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## **PRIVILEGES COMMITTEE**

### **Report on Referral of a Matter of Privilege**

**RE: Hon. Ratu Isoa Tikoca**



**PARLIAMENT OF THE REPUBLIC OF FIJI**  
**Parliamentary Paper No. 90 of 2016**

***September 2016***

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## **COMMITTEE MEMBERS**

The members of the Privileges Committee are:

- Honourable Ruveni Nadalo, Deputy Speaker (Chairperson)
- Honourable Semi Koroilavesau, Minister for Fisheries
- Honourable Jone Usamate, Minister for Employment, Productivity and Industrial Relations
- Honourable Ashneel Sudhakar, Government Whip
- Honourable Semesa Karavaki, Member
- Honourable Niko Nawaikula, Member

## CHAIRPERSON'S FOREWORD

A matter of privilege was raised with the Hon. Speaker pursuant to Standing Order 134(1) initially on Wednesday, 6 July 2016. There followed an exchange of correspondences, which ended with the Hon. Speaker referring the matter to the Privileges Committee ('Committee') on Tuesday, 27 September 2016 for consideration in accordance with Standing Order 127(2)(c).

The Committee was requested to report back to Parliament during the sitting week, at its earliest.

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

Although consensus could not be reached, I nonetheless thank all Honourable Members of the Committee for their contributions which resulted in this Report.

I respectfully commend this Report to Parliament pursuant to Standing Order 127(2)(d).



Hon. Ruveni Nadalo  
Deputy Speaker and Chairperson

## **SUMMARY OF PROCEEDINGS**

### **Tuesday, 27 September 2016**

The Committee convened shortly after 4.00 p.m. and the Hon. Opposition Members requested a clarification as to the composition of the Committee and some other preliminary points which was settled after some discussion between the Government and Opposition Members. [full details captured in the attached Verbatim Notes].

At the outset, Hon. Opposition Members were concerned with the composition of the Committee and its Chair. Hon. Karavaki clarified that Hon. Nawaikula still had a point of law and although there was initial agreement that the Deputy Speaker could Chair, this was later retracted and the objection noted for the record.

There was another preliminary clarification sought on whether this was not left too late, as the Hon. Speaker had earlier ruled that these issues need to be brought expeditiously. This was also clarified by the Secretariat and this was also noted for the record.

Hon. Karavaki also sought clarification on whether this matter had already been dealt with. The Secretariat acknowledged that the Speaker had received correspondence to that effect earlier and would be responding in writing and clarified that the matter was referred now and there was no ruling previously in relation to this matter.

The Chairperson invited discussions after which it became clear that consensus would not be reached and the question of whether there had been a breach of privilege was put to the floor and voted upon.

The majority found that there had been a breach of privilege. [Breakdown of the votes attached in the attached Minutes and detailed deliberations in the Verbatim Notes]

The Committee was invited to look at possible sanctions to recommend to Parliament.

The Government Members moved to recommend that Hon. Ratu Isoa Tikoca be suspended for the remainder of the term of Parliament and be excluded from the Parliamentary precincts. The Opposition Members proposed that the sanction, if any were to be imposed be limited to the requirement of an apology and a week's (7 days) suspension.

The Government view was adopted as the majority.

The Committee agreed to finalise the report via email then meet briefly to endorse the Report at 8.00 a.m. on Wednesday, 28 September 2016.

### **Wednesday, 28 September 2016**

The Committee convened at 8.00 a.m. and decided to adjourn until after the House proceedings to allow an opportunity for Hon. Tikoca to address the Committee. A letter was sent to Hon. Ratu Isoa Tikoca inviting him to address the Committee at 5.00 p.m.

The Opposition Members requested certain clarifications as to the purpose of calling Hon. Tikoca. After deliberating on the matter, the Opposition Members indicated that they would withdraw from the proceedings as they were of the opinion that the Committee ought to be reconstituted.

The Hon. Chairperson indicated that the proceedings would continue and Hon. Opposition Members left the room.

The remaining Members invited Hon. Tikoca to address them.

Hon. Tikoca was welcomed on his arrival and the Hon. Chairperson explained that he would be able to make a statement after which, the Committee would ask him questions.

Hon. Tikoca addressed the Committee (full submission captured in the Verbatim Notes). He requested to be released and not to answer any questions as he was appearing under protest.

The Committee deliberated and agreed that after hearing the submissions of Hon. Tikoca, there was no doubt that there was a breach of privilege.

The Hon. Chairperson called for recommendations, and the Hon. Members deliberated afresh on possible sanctions. The Members agreed upon recommendations.

The Report was finalised and endorsed by the Members present.

# SUBMISSIONS

## GOVERNMENT SUBMISSION

### ESTABLISHMENT OF BREACH OF PRIVILEGE/CONTEMPT OF PARLIAMENT

#### *JURISDICTION*

- 1.1 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.
- 1.2 The Speaker referred the complaint asking the Committee to consider the complaint in accordance with Standing Order 127(2)(c) which requires the Committee to inquire into any complaint that may be referred to it by Parliament or Speaker concerning any breach of privilege on the part of any person or persons.

#### *ANALYSIS OF FACTS*

- 1.3 On Tuesday, 5 July 2016, Hon. Ratu Isoa Tikoca made certain statements [set out fully in the Summary of Complaint attached to the Report] which quite clearly and selectively and more importantly intentionally targeted Fijians who are Muslims or adherents of Islam contrary to Standing Order 62(4)(a) and (d).
- 1.4 Privilege is afforded to all Hon. Members as a matter of right. Standing Order 133, however makes it clear that freedom of speech and debate in Parliament is subject to Standing Orders. Therefore any member can say whatever they wish in the House, but subject to the Standing Orders. The dignity and respect for the 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 selective naming of Arab countries in reference to the usage of the name Ministry of Economy, the naming of only Muslim officials serving in the offices of State listed, the use of the words “my kind” and “this elite group” make it clear that Hon. Tikoca was not only in breach of Standing Order 62(4) but that this breach was an intentional abuse of the parliamentary privilege of freedom of speech that this Parliament cannot ignore and he must therefore be dealt with decisively.

## SANCTIONS

- 2.0 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 this Committee had noted in both its previous reports, 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 thinly veiled attack by Hon. Tikoca against a minority community must not be tolerated. The absolute privilege enjoyed by members must not be used to incite racial discord as was so often done in the past. 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 we all need to protect to ensure that there is sustained parliamentary democracy and respect for this very critical arm of the State.
- 2.3 It is also critical that our children and younger population are not exposed to this type of racial profiling and vilification 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. That is how important the reputation of Parliament is. This privilege protects our right to freedom of speech in the House by protecting our very reputations and this privilege must not be abused to incite ill-will or hostility between the communities.
- 2.5 The Government Members were firmly of the view that Hon. Tikoca's actions were not only a grave and serious breach of privilege but a contempt of Parliament.



## **OPPOSITION VIEW**

The Government position was adopted as the majority decision of the Committee and the view of the Opposition members is noted here for the record as a minority view. The Opposition Members recused themselves from further participation in the second day of proceedings.

### **Preliminary Issues**

- 1.1 Hon. Opposition Members were concerned with the composition of the Committee and its Chair.
- 1.2 There was another preliminary clarification sought on whether this was not left too late, as the Hon. Speaker had earlier ruled that these issues need to be brought expeditiously.
- 1.3 Hon. Karavaki also sought clarification on whether this matter had already been dealt with. The Opposition requested that it be noted for the record that in their opinion this was already dealt with and evidenced by the Hon. Speaker's letter to Hon. Tikoca dated 9 August 2016. The Opposition asserted that once the Speaker had made a ruling, this should be final.

### **The question of a breach of privilege and potential sanctions**

- 2.1 The Members of the Opposition did not agree that there had been a breach of privilege. Without prejudice - if the House finds that the Honourable Member has been in breach of privilege then the House ought to note that the usual practice is to ask the Member to withdraw and that be the end of the matter.
- 2.2 *Anand Babla v Devaka Prasad & Anor* bears this out. The contempt was found when after showing remorse in the House and withdrawing his statements, conduct and the House having dealt with him fairly and - that Honourable member then re-offended with the same from within the precinct - outside of the House.
- 2.3 We therefore submit that if any breach is found, that the Honourable Ratu Isoa Tikoca be asked to withdraw the comments he made and that he be required to apologise and that be the end of the matter.
- 2.4 We submit to the House that Standing Orders 75 and 76 contain the penalties that are available to Members to deal with breach of privilege and should be limited to those.
- 2.5 Further the standing orders clearly differentiate between this punishment for breach of privilege and any punishment for contempt which is not at issue in this matter.

- 2.6 The cases of *Butadroka v the Attorney General* and *Robati v Privileges Standing Committee* shows that the Courts of law will ensure that the House abide by its own rules (the Standing Orders) and we submit that if we go beyond Standing Orders 75 and 76, the courts will bring us back to it.
- 2.7 Parliament is the House of free speech that evolved to protect free speech and representation as a safeguard from the authoritarian rule of the King and nobility in England.

Karavaki, S (MP)

Nawaikula, N (MP)

## RECOMMENDATIONS

Given the above, by majority vote, the Privileges Committee recommends that –

- (1) Hon. Ratu Isoa Tikoca be suspended for the rest of the term of Parliament;
- (2) During the period of suspension, Hon. Ratu Isoa Tikoca is not to be allowed to enter the Parliamentary precincts; and
- (3) If Hon. Ratu Isoa Tikoca fails to comply with any of the above, that necessary enforcement measures must be imposed to ensure compliance.

