the Hon. Attorney-General and Hon. Draunidalo withdraw as Members and allow substitutes to sit in their place.

Both sides sought time to secure substitutes and the Chairperson also took the opportunity to seek the advice of the Hon. Speaker.

When the Committee reconvened at 5.50 p.m; the Chairperson announced that having advised the Hon. Speaker, the Committee could proceed as proposed.

Hon. Karavaki advised the Committee that unfortunately, a substitute could not be arranged and indicated that he would not participate in the proceedings as in his view, there was little point in continuing and the Opposition would raise their views in the House.

Hon. Karavaki acknowledged that he was grateful for the Hon. Attorney-General's offer but upon consideration decided that he ultimately felt that the Committee had pre-judged Hon. Draunidalo.

There was an exchange which followed with the Government Members noting that Hon. Karavaki's refusal to participate could be construed as a defiance of the Speaker's directive. Hon. Karavaki indicated that whilst he respected the views of the other Members, his stand remained unchanged. The Chairperson indicated that the Opposition's withdrawal would not stop the proceedings as there was a quorum present and Hon. Karavaki acknowledged this and said that he would respect the decisions of the Committee.

Witness Evidence

The Hon. Attorney-General presented his views to the Committee (refer attached Verbatim Notes).

The Committee Members did not have any questions, however a copy of the audio recording and precedent cases from the High Court of the Republic of Fiji were tendered as part of the Honourable Attorney-General's evidence as well as social media postings which were referenced in his oral evidence.

The recording was played for the Hon. Members before the Hon. Chairperson thanked the Hon. Attorney-General for availing himself and released him.

Hon. Draunidalo was invited to present her views on the matter. She requested that she be excused in light of the fact that she chose to exercise her right to silence and that she did not believe she would receive a fair hearing.

The Secretariat provided collated precedents from Fiji and other relevant jurisdictions to enable the Committee to consider the available sanctions ranging from the mild to the most severe.

The Research team were asked to find similar offences in other jurisdictions and were given an hour's time to research. After reconvening, the Committee was informed that there was very little that could be gathered specific to the Members' request – with the only similar circumstance the suspension of a British Labour MP from her party roles for anti-semitic statements on social media.

The Committee after deliberating was able to reach a consensus and resolved unanimously to consolidate their findings as recommendations of the Committee.

The Committee finalised and endorsed the Report.

ESTABLISHMENT OF BREACH OF PRIVILEGE/CONTEMPT OF PARLIAMENT

JURISDICTION

1. Under Standing Order 127(2)(b), the Privileges Committee ('**Committee**') is required to consider any question of privilege referred to it by Parliament or the Speaker whether under Standing Order 134 or otherwise.
2. The Speaker found a *prima facie* breach of privilege and referred the matter to the Committee.

ANALYSIS OF FACTS

3. On Wednesday, 01 June 2016, in the morning sitting of Parliament during the debate on a petition, Hon. Draunidalo uttered the words "dumb natives" and "you idiot" in contravention of Standing Order 62(4)(a) and (d).
- 1.4 The audio recording is quite clear and the verbatim is as follows—

"HON. DR. M. REDDY.- If there were any toppers on the other side Madam Speaker, they wouldn't have raised this issue of petition, Madam Speaker. Unfortunately. They need to have some toppers there, Madam Speaker. I tell you in another ten years or 5 years' time there'll be some toppers seated on that side but they'll be part of this government, Madam Speaker.

(Chorus of inaudible interjections)

HON. A. SAYED-KHAIYUM.- Hey don't call him a fool. You called him a fool.

HON. DR. M. REDDY.- Madam Speaker as the Finance Minister said, this is the last...

(Inaudible interjections)

HON. DR. M. REDDY.-...I was a topper

HON. A. SAYED-KHAIYUM. - Point of order Madam Speaker, Hon. Draunidalo called the Minister for Education a fool.

HON. T. DRAUNIDALO. - And he implied first in his speech. Calling us dumb natives. You idiot!