## ENDORSEMENT

We the undersigned Members of the Privileges Committee of the Parliament of the Republic of Fiji hereby confirm the accuracy of this Report:




Hon. Ruveni Nadalo



Hon. Semi Koroilavesau



Hon. Jone Usamate



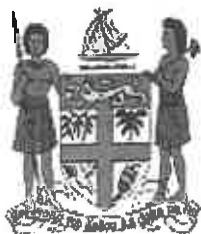
Hon. Ashneel Sudhakar

Hon. Semesa Karavaki

Hon. Niko Nawaikula

# APPENDICES

## REFERRAL



# PARLIAMENT OF THE REPUBLIC OF FIJI

PARLIAMENT COMPLEX, GLADSTONE ROAD  
P.O. BOX 2352, GOVERNMENT BUILDING, SUVA  
PHONE 3225600, FAX: 3305323



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Ref: PARL 6/19

27 September 2016

Hon. Ruveni Nadalo  
Chairperson  
Privileges Committee  
Parliament Complex  
SUVA

Dear Honourable Chairperson,

Re: Referral of Complaint

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Reference is made to the above and as announced in the House that a matter has been referred to the Privileges Committee for your consideration in accordance with Standing Order 127(2)(c).

Enclosed are the relevant documents pertaining to the issue.

Thank you

Hon. Dr. Jiko Luveni  
Speaker

## SUMMARY OF COMPLAINT

1. The Hon. Prime Minister has written to the Hon. Speaker raising a complaint of a breach of privilege by the Hon. Ratu Isoa Tikoca (**'Complaint'**).
2. The Hon. Speaker referred the matter to the Privileges Committee on Tuesday, 27 September 2016 for their consideration in accordance with Standing Order 127(2)(c).
3. The Complaint sets out the statements referred to which were during Hon. Tikoca's responses to the Budget during the second reading debate on Tuesday, 5 July 2016:

*"Fiji has recently adopted the title Minister of Economy. That is an appointment used in Arab countries, including Saudi Arabia, United Arab Emirates and Islamic State of Afghanistan. In the Fiji context, anything that is economy in Government, public and private enterprises comes under the Minister of Economy. This is unprecedented for Fiji. This self-proclaimed appointment will make the Minister of Economy the most powerful man in Fiji. He totally disregarded the democratic concern of the people of Fiji and of course this side of the House – a promotion of no separation of powers under the false pretence of a democratic Fiji. This was clearly demonstrated in the removal of two opposition MPs to the total disregard of their own Constitution and the Standing Orders of Parliament. The Prime Minister must understand that such actions promote ill-will or hostility between communities in Fiji.*

...



Honourable Deputy Speaker, the Ministry of Economy has direct oversight over strategic sectors One, sugar industry under the management of Mr. Abdul Khan. Two, the Fiji Hardwood and Fiji Pine under the management of Mr. Faiz Khan. Three, Fisheries PAFCO under the chairmanship of Mr. Iqbal Janiff and who is also the Vice-Chancellor of FNU. Four, Tourism and I refer to Airports Fiji Limited by chaired by Mr. Riyaz Sayed-Khaiyum. Border Security is managed by Mr. Xavier Khan. State broadcasting, managed by Riyaz Khaiyum, has been allocated \$6.7m for public service broadcast radio and public service broadcast TV \$4.6m. Seven, Commerce Ministry managed by Mr Shaheen Ali. Eight, Commerce Commission has a board member Mr. Feroz Ahmed Ghazali who is a Pakistani deserter. The Central Bank is co-manged by Mr. Ariff Ali. Finance intelligence managed by Razim Buksh. Elections office is managed by Mr. Mohammed Saneem. Government ITC managed by Mr. Nisar Ali. They are also digitising the Vola ni Kawa Bula and TLTB. Our Geneva mission where World Trade Organisation is based is managed by Mrs. Nazhat Shameem Khan. Hamid, founder of the road contractor Naim from Malaysia – close friend of some people on that side.

Recently, FICAC laws were amended and given same powers as police. Now Fiji has two police force. One controlled by the Commissioner of Police and one controlled by AG himself.

The recent bickering in Parliament has drawn concerns of the Fijians and negative feeling against certain elite groups in Fiji being the minority group, however assuming critical chairmanship and CEO leadership positions in Fiji. Honourable Speaker, there appears to be rampant cronyism of the economy. Fiji faces the biggest threat since independence. We have never faced such threats before in our history. Our

*civilisation, lifestyle and culture is under threat. The nation is under threat. Honourable Deputy Speaker, the sunset clause is fully operational. Honourable Deputy Speaker, I am concerned about this important issue. It's not a laughing matter. Government needs to address this immediately as Fijians are disgusted by this. The concentration of economic power seems to be with a few elite. There is animosity growing within our various Fijian groups questioning why this elite group is being advanced over others. The fury with the stigma of one man leading the nation with his kind. People of Fiji have started to build misconception about others within this group but have failed to identify that it is only one man that we need to isolate as the real dictator.*

...

*What are you afraid of? What is quite clear is that we are witnessing a coup within a coup. Understand that."*

4. The Complaint asserted that the matter had not been decisively dealt with at the time when Hon. Tikoca made the statement and when a Point of Order was raised by the Government Whip. It further asserts a caution by the Hon. Speaker to Hon. Tikoca to all Honourable Members on Wednesday, 6 July 2016 and a warning letter to Hon. Tikoca failed to properly address the seriousness of the breach of privilege.
5. The integrity and sanctity of Parliament and the Honourable Speaker must be protected at all time from statements made by members of Parliament both inside and outside Parliament which promote ill-will and hostility between communities or ethnic groups within Fiji, and thereby undermine Parliament and the Honourable Speaker as the embodiment of Parliament. It explained that for those reasons that the Government has been steadfast in

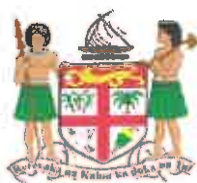
ensuring that breaches of privilege which promote ill-will and hostility between communities or ethnic groups within Fiji on all previous occasions have been appropriately dealt with by Parliament.

6. Standing Order 133 provides every member of Parliament with the freedom of speech and debate in Parliament, this privilege is subject to the Standing Orders. In this regard, Standing Order 62(4)(a) and (d) expressly states that it is out of order for a member, when speaking, to use offensive words against another member or to use words that are likely to promote or provoke feelings of ill-will or hostility between communities or ethnic groups within Fiji.
7. The Complaint further states, it is clear that the words used by Hon. Tikoca in his statement to Parliament are designed to promote or provoke feelings of ill-will or hostility between the communities or ethnic groups within Fiji. It is apparent that through his words and the persons he has singled out, Hon. Tikoca is attacking Fijians who are Muslims or who follow Islam as their religion.
8. The Complaint indicated that it was equally concerning that Hon. Tikoca made selective reference to the names of a few office-holders in the State and State entities who are Muslims. He failed to mention the names of hundreds of many other Fijians and expatriates who have been appointed to numerous other positions in the State and State entities and who are not Muslims as an elite group from whom our civilisation, lifestyle and culture is under threat, and then alleges that there is growing animosity within various Fijian groups as to why Muslims are being advanced over others by the Minister for Finance (now Minister for Economy).
9. It is asserted that Hon. Tikoca's later Media Statements that he meant FijiFirst and SODELPA when talking about the different sides was disingenuous of him. None of the names of the persons

mentioned by him are officers or members of FijiFirst or SODELPA. As such, the reference by Hon. Tikoca to the names of these persons was an attempt by Hon. Tikoca to promote or provoke feelings of ill-will or hostility between the communities or ethnic groups within Fiji.

10. It is asserted with respect to the renaming of the Ministry of Finance to the Ministry of Economy, Hon. Tikoca chose to mention the names of Arab countries only when in fact there are many countries, including Israel, European and Asian countries which also have a Ministry of Economy. The selective reference to only Arab countries by Hon. Tikoca is clearly designed to promote or provoke hatred against the Muslim community and imply improper motives on the part of the Honourable Minister for Finance (now Minister for Economy).
11. It is stated that the Government has no objections to robust debates in Parliament. Indeed, that they have always been ready to engage in debates on issues rather than engaging in personal attacks. It is asserted that the likes of Hon. Tikoca have often chosen to personalise matters in Parliament and create ill-will and antagonism by ethnic and communal references and stereotyping. However, Parliament as the legislative arm of the State must not allow in Parliament such vitriolic statements to be made which are likely to promote hatred on the grounds of race and religion. Such statements go against the values and the spirit of the Fijian Constitution and are designed to take Fiji back to the dark days of Fiji.
12. The Complaint requests that the matter be referred to the Privileges Committee to report back to Parliament during the sitting of Parliament this week, at its earliest.

## **MINUTES OF THE MEETINGS**



## PARLIAMENT OF THE REPUBLIC OF FIJI

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### MINUTES OF THE PRIVILEGES COMMITTEE MEETING HELD IN THE SMALL COMMITTEE ROOM, WEST WING ON TUESDAY, 27<sup>TH</sup> SEPTEMBER 2016 AT 4.00 P.M.

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#### Members Present:

Hon. Ruveni Nadalo	-	Deputy Speaker (Chairperson)
Hon. Jone Usamate	-	Member
Hon. Ashneel Sudhakar	-	Member
Hon. Semi Koroilavesau	-	Member
Hon. Niko Nawaikula	-	Member
Hon. Semesa Karavaki	-	Member

#### In-Attendance:

Mr. Joeli Ditoka	-	Director Legislature ('DL')
Ms. Wati Sovea	-	Hansard

### 1.0 PRELIMINARY CLARIFICATIONS

- 1.1 The committee deliberated at length on the membership and the chairperson of the Committee, reference of the deliberation can be found in the verbatim. Hon. Nawaikula requested that it be noted for the record that although there was initial agreement for the Deputy Speaker to chair, this was later retracted and noted for the record.

### 2.0 SUBMISSION BY MEMBERS

- 3.1 The members discussed the alleged breach of privilege at length.
- 3.2 The opposition members maintained that there was no breach as the member was exercising his privilege of freedom of speech.
- 3.4 When it became clear that consensus was not possible, it was put to the vote with 3 finding a breach of privilege and 2 finding that there was no breach of privilege. Thus the committee found that there was a breach of Privilege.

### 3.0 COMMITTEE SANCTIONS

- 3.1 Hon. Ashneel Sudhakar mentioned the previous cases on the matter of privileges and suggested that sentencing should be as per the precedence set or more severe.
- 3.2 Hon. Nawaikula mentioned the effect of such cases on IPU and the neighboring countries. Hon. Karavaki mentioned if Hon. Tikoca could be called in to address the committee.
- 3.3 The Chair informed the members that Hon. Tikoca should be called in to make submission. The members agreed that it was not required as the evidence was provided.
- 3.4 Hon. Karavaki deliberated that the penalties provided in the previous Privilege matters were very harsh and it should be as per the Constitution and the Standing Order.
- 3.5 DL clarified that the Committee only recommends but Parliament ultimately decides.
- 3.6 Hon. Usamate mentioned the gravity of the offence and the action taken against should be proportionate.
- 3.7 Hon. Ashneel Sudhakar and the Government members provided the following sanctions –
- 3.7.1 Hon. Isoa Tikoca be suspended for the rest of the term of Parliament;
  - 3.7.2 During the suspension, he is not allowed to enter the parliamentary precincts including the Opposition Office. Immediately upon his suspension, he must be ordered to leave the precincts of Parliament and to remain outside of Parliament precincts; and
- 3.8 Hon. Nawaikula mentioned that an apology and one week suspension for Hon. Isoa Tikoca is sufficient.

### 4.0 CLOSE

As there was no other business to discuss the meeting adjourned at 6.40 p.m.

Signed,

.....  
Hon. Ruveni Nadalo  
(Chairman)

  
.....  
Mr Joeli Ditoka  
(Secretariat)

Date. 28/09/16



## PARLIAMENT OF THE REPUBLIC OF FIJI

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### MINUTES OF THE PRIVILEGES COMMITTEE MEETING HELD IN THE SMALL COMMITTEE ROOM, WEST WING ON WEDNESDAY, 28<sup>TH</sup> SEPTEMBER 2016 AT 8.00 A.M.

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#### Members Present:

Hon. Ruveni Nadalo	-	Deputy Speaker (Chairperson)
Hon. Jone Usamate	-	Member
Hon. Ashneel Sudhakar	-	Member
Hon. Semi Koroilavesau	-	Member
Hon. Semesa Karavaki	-	Member
Hon. Niko Nawaikula	-	Member

#### In-Attendance:

Mr Joeli Ditoka	-	Director Legislature ('DL')
Ms Salesni Prasad	-	Senior Tables Officer
Ms Sera Banuve	-	Hansard

#### 1.0 COMMITTEE DELIBERATION

- 1.1 The Committee convened (with the exception of Hon. Nawaikula) at 8.00 a.m. to look at the report. The Committee decided to adjourn until after the sitting of Parliament as Hon. Semesa Karavaki had some objections. The Members decided to invite the Hon. Ratu Isoa Tikoca to make submissions to the Committee.
- 1.2 The committee reconvened at 5pm and the Opposition Members sought clarification on the purpose of inviting Hon. Ratu Isoa Tikoca.
- 1.3 The committee deliberated on the matter at length. The Opposition Members made it clear that if Hon. Tikoca is called in to make submissions (other than for mitigation and without reconstituting the Committee Membership) that they would withdraw from the proceedings. The Hon. Chairperson indicated that this would not prevent the matter from proceeding.
- 1.4 The Opposition members sought leave from the Hon. Chairperson and withdrew from the Committee.



## **2.0 SUBMISSION BY HON. RATU ISOA TIKOCA**

- 2.1 Hon. Ratu Isoa Tikoca made his statement to the committee and sought leave to depart without answering any questions from the Committee.

## **3.0 RECONSIDERATION OF QUESTION OF BREACH**

- 3.1 The Committee upon consideration of the submission made by Hon. Tikoca decided that there was a breach of Privilege.

## **4.0 COMMITTEE RECOMMENDATIONS**

- 4.1 The Committee members present recommended the following sanctions –


4.1.2 Hon. Isoa Tikoca be suspended for the rest of the term of Parliament;

4.1.3 During the suspension, he is not allowed to enter the parliamentary precincts including the Opposition Office. Immediately upon his suspension, he must be ordered to leave the precincts of Parliament and to remain outside of Parliament precincts; and

4.1.4 If he fails to comply with any of the above, that the necessary enforcement measures must be imposed to ensure compliance

As there was no other business to discuss the meeting adjourned at 7.00 p.m.

Signed,

  
.....  
Hon. Ruveni Nadalo  
(Chairman)

Date 28/09/16

  
.....  
Mr. Joeli Ditoka  
(Secretariat)

## **LETTER TO HON. RATU ISOA TIKOCA**



Parliament of Fiji  
P.O. Box 2353  
Government Buildings

# PARLIAMENT

OF THE REPUBLIC OF FIJI

## PRIVILEGES COMMITTEE



Tel: 679 3305 811  
Fax: 679 3305 321  
[www.parliament.gov.fj](http://www.parliament.gov.fj)

28 September 2016

### By Hand Delivery

Honourable Ratu Isoa Tikoca  
Member of Parliament  
Parliament Complex  
Suva

Dear Honourable Member

### Appearance Before the Privileges Committee

1. We refer to the matter of privilege raised against you with respect to your statement in Parliament on 5 July 2016, which has been referred by the Honourable Speaker to the Privileges Committee on Tuesday, 27 September 2016.
2. The Privileges Committee met to deliberate on this matter in the afternoon of 27 September 2016.
3. The Privileges Committee notes that you had through the Parliament Secretariat requested that you appear before the Privileges Committee with a legal representative.
4. The Privileges Committee also notes that you have issued a general apology in Parliament this morning, without any specific reference to any particular statement made by you in Parliament including the statement that is subject to the matter of privilege.
5. Your statement made in Parliament on 5 July 2016 which is the subject of the matter of privilege before the Privileges Committee is as follows:

*"Fiji has recently adopted the title Minister of Economy. That is an appointment used in Arab countries, including Saudi Arabia, United Arab Emirates and Islamic State of Afghanistan. In the Fiji context, anything that is economy in Government,*

*public and private enterprises comes under the Minister of Economy. This is unprecedented for Fiji. This self-proclaimed appointment will make the Minister of Economy the most powerful man in Fiji. He totally disregarded the democratic concern of the people of Fiji and of course this side of the House – a promotion of no separation of powers under the false pretence of a democratic Fiji. This was clearly demonstrated in the removal of two opposition MPs to the total disregard of their own Constitution and the Standing Orders of Parliament. The Prime Minister must understand that such actions promote ill-will or hostility between communities in Fiji.*

*...*

*Honourable Deputy Speaker, the Ministry of Economy has direct oversight over strategic sectors One, sugar industry under the management of Mr. Abdul Khan. Two, the Fiji Hardwood and Fiji Pine under the management of Mr. Faiz Khan. Three, Fisheries PAFCO under the chairmanship of Mr. Iqbal Janiff and who is also the Vice-Chancellor of FNU. Four, Tourism and I refer to Airports Fiji Limited by Mr. Faiz Khan as Board Chairman and CEO. Air Terminal Services chaired by Mr. Riyaz Sayed-Khaiyum. Border Security is managed by Mr. Xavier Khan. State broadcasting, managed by Riyaz Khaiyum, has been allocated \$6.7m for public service broadcast radio and public service broadcast TV \$4.6m. Seven, Commerce Ministry managed by Shaheen Ali. Eight, Commerce Commission has a board member Mr. Feroz Ahmed Ghazali who is a Pakistani deserter. The Central Bank is co-managed by Mr. Ariff Ali. Finance intelligence managed by Razim Buksh. Elections office is managed by Mr. Mohammed Saneem. Government ITC managed by Mr. Nisar Ali. They are also digitising the Vola ni Kawa Bula and TLTB. Our Geneva mission where World Trade Organisation is based is managed by Mrs. Nazhat Shameem Khan. Hamid, founder of the road contractor Naim from Malaysia – close friend of some people on that side.*

*Recently, FICAC laws were amended and given same powers as police. Now Fiji has two police force. One controlled by the Commissioner of Police and one controlled by the AG himself.*

*The recent bickering in Parliament has drawn concerns of the Fijians and negative feeling against certain elite groups in Fiji being the minority group, however assuming critical chairmanship and CEO leadership positions in Fiji. Honourable Speaker, there appears to be rampant cronyism of the economy. Fiji faces the biggest threat since independence. We have never faced such threats before in our history. Our civilisation, lifestyle and culture is under threat. The nation is under threat. Honourable Deputy Speaker, the sunset clause is fully operational. Honourable Deputy Speaker, I am concerned about this important issue. It's not a laughing*

*matter. Government needs to address this immediately as Fijians are disgusted about this. The concentration of economic power seems to be with a few elite. There is animosity growing within our various Fijian groups questioning why this elite group is being advanced over others. The fury with the stigma of one man leading the nation with his kind. People of Fiji have started to build misconception about others within this group but have failed to identify that it is only one man that we need to isolate as the real dictator.*

....

*What are you afraid of? What is quite clear is that we are witnessing a coup within a coup. Understand that."*

6. You are hereby asked to appear before the Privileges Committee at **5.00pm today on Wednesday, 28 September 2016**, to address the Privileges Committee and to be heard in your defence with respect to the matter of privilege which has been raised against you and has been referred to the Privileges Committee.
7. The Privileges Committee will hear from you should you choose to appear before the Privileges Committee. Thereafter, the Privileges Committee will deliberate on this matter and report back to Parliament.

Thank you.