Privilege is accorded to everyone in this House as a matter of right. Standing Order 133 which states that every member, and any other person speaking in

Parliament has freedom of speech and debate in Parliament, **subject** to these Standing Orders.

Therefore any member can say whatever they want in this House; But what you say in Parliament is **subject** to the Standing Orders. The dignity and respect of this House must at all times be upheld.

In this regard, Standing Order 62(4) states –

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

- (a) offensive words against Parliament or another member;
- (b) treasonable words;
- (c) seditious words; or
- (d) words that are likely to promote or provoke feelings of ill-will or hostility between communities or ethnic groups within Fiji.”

The use of the words “fool” and “dumb natives” and “you idiot” are matters which are out of order in this Parliament. The words “dumb natives” and “you idiot” are clearly offensive to any member of this House and has the potential to promote or provoke feelings of ill-will or hostility between communities or ethnic groups and constitute a *prima facie* breach of privilege.

SANCTIONS

2. In Fiji, there is a pressing need to strengthen institutions and in particular Parliament or the Legislature which was directly and physically attacked in the coups of 1987 and 2000.
 - 2.1. As the Committee had noted in its report last year, given the implementation of the Constitution which has been internationally recognised, and now that Fiji finally has true democracy, contempt matters such as this must be taken seriously to protect the dignity of the legislature.
 - 2.2. The comments by Hon. Draunidalo has led to a flurry of social media responses that bring the Parliament into serious disrepute. It is not the example we want to set as standard or acceptable pattern of behaviour for Members of Parliament and equally for the Fijian population because it will undermine the very institution which the Constitution and which we all need to protect to ensure that there is sustained parliamentary democracy and respect for this very critical branch of the State.
 - 2.3. It is also critical that our children and younger population are not exposed to this type of racial slurs as the norm or see that this Parliament is condoning such behaviour by an Honourable Member of Parliament.
 - 2.4. It should be noted that under section 20(h) of the *Parliamentary Powers and Privileges Act* (Cap. 5), any person who utters or publishes any false or scandalous slander or libel on Parliament or upon any member in his or her as

such commits an offence and such an offence warrants *inter alia* imprisonment for a maximum of two years.

- 2.5. The Standing Order 62(4)(a) and (d) are progressive provisions which seems to be quite rare and made it difficult to find such contempt in other jurisdictions. However, the Committee was unanimous in its finding that contravention of the referenced Standing Orders in these circumstances were not only a grave and serious breach of privilege but a contempt of Parliament.

RECOMMENDATIONS

Given that the Privileges Committee has unanimously found that Hon. Tupou Draunidalo has contravened Standing Order 62(4)(a) and (d) in circumstances that were not only a grave and serious breach of privilege but a contempt of Parliament, the Privileges Committee strongly recommends that –

- (1) Hon. Draunidalo must formally apologise in Parliament while undergoing formal censure and before leaving the precincts – to the following –

(i) Minister for Education, Heritage and Arts; and

(ii) the people of Fiji,

the apology must reflect the severity of the breach and the fact that it has had far-reaching effects and gone viral on social media here and abroad. The apology format should also recognise that the Honourable Minister did not in fact utter the words “dumb natives”;

- (2) Hon. Draunidalo be suspended for the remainder of the term of Parliament, with immediate effect from 03 June 2016 upon tendering of the apology and censure by Parliament;
- (3) During the period of suspension, Hon. Draunidalo is not allowed to enter the parliamentary precincts including the Opposition Office. Immediately upon her suspension, Hon. Draunidalo must be ordered to leave the precincts of Parliament and to remain outside of Parliament precincts; and
- (4) If Hon. Draunidalo fails to comply with any of the above, that necessary enforcement measures must be imposed to ensure compliance.

ENDORSEMENT

We the Members of the Privileges Committee, a Select Committee of the Parliament of the Republic of Fiji hereby endorse this Report.

Hon. Ruveni Nadalo

Hon. Inia Seruiratu

Hon. Faiyaz Koya

Hon. Rosy Akbar

APPENDICES