Yours Sincerely



**Hon. Ruveni Nadalo**  
**CHAIRPERSON, PRIVILEGES COMMITTEE**

## VERBATIM NOTES

# **PARLIAMENTARY PRIVILEGES COMMITTEE**

*Verbatim Report of Meeting*

**HELD IN THE  
COMMITTEE ROOM (WEST WING)**

**ON**

**TUESDAY, 27<sup>TH</sup> SEPTEMBER, 2016**

**VERBATIM REPORT OF THE MEETING OF THE PRIVILEGES COMMITTEE HELD IN THE COMMITTEE ROOM (WEST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON TUESDAY, 27<sup>TH</sup> JUNE, 2016 AT 4.15 P.M.**

**Present:**

Hon. Ruveni N. Nadalo, Deputy Speaker (Chairman)  
Hon. Lt. Col. N. Rika (Acting Chairman)  
Hon. J. Usamate (Minister for Employment, Productivity & Industrial Relations - Member)  
Hon. S. Koroilavesau (Minister for Fisheries - Member)  
Hon. A. Sudhakar (Member)  
Hon. S.D. Karavaki (Member)  
Hon. N. Nawaikula (Member)

**In Attendance:**

Mr. Joeli Ditoka, Director, Legislative Process

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ACTING CHAIRMAN.- Honourable Members of the Privileges Committee, Honourable Ministers and Honourable Members, and the Secretariat: I take this opportunity to welcome you this afternoon and as you are aware, the Deputy Speaker is not chairing this session so I have been directed to sit on his behalf.

I believe you have received the referral of the Privileges Committee with all those summary of complaints. Right at the end, we have the details on the Privilege Act, 1987 and the details in regard to the Privilege of Freedom of Speech and also other privilege, contempt and raising a matter of privilege in the House and all those things, and the Report by the Committee of Privileges.

HON. A. SUDHAKAR.- With your permission, Sir, before we move further, there is a point that I would like to clarify. Under Section 127(1)(a) of the Standing Orders, it says that the Deputy Speaker is to be the Chairperson of this Committee and there is no provision of Deputy Chair, but Section 123 of the same Standing Orders, that is, Standing Order 123(3)) says that Standing Orders 118 applies to all Select Committees. So, this is not a Standing Committee but a Select Committee, and Standing Order 118 (4) says that the Chairperson or if presiding, the Deputy Chairperson has deliberative vote but does not have an additional casting vote.

In the absence of a Deputy Chairperson, I nominate you as the Chairperson of this Committee, just for completeness.

ACTING CHAIRMAN.- Any seconder?

HON. J. USAMATE.- I second that, Mr. Acting Chairman.

HON. N. NAWAIKULA.- From the Opposition, from the word “go”, we want our *locus* to be established. We want to be sure that we are properly convened in accordance with the Standing Orders and that is the point we are going to raise. So, can we just go through that again?

We know that on that, the Deputy Speaker is to be the Chairman. How does that link with Standing Order 118?



HON. A. SUDHAKAR.- Of course, I will reiterate what I was saying, Honourable Rika, and for the benefit of Honourable Nawaikula, if we look at Standing Order 123 regarding Select Committees, it says:

“The following Select Committees are automatically convened after each General Election for the purposes of managing business of Parliament.”

Standing Order 123(1)(c) talks of the Privileges Committee. It is taken that Privileges Committee is not a Standing Committee but a Select Committee by virtue of Standing Order 123.

If we look at Standing Order 127, there is a specific section on the Privileges Committee and Standing Order 127(1) states that the Privileges Committee comprise of the following Members:

- (a) The Deputy Speaker, who is the Chairperson of the Committee; and
- (b) Five Members appointed by the Speaker, in consultation with the Prime Minister and the Leader of the Opposition.

But if you read further, this one does not talk about any appointment of a Deputy Chairperson but following on from that, Standing Order 123 which talks of Select Committees, at sub-rule (3), that is on Page 158. It says Standing Order 118 applies to all Select Committees so the Privileges Committee, being a Select Committee, will automatically fall under Standing Order 118. The entire Standing Order 118, as my submission is, deals with the Privileges Committee which says:

- (a) Majority of the Members of the Standing Committee shall constitute, et cetera, a quorum;
- (b) Where Standing Orders does not have a quorum, ...
- (c) A resolution of the Standing Committee, ...; but the important one is
- (d) The Chairperson or if presiding the Deputy Chairperson has a deliberative vote but does not have an additional casting vote.

So it talks of a Deputy Chairperson but this Privileges Committee so far, to my knowledge, does not have a Deputy Chairperson.

In that regard, in the absence of a Deputy Chairperson and with the fact that the Chairperson has refused himself, I nominate Honourable Lt. Col. Rika to be the Chairperson of this meeting.

HON. N. NAWAIKULA.- How does that Standing Order 127 link to Standing Order 118?

HON. A. SUDHAKAR.- If you look at Standing Order 123, that is specifically on Select Committees, page 157, at the bottom Standing Order 123. They are listing there under Sub-rule (1) four Select Committees – (a), (b), (c) and (d).

HON. N. NAWAIKULA.- I agree this is a Select Committee.

HON. A. SUDHAKAR.- Sub-section (3) there, it says:

“Standing Order 118 applies to all Select Committees.”

So we go back to Standing Order 118, it applies to all Select Committees and that is where that Standing Order 118(4), the issue is the Chairperson of if presiding, the Deputy Chairperson has a deliberative vote but does not have an additional casting vote. It talks of Chairperson and Deputy Chairperson. Where the Chairperson refusing himself, we do not have a Deputy Chairperson for this Committee.

HON. N. NAWAIKULA.- I am happy there but I need the legal opinion.

MR. J. DITOKA.- I think I need to take advice also on this so will that to that effect or does that mean that the membership is limited to the five, we need to choose a Deputy from the membership?

HON. N. NAWAIKULA.- Yes, it is very important and we also have two other preliminary points, if you can take that on board too.

HON. A. SUDHAKAR.- Another point, Sir, just one other issue on the same one. If one looks at Standing Order 123, Sub-rule (8), it says:

“Otherwise a Select Committee may determine its own procedures,”

That is the casual, if there is something missing then the Select Committee may determine its own procedures.

HON. N. NAWAIKULA.- But I am not clear. It is not very clear and that is why I am asking for an opinion.

HON. S.D. KARAVAKI.- For the opinion, Mr. Chair, I appreciate that but I have difficulties in trying to apply what Honourable Sudhakar has been expressing over here because when we refer to the Deputy Chair, it refers to a Committee that already has a Deputy Chair. But when we look at the previous Committee, he has no Deputy Chair but all other Committees they have Deputy Chair. That is why Standing Order 118 applies - to refer to a Deputy Chair, but this Committee does not have a Deputy Chair. Therefore unless there is an amendment made (that is the way I look at it) to Section 127 to say: “In the case of the Deputy Speaker cannot preside over the matter because of his involvement, then another person, may be nominated” or even to introduce the provision of a Deputy Chair also into Standing Order 127. That is my difficulty here. I think we need a legal opinion on this, Mr. Chair, otherwise we are not properly constituted as the Privileges Committee and our decision and our deliberation would not be proper in this case.

HON. N. NAWAIKULA.- Mr. Chair, I appreciate that because it is not in black and white, we have the benefit of counsel and we make use of that on the things that we are not sure of.

ACTING CHAIRMAN.- Any other comment, Honourable Members?

HON. A. SUDHAKAR.- Mr. Chair, as I said, in law and my Honourable and learned colleague on the other side will appreciate, sometimes you cannot find answers in one section, that is when you have to read the entire legislation and then you have to link and see where it comes from.

On this one, it is quite clear that when you talk about Select Committees in Standing Order 123, if all fails, there is a catch-on phrase there; “otherwise Select Committee may determine its own procedures”, and that is the reason why I did not nominate a Deputy Chair but you as the Chair itself,

because these are Select Committees and they do not function everyday. They are almost like *ad hoc* Committees.

HON. N. NAWAIKULA.- I agree but if I follow that through and it is clear to me in black and white, I would have said “yes” straightaway but ....

HON. S.D. KARAVAKI.- For us to determine our own process as a Committee, first of all, the Committee must be properly constituted before we can go further than that to determine their own proceedings, the rules that we are to follow. First of all, it must be properly constituted, thank you, Mr. Chair.

MR. J. DITOKA.- I would need to take further advice also on this matter because if it is an interpretation of the Standing Orders, it needs to be referred back to the Speaker but can I just ask, (I am putting it hypothetically): would it be remedied if the Deputy Speaker was absent, that the Committee itself could appoint a Deputy Chair from within the membership, because the membership is nominated by the Prime Minister and the Leader of the Opposition, which is the five Members on either side of the Chair?

HON. N. NAWAIKULA.- ... in fact what we are trying to do here is we are implying that “this implies this”, if it was contained in the Standing Order 118, we would have entirely agree with that.

HON. S.D. KARAVAKI.- A contentious issue here, Mr. Ditoka. When it is not expressed, and there is no clear provision even if we can find it in the Interpretation Act or anywhere we can imply or whether we can probably be authorised to apply another process, but to me the way I look at it here, this is the only way in this situation if there is no Chair, if the Deputy Speaker cannot, in this particular matter, come and take the Chair of this, because he is specifically provided and there is no Deputy also in there, I think this must be looked at and it needs an amendment to this in order to provide for this kind of unusual situation.

HON. A. SUDHAKAR.- What I want to submit, Honourable Rika, is that if one reads the entire Standing Orders, the Standing Committees have rules spelt out because they sit almost every day of the week. The Select Committees, as I said, namely the Business Committee, House Committee, Privileges Committee and the Standing Orders Committee; they are kind of *ad hoc* Committees which sit not on regular basis but as and when the need arises. That is why in that Section of 123, there was reference to Standing Orders 118, 124, 126, 127 and 128, and there is a general clause of “otherwise the Select Committee may determine its own procedures.”

In the event there is no Deputy Chair, because this Committee is also a newly considered Committee as provided in Standing Order 127 that five Members appointed by the Speaker in consultation with the Prime Minister and the Leader of the Opposition, three Members on this side have not been part of the previous Privileges Committees. So, it is a new constitution itself and I believe the Honourable Nawaikula was also not part of it before so it is a new Committee. Essentially when a new Committee is there, that is what we applied in the Public Accounts Committee as well.

Among the Members by a majority, we appoint a Chair to preside over matters. This is one of those things, and I reiterate Standing Order 123(8); “otherwise the Select Committee makes its own procedures”. That is why I am saying, it is a newly constituted Committee. Even if there had been a Deputy Chair, he probably would have been not here because apart from one Member – Honourable Karavaki, I think everyone is new. So, I submit that we select a Chairperson from amongst ourselves.

HON. N. NAWAIKULA.- I appreciate that, we have the benefit of counsel. I am a lawyer, you are a lawyer, and it is here at our disposal. We only need to look that side, and that is not the only point. There are other points, I am sure you have copies too there which are also preliminary. The first point is that, the Leader of the Opposition said, 'this matter has been dealt with,' so that is also a preliminary point.

The other preliminary point is that, there was already a ruling that, to bring in a matter of privilege that it must be brought in immediately, and "immediately" has been defined as the next two or three days. So, those things are preliminary and we have the benefit of counsel that has been availed to us, we just ask him. "Look at this", if it takes him five minutes or one minute, we are happy so it means that from here on, we are in order.

ACTING CHAIRMAN.- Thank you, Honourable Members. Mr. Ditoka, will it be possible to adjourn and you get that information as we wait for you.

HON. A. SUDHAKAR.- We stand down for ten minutes?

MR. J. DITOKA.- Yes.

HON. S.D. KARAVAKI.- If you see in the paper that is before us, the summary of complaint, if you look at Paragraph 4 of that complaint, do you have it, Mr. Ditoka?

MR. J. DITOKA.- Yes.

HON. S.D. KARAVAKI.- I think they are numerically numbered in there – No. 4, Page 3, this is what it says:

"The complaint asserted that the matter had not been decisively dealt with at the time when Hon. Tikoca made the statement and when a Point of Order was raised by the Government Whip. It further asserts a caution by the Hon. Speaker to Hon. Tikoca to all Honourable Members on Wednesday, 6 July 2016 and a warning letter to Hon. Tikoca failed to properly address the seriousness of the breach of privilege."

Our contention here, Mr. Chair, that the issues that we are about to deliberate here in respect of Honourable Tikoca has already been decided on and a letter was written to Mr. Tikoca in that respect. The complaint seems to be directed at the Speaker and the Deputy Speaker for not handling the matter properly according to the expectation of the complainant. That is another issue that we are raising here, whether the matter being referred to here is proper to be referred to here now, when the matter according to our understanding was already dealt with by the Speaker and the complaint is only about the handling and the decision that was made by the Speaker and the Deputy Speaker.

That is another issue, whether we are now coming to look at it now is proper or whether the Speaker will continue just to say, "What I have decided is what I have decided." We have always be reminded in the House about that, "After I have made a decision, it is final," whether that still stands or it can be overridden by such circumstances like this, by complaining about the handling of the matter and not according to the expectation of the complainant, now it is being referred to here by the Speaker herself, whether that is proper or that is something that the Speaker herself will have to decide on and it should not be brought in this way again for the process of the Privilege Committee. Do you understand what I am talking about, Mr. Ditoka?

MR. J. DITOKA.-Yes, Sir.

HON. J. USAMATE.- Mr. Chair, I think we are getting ahead of ourselves. The first thing that we are trying to concentrate on now, to see whether the number of people sitting here essentially constitute the Privileges Committee. We need to sort out that issue before we sort out other kinds of issues because obviously, we have a differing opinion on the opinion being expressed by the Honourable Karavaki. We are getting ahead of ourselves by talking about those issues. The fact that the Speaker has referred this matter to this Committee is obviously showing the Speaker's intent and how she is interpreting this matter, so rather than go to those questions, we need to get back to the issue.

I am prepared to go ahead with the explanation that has been given by the Honourable Sudhakar but if we need another opinion, we can get that opinion discussed. Rather than going to these points that have been addressed by Honourable Karavaki, we need to go to the issues one at a time.

HON. N. NAWAIKULA.- Did you say something about the membership?

HON. J. USAMATE.- We are trying to establish whether we constitute the Privileges Committee as we are now, I mean, we should sort that issue out. I am prepared to go ahead with the explanations that was done by the Honourable Sudhakar but obviously that is something that you would like some clarification on.

HON. N. NAWAIKULA.- And it is also a preliminary point, firstly, are we properly constituted? Can we pick our own Chairman? Secondly, because the letter is already there, has the matter been decided on already? Thirdly, what about the three days immediately? So, those are preliminary points, if you can just look into those because it is there already with her.

HON. A. SUDHAKAR.- Just a clarification, what was the three days that you are referring to?

HON. N. NAWAIKULA.- I am not sure whether you have copies?

This is a copy of the letter that was written after we were constituted and he raised this, it is really a preliminary point.

HON. A. SUDHAKAR.- There are two things to that, I mean, the incident occurred on 5<sup>th</sup> July and on the 6<sup>th</sup> of July, the complainant had written to the Speaker a day later, raising the point of privilege.

HON. N. NAWAIKULA.- Maybe, the answer is "yes".

HON. A. SUDHAKAR.- On that basis, if you may refer to Standing Order 134, raising matters of Privilege, it says that when a Member raises a point of privilege, the Speaker has the three options:

- (1) That there has been a *prima facie* breach of privilege in which case, the matter must be referred to the Privileges Committee;
- (2) That there is a breach of privilege, in which case that there be a motion and will be debated; and
- (3) That there have been no breach of privilege in which case [in this case, the Member must resume his seat – that is 134, sub-order (2)].

What the complainant has raised with the Speaker is that, it is not about whether she dealt with the matter or whether she actually dealt with the matter at all, but it is that those three matters were not exercised.

HON. N. NAWAIKULA.- So, when was the complaint made?

HON. A. SUDHAKAR.- The complaint was made on the 6<sup>th</sup> of July. There was a letter to the Speaker.

MR. J. DITOKA.- We can get a written confirmation.

HON. N. NAWAIKULA.- Five minutes or ten minutes?

HON. A. SUDHAKAR.- What Honourable Usamate was saying was that, in fact that can only be brought up or you are raising it as a preliminary issue.

HON. N. NAWAIKULA.- Yes, preliminary, because if it says, "No, it has already been dealt with then we are funtus."

HON. A. SUDHAKAR.- Alright, but then the issue is whether it is constituted, you are saying that that matter has to be decided by the Speaker?

HON. N. NAWAIKULA.- Yes, we just want him to resolve that, to get an opinion.

HON. J. USAMATE.- If the Speaker has already referred the matter here, can that be inferred that it is required that we should deal with the issue?

HON. N. NAWAIKULA.- Well, she can say; "I am happy", it is just a one line from the Speaker, but it comes through a legal opinion.

HON. S.D. KARAVAKI.- If she has referred it over here, we are raising the issue now. May be she did not consider the issue before she referred the matter over here.

Now we are raising it and we are asking her to direct her attention to this issue...

HON. N. NAWAIKULA.- It will take her five minutes.

HON. S.D. KARAVAKI.- ... and also Honourable Chair, if Mr. Ditoka will obviously look at that. I mean, Section 118 of the Standing Order is really basically dealing with quorum and voting at meetings. That is the way it applies, we are not dealing with quorum and votings here at the moment. That is only when it applies to Select Committee. Thank you, Mr. Chair.

HON. CDR. S.T. KOROILAVESAU.- Mr. Chair, I think we should deal with one matter at a time. Let us confirm that this Committee is legally constituted, let Mr. Ditoka go and get that, and we can resolve all that when the Committee is being confirmed and is legally constituted.

HON. A. SUDHAKAR.- One final suggestion on that point, Honourable Rika is that, if one looks at Standing Order 2 – Interpreting the Standing Orders:

- “(1) The Speaker or other person presiding is responsible for ruling whenever any question arises as to the interpretation or application of a Standing Order and for deciding cases not otherwise provided for.
- (2) In doing so, the Speaker or other person presiding must be guided by-
  - (a) the Constitution;
  - (b) previous Speakers’ rulings; and
  - (c) established practices of legislative bodies in other jurisdictions that are similar in nature to Parliament.”

If the Speaker is mandated to interpret that Section for us, there is a submission made by the Honourable Nawaikula, there is a submission made by myself, so if there is any interpretation, the Speaker is probably the right body to decide on that.

ACTING CHAIRMAN.- So we will adjourn for ten minutes, Mr. Ditoka, we will wait for you.  
*Vinaka.*

The Committee adjourned at 4.45 p.m.

The Committee resumed at 5.13 p.m.

(Mr. Chairman resumed his seat as Chairperson)

MR CHAIRMAN.- Thank you, Honourable Members, I believe you have not started so we will just continue from where we left off. I will now like to hear suggestions from the two parties in regards to whatever is here before us this afternoon.

HON. N. NAWAIKULA.- The Speaker made a ruling ...

MR. CHAIRMAN.- Thank you, Honourable Member.

HON. N. NAWAIKULA.- You better understand all that because the Speaker made the ruling – once it is inside the House, she cannot ....

HON. A. SUDHAKAR.- Just to brief you, Mr. Chairman, on what has transpired so far, one is that, we had raised an issue of the Chair and that has not been sorted out because the Chair has been replaced and as provided by the Standing Orders, you are now in, and that takes care of the first issue.

However, there were two other preliminary issues that were raised by the Opposition Members. Those were regarding the ruling of the Speaker before and we had pointed out to Standing Order 134 – Raising Matters of Privileges. We had suggested that it is really the complainant's complaint that the matter was not dealt with in accordance with Standing Order 134 (2) where the Speaker should have either referred it to this Committee, which she has done now or allowed the complainant to raise it by motion or held that there was no breach, so in fact, she held that there was some *prima facie* breach but the Honourable Speaker had not referred it to the Committee, which has been done. So, we maintained our stance that the matter has now come to the Privileges Committee and the Privileges Committee then deal with it in line with the practice, the precedence that has been established and, of course, considering the gravity of the offence.

The parts of the *Hansard* and the complainant's letters, have those been made available to the Opposition Members, Mr. Ditoka, the 6<sup>th</sup> July letter? There was an issue, the second preliminary point raised by Honourable Nawaikula, the complaint was late or was not done immediately.

MR. J. DITOKA.- I can confirm for the record, and I think the Honourable Speaker also received correspondence from the Leader of the Opposition requesting a written confirmation. For the purposes of this meeting, I can confirm for the record that the initial complaint was received on the 6<sup>th</sup> of July.

HON. A. SUDHAKAR.- So there were two preliminary issues and that is where we stand, we are saying that the complaint was raised immediately, the matter of privilege was raised immediately as required so that preliminary point does not hold much.

HON. N. NAWAIKULA.- So that was the complaint by who?

MR. J. DITOKA.- The same complaint by the Honourable Prime Minister.

HON. A. SUDHAKAR.- The second issue of whether the matter has been dealt with, our position is that the matter was not dealt with because it was not dealt with in accordance with Standing Order 134(2). That is why we are here today as the Privileges Committee to deal with it.



HON. N. NAWAIKULA.- I accept that, but we have a letter dated 9<sup>th</sup> August. I think you are all familiar with that. We just want clarification. Can I read it out?

MR. CHAIRMAN.- Yes, go ahead.

HON. N. NAWAIKULA.- This letter is directed to Ratu Isoa and it is from the Speaker, it is dated 9<sup>th</sup> August, so after that. Having received the complaint and everything, it says:

“I refer to my ruling on Wednesday, 6<sup>th</sup> July, 2016 whereby I had provided some guidance and caution to all Honourable Members with respect to a Point of Order raised by the Government Whip on Tuesday, 5<sup>th</sup> July, 2016, in relation to the statements made by yourself that raises animosity between different ethnic groups”

(So obviously, that same one)

“Whilst the matter has been dealt with at the time by the Honourable Deputy Speaker, at this point I wish to reiterate with emphasis that when responding to debates in the House, Honourable Members are indeed urged to focus their responses to the substance of the debate and relate to the contributions on the issues at hand.”

Our question is; has the matter been dealt with?

MR. J. DITOKA.- It was not a ruling pursuant to Standing Order 134 because (I am just stating for the record) that was the initial complaint and then there was correspondences between the Office of the Speaker and the complainant. Then the secondary complaint which was she reported to the House yesterday.

HON. N. NAWAIKULA.- The secondary complaint?

MR. J. DITOKA.- Not secondary, but the second letter in relation to the same complaint.

HON. N. NAWAIKULA.- The second letter – which letter are you referring to?

MR. J. DITOKA.- That is for the complaint that is referred to in the summary.

HON. N. NAWAIKULA.- This one here (indicating)?

MR. J. DITOKA.- Yes, which lays out the substance of the complaint that has been referred to the Committee on the 26<sup>th</sup>.

HON. S.D. KARAVAKI.- Mr. Chair, just in addition to that, I think you were familiar with this matter and with the letter raised by Honourable Nawaikula, I am just wondering about the finality of the decision of the Speaker. When the Speaker has made a decision, it is final. If that is the case that according to that letter that the matter was resolved, the decision was made and the warning was given in writing to Honourable Ratu Tikoca, would that be a decision which was already made and therefore this Committee should not be deliberating on this issue again? Because according to that letter, even also a letter of warning in writing was given to him. In my view, the decision was already made in this matter.

Thank you, Honourable Chair.

HON. A. SUDHAKAR.- Honourable Chair, just on that point raised by Honourable Karavaki, if you noticed that on the 23<sup>rd</sup> of August, 2016, there was a letter written by the Speaker responding to the complainant, regarding what actions she has taken. Thereafter, on 26<sup>th</sup> of September, the complainant again wrote to the Speaker and based on that, the Speaker this morning in her communications, I believe. She mentioned that she is referring the matter to the Privileges Committee, so I think the action of the Speaker this morning will supersede everything that has taken before this because had the Honourable Speaker had any doubts about the matter on whether the issue has been dealt with, she would have taken that into account but this morning she has said that a matter of privilege has been raised and she will refer it to the Privileges Committee.

My submission is that, the matters before this – these letters and whether the matter has been dealt with, have been superseded by her own ruling of referring it. If there was any doubts in her mind, she would have said this morning that the matter has been dealt with and we do not need to deal with it further.

HON. S.D. KARAVAKI.- Probably, Honourable Chair, the way we can probably deal with this issue is really to get another decision from the Speaker. Regarding the matter that we are raising, we are raising whether her decision that she had already made and the matter that you already dealt with also, Honourable Chair, in the House on that day, whether that is final. We are raising it now to ask whether she should make or give a decision to say, “Yes, I know that, but I am referring”. Otherwise, if she has not paid attention to that, then probably we ask her to direct her attention to it.

MR. CHAIRMAN.- Can we have a clarification on that?

MR. J. DITOKA.- Yes, I can clarify for the Honourable Members that I just received instructions. You would have noted the entrance of the Deputy Secretary-General and she confirmed receipt of the letter from the Honourable Leader of the Opposition asserting that it had already been dealt with and the Speaker has given instructions. She will be responding tonight and she is clarifying for the Committee that she is aware of the earlier correspondences but after receiving the complaint and after considering the matter, she has decided to refer it anyway, because she had not made a ruling pursuant to Standing Order 134.

If the matter had been raised through Standing Order 134 in the House and had been dealt with, it requires her to make a ruling on it, either Standing Order 134(2)(a), (b) or (c). She did not make any ruling in relation to this complaint. If she had made a ruling either a *prima facie* referral or the fact that there was a breach and allowing a motion to be moved or there had not been a breach, then that would have been the end of the matter, and the only way to appeal would have been by way of substantive motion, but there was no ruling on that. What she did yesterday was refer the entire complaint to the Privileges Committee pursuant to Standing Order 127(1)(c).

HON. A. SUDHAKAR.- Honourable Chair, I think that extinguishes the matter. It has been referred to us by the Speaker, it supersedes all other matters and she had not dealt it with under Standing Order 134(2)(a), (b) and (c) and that is primarily what we have been suggesting that now this Committee is properly convened now with the direction of the Speaker to deal with that issue under Standing Order 134(2)(a), (b) and (c).

HON. N. NAWAIKULA.- Now, it is clear to me that when the matter was addressed on that day, the complainant was not happy. So the complainant had gone back to the Speaker, and now, the Speaker had decided to hand it to us. However, looking at this letter here on the 9<sup>th</sup> of August, she was referring to a ruling. Can we just be ventilated what that ruling said, the ruling that was made on 6<sup>th</sup> of July?

MR. J. DITOKA.- That was a general caution to all Members about the manner in ....

HON. N. NAWAIKULA.- So, when she said “ruling”, she did not mean “ruling”, she meant “caution”.

MR. J. DITOKA.- It was a caution.

HON. N. NAWAIKULA.- Can we have a copy of that?

MR. J. DITOKA.- It is in the *Hansard*, I suppose.

HON. A. SUDHAKAR.- My recall of that is that, that morning she gave a general warning to all of us. She did not actually deal with that matter specifically but she gave a general warning to everyone to maintain decorum.

HON. N. NAWAIKULA.- Can you just read it and I look at it against this – 6<sup>th</sup> July, 2016, what is the caution or what did she say? Obviously, when a Point of Order is made, the outcome is a ruling.

HON. A. SUDHAKAR.- The ruling that she is referring to in the *Hansard* is 4<sup>th</sup> of July, that is an earlier ruling she is talking about, not that particular one. This *Hansard* I am reading from is Wednesday, 6<sup>th</sup> July, and she is referring to the proceedings of 5<sup>th</sup> of July on Page 1993, which says and I quote:

“When the Deputy Speaker was presiding yesterday, there was a Point of Order raised by the Government Whip in relation to some comments by Honourable Ratu I.D. Tikoca which was dealt with at the time.”

As I ruled on Monday, 4<sup>th</sup> July, 2016, and had indeed urged all Honourable Members, please, focus your responses to the substance of the debate and relate your contributions to the issue or in the Committee of Supply to the Head being debated. Thank you.”

So she did not make any ruling in respect of that particular incident. She referred to a previous ruling on the 4<sup>th</sup> of July that was a day before the alleged offence, so she was referring from other ruling, not that particular ruling.

This incident that is being complained of by the complainant happened on the 5<sup>th</sup> of July.

HON. N. NAWAIKULA.- So, what is she saying now?

MR. J. DITOKA.- She has referred the complaint to the Committee to deal with, as the case, the Committee will only inquire into and make recommendations. Any ultimate decision remains that of Parliament.

HON. A. SUDHAKAR.- Mr. Chairman, I suggest that we proceed with the task that has been given to us. Madam Speaker has clarified this, has she not?

HON. S.D. KARAVAKI.- Mr. Chairman, I need some guidance. Reading the material before us, I can see the only matter that is being referred to this Committee is the grievance by the complainant against the Speaker and Deputy Speaker for the manner they handled the issue of privilege. That is the only matter I can see that the Speaker is being referring to us. That is another preliminary issue. It is complaining about the Speaker and the Deputy Speaker in the way they handled that. If that is so, whether

we can do that because to me, that would be left to the Speaker to make a decision on that, and that would be final.

We cannot do anything with that because we cannot come here and review a privilege matter or privilege issue against the Speaker and the Deputy Speaker on the basis of the decision they have made. That was an issue bothering my mind because if we look at this Honourable Chair, we are talking about the matter of privilege against Honourable Ratu Tikoca, although we have been told that there was no decision made by Madam Speaker, but the materials seem to suggest that the complaint was about the manner in which the decision was made against Honourable Ratu Tikoca.

Thank you, Honourable Chair.

HON. J. USAMATE.- Mr. Chairman, I think the issue is quite clear. It is that the decision has not been taken by the Speaker yet, as has been quoted by the Honourable Sudhakar on Standing Order 134 on those issues, it has been referred to the Committee for us to discuss it and to come up with some recommendations, so I think that is quite clear to my mind.

HON. CDR S.T. KOROILAVESAU.- I am looking at the summary of complaint that was given out as 1,2,3 with the details of the complaint. That is the main issue that we are dealing with, as I understand - the summary of complaint and that is what is before us, as far as I understand.

HON. N. NAWAIKULA.- This is in relation to your position, Mr. Chairman. Previously, you have recused yourself, and the solution that we were looking at, you are not coming back but maybe a motion moved in the House to properly look into that because obviously it has a conflict of interest.

MR. J. DITOKA.- The Honourable Deputy Speaker was informed because just before we requested his return, the Members had indicated that it would be acceptable for him to preside as a non-voting Member.

HON. N. NAWAIKULA.- It may be alright but it does not remove the conflict of interest because the solution that we were looking at was, an amendment to the Standing Orders by a motion.

HON. A. SUDHAKAR.- I just want to clarify for the Honourable Member's benefit, the Deputy Speaker did not raise any issue of conflict before he chose to recuse himself. He basically just did it for clarity because he was presiding on the day, there was no conflict of interest raised at all that he should not be presiding, he just took a prudent measure. But now, after the discussion, if the Honourable Karavaki was here, he would not have any objections to him presiding on this particular case.

HON. CDR. S.T. KOROILAVESAU.- Additionally, I think we had agreed that we invite the Deputy Speaker to come and chair and that is the mutual agreement that we have made.

MR. CHAIRMAN.- Thank you, since that was a mutual agreement, we will go ahead with whatever is in front of us. I would beg Honourable Members to please, have a good look at it and then do your submissions.

HON. N. NAWAIKULA.- No, we do not know where this will end up. We retract that, could it be noted that we disagree with you coming here because of that. We do not want it noted that we agree with that.

HON. J. USAMATE.- But we had the discussion here, we heard it with our ears. I think it will be found in the Minutes and in the *Hansard* that that was recorded.

HON. S.D. KARAVAKI.- I think, Mr. Chairman, in a matter of law, I think Honourable Nawaikula is reading that. I was raising that issue, having my confidence in you but in matters of law, that is why Honourable Nawaikula is raising that one. I know that you would not be in a position to feel otherwise or probably the very basis of your concern, I know that you can still be impartial and I have my confidence in you, that is why I do not have any problems with you, Honourable Deputy Speaker, for coming in. But Honourable Nawaikula is raising a point of law here that he is entitled to, to raise the point of law here.

MR. CHAIRMAN.- Thank you, Honourable Members, I will put it to the floor because I was on my way home and I was approached again to come in. So, to me, that is actually what I have heard just now that you have agreed for me to come back, so I will put it on the floor.

HON. A. SUDHAKAR.- If that could be noted that with the exception of Honourable Nawaikula, everyone else agreed and have confidence in you in presiding over this matter.

HON. J. USAMATE.- I endorse, Mr. Chairman, what the Honourable Sudhakar has said.

MR. CHAIRMAN.- Honourable Koroilavesau?

HON. CDR. S.T. KOROILAVESAU.- I concur.

MR. CHAIRMAN.- So, I am sorry, Honourable Karavaki and Honourable Nawaikula, we will still have to proceed with this.

HON. A. SUDHAKAR.- Mr. Chair, what procedure do you wish to adopt, that we raise the complaint?

MR. CHAIRMAN.- Yes, the actual complaint is right there in front of you, so we have to deliberate on this.

HON. A. SUDHAKAR.- Yes, if I may, with your permission, I will probably speak first on this. I mean, I was the one who raised this point of order in the Parliament Chambers. I had raised that point of order based on Standing Order 62 – Prohibited References and Standing Order 62(4) is quite to the point in this matter and it says that:

“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.”

From the summary of complaint and from the complainant's correspondence with the Speaker, it is evident that there were some words spoken by Honourable Ratu Isoa Tikoca that do not gel well with the expected practice. If one reads Standing Order 62(4)(d) that I have just read, then there were words spoken on that particular day that do have the potential to cause ill-will and hostility between different ethnic groups and communities.

If I may refer to the exact words from that part of *Hansard* that was quoted, Honourable Ratu Isoa Tikoca mentioned things like; appointment used in Arab countries, Islamic state of Afghanistan in terms of referring to the Minister of Economy, and that he named certain individuals that are holding positions in Government, like Mr. Abdul Khan, Mr. Faiyas Khan, Mr. Iqbal Jannif, again Mr. Faiyaz Khan, Riaz Sayed-Khaiyum, Xavier Khan, Shaheen Ali and one Feroz Amagazny a Pakistani deserter and Mr. Nisar Ali. He was mentioning these names and it is apparent that the class of persons he was mentioning to the community is the Muslim community or people who are following the Islamic faith.

In the same part of the *Hansard*, he went further to say, if I may read:

"The recent bickering in Parliament has drawn concerns from Fijians and negative feelings against certain elite groups in Fiji."

The complainant's view is that the elite group here is again referring to Muslims and those people who follow the Islamic faith.

"In Fiji, being the minority group however, assuming critical chairmanship and CEO leadership positions in Fiji, Honourable Speaker, there appears to be rampant cronyism of the economy. Fiji faces the biggest threat since Independence. We have never faced such threats before in our history. Our civilisation, lifestyle and culture is under threat. The nation is under threat.

Mr. Deputy Speaker, the sunset clause is fully operational.

Honourable Deputy Speaker, I am concerned about this important issue, it is not a laughing matter. Government needs to address immediately as Fijians are disgusted about this. The concentration of economic power seems to be with the few elite. There is animosity growing within our various Fijian groups questioning why this elite group is being advanced over others. The fury with the stigma of one man leading the nation with his kind. People of Fiji have started to build misconception about others within this group but have failed to identify that this is only one man that we need to isolate as a real dictator."

At that in point in time I raised the point of order because I took the words, "stigma of one man leading the nation with his kind" as something that contradicts Standing Order 62(4) and reading the entire piece which mentions Islamic states, Islamic countries, mentioning of specific names of people following Islamic faith and then again mentioning "with his own kind", is actually something that has the potential and would like to promote ill- feelings. It was, in fact, Honourable Ratu Isoa Tikoca's own words has created ill-will because he mentioned here that it is a growing concern within various Fijian groups questioning why. So, it is not only likely but it has already in his own words created ill-feelings. My concern, Mr. Chairman, is that Fiji has seen a lot of problems over the years.

In 1977, there was a concern by the late Honourable Sakeasi Butadroka of words like "kill the Indians", or "repatriate them". Then in 1977, faction of Hindu Muslims. In 1987 again, 2000 again between the *iTaukei* and the ethnic Indian community. This is what we are trying to avoid and then the

new parliamentary democracy that we have since 2014, we have moved away from that. Even with our party's composition you have seen, it involves everyone - all races, all ethnicity everyone is there. So, we have lived by a principle of not segregating or not creating ill-feeling between different communities by bringing everyone together and if this kind of comments that, in my view, and I think the view of any right Fijian individual, it is not appropriate and it is not only inappropriate, it should be dealt with in a way that sends the right signals to the people that you do not condone words that will create ill-feelings and hostilities between communities.

I stand by my objection when I raised a point of order, Standing Order 62(4)(d) and even Standing Order 62(1); "When speaking a member must not impute improper motives to any other member". This whole part of the *Hansard* is full of improper motives, therefore from my part, I suggest that there should be some strict sanctions against the Honourable Member. It will be deterrent measure in line with previous precedents as you are empowered under the Standing Orders to rely on precedents set up in this jurisdiction to deal with such matters.

HON. J. USAMATE.- Mr. Chair, I concur with the sentiments expressed by the Honourable Sudhakar. We know that every Member of Parliament speaks for the people whom they represent. They have the freedom of speech to debate in Parliament, to come up with the issues that they need to talk about but I think as has been expressed by His Excellency the President, we always need to think of the big picture first.

As leaders in the House, we need to take cognisance of the things that have broken us up in the past and these are the things that you find that are in the Standing Order 64(2) that he is talking about here. If we look at the way the comments had been made, they are attacking a particular group. It can be sort of almost like inciting people to think about a particular group in our society in a particular way. That is something that we, as a Parliament, that we as people who put the best interest of our country first and foremost, is something we must fight against. If these sentiments are being expressed in Parliament, it is things that will be taken up by the community as a whole.

All over the world, some of the worst things that happen in life start by leaders making statements like this. You can go around, whether you talk about persecution in other countries, whether it is religious or ethnic, it starts by leaders saying things that others keep on saying, and then it begins to infiltrate the minds of people. It affects their values, attitudes, the way they see things and people start doing things out of their own volition to express their feelings and this is what we must guard against. I think this is an issue that outside of the House, we believe that it is very very important and it is fundamental. We have been talking about the strong democracy in this country, this value of making sure that there is no divisiveness is something we must constantly fight for. That is why this is a very, very important matter.

If we look at the words that have been expressed, you will see that it is almost designed to provoke feelings of anti-Muslim or anti-Islam, it is designed almost to create that. Some of the examples that were used in the Honourable Tikoca's statements about countries that have a Ministry of Economy, it is selectively selected countries which are from the Islam or Muslim nations, even though they are a lot of other countries that have the Ministry of Economy. So, it was very, very selective the way that it was being targeted and it was targeted primarily at a group of people.

When he was describing people who are CEOs, he was just calling on names of people from one religious organisation, one religious grouping. When I see it, it is provoking, it is almost inciting and this is something that we, as a country, need to guard against it. I regard it as something that is very critical for the honour of the House to be able to make sure that these kinds of statements of inciting people do not happen. I regard it as something that is very, very serious because talking about ventilating this type of sentiments in Parliament and people are listening to it can create ripples and waves of things that can

destroy this nation. As leaders within Parliament, we must guard against it, we must make sure that it does not happen. This kind of sentiments can lead to the destruction of democracy and the destruction of our country and it is something we must not allow to happen. That is why we regard this as a very, very serious case of privilege.

Thank you, Mr. Chairman.

MR. CHAIRMAN.- Any other comments from the Committee?

HON. N. NAWAIKULA.- Firstly, I understand that so before we take the first step we must agree that this comes within Standing Order 62(4)(d). We must all agree that this connection of phrases amount to words that are likely to promote or provoke feelings of ill-will and I think it is not enough for us here to say that that is it. For me, I need to refer it to some kind of interpretation or the legal opinion to say, "This amounts to that", so that we are safe and that according to how the laws have been interpreted, this kind of statement is one which comes within this rather than us here, who lay-persons are agreeing that this amounts to that.

My second point is, I go back to the Inter-Parliamentary Union, sure it does not have, but it has suggested that if there are suspicions of things being criminal, there are avenues. So, if this amounts to a "hate-speech" let us put it to the police and let the police investigate it and do the normal process which is far more fair than what we are doing here.

I would like to refer the content of this for interpretation so that they can come back and say, "Yes, according to how the law has been interpreted, this statement amounts to (4)" so that we can safely go on rather than us here agreeing as lay-people that this amounts to this.

HON. A. SUDHAKAR.- I would like to clarify on that point, Mr. Chair. We all know and it is common law and it is in fact ....

HON. N. NAWAIKULA.- No, where is the authority?

HON. A. SUDHAKAR.- No, there is absolute privilege. In fact, this document that has just been given to us, is absolute privilege that a person speaking in Parliament is immuned from civil and criminal proceedings.

HON. N. NAWAIKULA.- Yes, that is my third point. My third point is immunity. Once we start into this, we start to break down the immunity that is given to us – once we start making interpretations ourselves.

HON. A. SUDHAKAR.- That is from the outside law like if someone has spoken any words in Parliament that otherwise is spoken outside, would it affect civilian and criminal penalties?

If spoken in Parliament, that is outside the bounds of civil or criminal prosecution....

HON. N. NAWAIKULA.- (Inaudible)

HON. A. SUDHAKAR.- So there is no point in Honourable Nawaikula saying that we should have taken it to other avenues. We cannot take this, this thing cannot be taken to other avenues.

The Constitution provides that Parliament may make Standing Orders that regulates its own functions within Parliament and we are saying these are the Standing Orders, Parliament plays by its own



rules, in fact, courts are generally not likely to interfere with the Parliamentary decision because it is something that is for the Parliament itself to regulate its own procedure. So, that one point, I do not agree with that we could have taken other avenues of the “hate speech” outside, there is an absolute privilege on that. Therefore, the only recourse that we have is, bringing it back to the rules of the game in the Parliament which is the Standing Orders which is the Speaker’s Ruling which is referring to the Privileges Committee and then this is where it is.

HON. J. USAMATE.- On that issue, my reading of the comments, I am left with absolutely no doubt as to the intent and what it was trying to do, and that it is focussed on one community. It is focussed and pointing them out to others which if we, as a Parliament, do not put a stop to that, we could be destroying ourselves if we continue to do this. If we allow it, we must make a statement to say that people have the freedom of speech but it must not be to incite, our people are very excitable. The words that are being used here excite people and we, as a Parliament, must make sure that that does not happen because that has been our downfall in the past. It is the very thing that has hampered the growth and the development of this country. We must put a stop to it. People say, “yes” we can debate things but do not talk about things in general terms, do not point to specific communities and we must put a stop to this. We must make a very strong statement on this, Mr. Chairman.

HON. S.D. KARAVAKI.- Mr. Chair, can I just have a contribution, I would agree with Honourable Usamate if I heard it right he said; “the comments is almost inciting,” that is the word I heard. However, I am looking at it from another point of view because if we look at the contents of the comments, in fact, they are factual comments. They are facts. According to the reading that Honourable Sudhakar had also referred to that Honourable Tikoca was saying that it was inciting to the people. It is not what he was saying that is inciting, the facts that are already before the people are already inciting. The actual things that are going on as he was pointing to, are already inciting to the people and he was in fact just highlighting it in Parliament.

If we follow the argument from the other side, that it will come a time that we cannot state a statement of facts anymore, we cannot, because that is why anyone who raise any indigenous issue is being labelled as racist, and that is where we are heading. We must, as a Parliament, look at this and understand. If someone had overstepped it, I mean, there is a process to be followed. Alright, the first steps are also provided over here - in the matter that it can be dealt with in the House and the penalties are very clear over there – three days or how many hours first, then after that, then it goes to a serious measure of penalty. But only when it comes to the Committee then we go for two years but if the same matter was dealt with in the House, we only have how many hours or three days. That is where we are now.

Mr. Chairman, I am just expressing my point here that we know that we have those provisions over there, must not promote or provoke feelings of ill-will. We do not like anyone to do that because we do not want our country to go down that path again, but we must be careful to point out as well what is going on because that itself may provoke ill-will and feelings. That, in my view, is what he was doing over here, pointing it out. He was not doing it for himself, the fact that these people are there, people are already talking about it and he is highlighting it in the House.

That is my view, Mr. Chairman, and I think if we start doing this, then we will have a society that cannot address things by saying it straight anymore. Then we will just have to roll over each other in a very manner that no one would understand. It will escalate to a point where we cannot know how to address it anymore because we do not provide for avenues and expressions to be made. Really, we are doing that by doing it in the House ourselves, and that is my concern.

HON. CDR. S.T. KOROILAVESAU.- Mr. Chairman, I just wanted to highlight that I understand where Honourable Karavaki is coming from, in stating that these are facts, but the fact of the matter is that Honourable Tikoca just highlighted the various positions held as he had highlighted in Parliament - only the positions that are held by Muslims within Government and Government entities. However, if you compare it with other races, those whole positions then that becomes irrelevant. If you look at him highlighting the countries that have the name of "Ministry of Economy", he is only highlighting the Muslim countries but he did not state a fact that there are countries that also have that position as designated as "Ministry of Economy". The fact that Honourable Karavaki is stating that these are facts but facts must be stated in clarity and not only one side of the equation is highlighted to basically say, "Alright, this is what it is" but there must be a proportionate statement on it. If you only highlight one side, then you are not stating the whole truth.

On the other matter about the subject of Honourable Tikoca stating that we need to understand that the words were provoking, when Honourable Tikoca was asked about the issue, he then blamed the newspaper. He was referring to SODELPA versus FijiFirst but no names that are indicated in his speech is a member of the FijiFirst or SODELPA, so I just want to state that it is a fact before us.

HON. A. SUDHAKAR.- Mr. Chair, what I understand and what I heard from Honourable Karavaki's submission this afternoon, was that Honourable Ratu Isoa Tikoca was just making a statement of fact, and that he was basically highlighting the concerns that we had already raised by some other people, but he is in fact here. He is not saying anywhere that he has been told by people or his constituency or his area that people have this concern, he is saying that by mentioning and further goes onto say that "it is already causing a problem, people in Fiji have started to build misconception about others in the group", that is the last part.

He went on to say, "it is a *coup* within a *coup*", but what actually sticks out here is in the very last paragraph, "the fury with the stigma of one man leading the nation with his kind." Of course, when he mentioned "his kind" and in the whole context of things, he is obviously mentioning "his kind" to the Muslim population. That cannot be an issue of fact. Whilst he is mentioning some names here, those might be factual but those facts of the positions held in respective Government entities have led to this statement here, "that the fury with the stigma of one man leading the nation with his kind, people of Fiji have started to build misconception about others within this group but have failed to identify that it is only one man that we need to isolate as the real dictator."

He is saying about the "elite group", about "his kind" and about "this particular group" and all that is in reference to one particular religious group or ethnic group. That is what the issue is. While Mr Riyaz Khaiyum might be the Chair of Air Terminal Services, that is the fact, but to use that fact in line with other facts and has already highlighted by my other colleagues that there are other positions held by other religious group or ethnic group in Government entities. What Honourable Ratu Isoa Tikoca had used, for instance, other names and then justified themselves in the media that "I was referring to SODELPA versus FijiFirst", he could have mentioned some factual people in the FijiFirst Group and SODELPA Group, he did not do that. He mentioned a whole lot of people here of the Islamic faith, gone down and said "his kind". That is what has got the potential of creating and in fact, his own admission that it has already created the misconception. That is what our complaint is, that it is something that is quite demeaning to a particular religious group or ethnic group.

HON. J. USAMATE.- I think Parliament, as the legislative arm of Government is where we provide leadership, we cannot allow any promotion of hatred to people of different communities based on ethnicity or religion. We cannot do it, we must not do it. If this is happening in Parliament we must send a message loud and clear because this is for the future of our own country. We cannot allow any

promotion of hatred to any community, and that is what this statement is doing. If you read through it, that is what it does, it focuses its attention on one group, so that is my point I would like say, Mr. Chairman.

HON. N. NAWAIKULA.- Mr. Chair, I want to explore the possibility of some kind of settlement because I know once this goes to Parliament, you cannot change it and we have had two Honourable Members who have gone out and the totality of it does not look good. I want to hear first before we move forward on what the Government position is in relation to that so that we are clear, whether there is avenue there that we can explore or the Government will just want to have it its way?

MR. CHAIRMAN.- Mr. Ditoka can you comment on that, please?

HON. N. NAWAIKULA.- For the record, can I ask for that?

MR. CHAIRMAN.- Government Members?

HON. CDR. S.T. KOROILAVESAU.- Mr. Chair, I think before we even consider that, I think we should establish the fact – has there been a breach? I mean, he is already precluding the in the discussions that we are supposed to have, and we need to establish facts. Once we establish facts, then we can discuss that. He is already admitting that there is a breach by my own assumption in the way we are discussing it. You are already requesting us to consider.

HON. N. NAWAIKULA.- To be clear on that for the record, I have not said that but the way I am reading this and the interpretation from that side and against this side and we are going to vote along those lines. What more can I say? If I am going to ask around here, come mid-night it will come to the same thing.

HON. J. USAMATE.- Mr. Chairman, from our side, we believe there has been a definite breach, that is apparent from what we have talked about in terms of Standing Order 64. We believe as a matter of principle that anything that tries to break apart this country is something that is very, very serious and the statement that we, as Parliament, must make in terms of the decision we make here must show the severity of how we regard this. We cannot allow any teachings of breaking apart our country to keep on festering in Parliament. We must make a decisive statement. We must make a very strong ruling on this so that the people of this country and other leaders must know that they must not incite others to take action or generate this kind of feeling. That is the way I see this particular situation, Mr. Chairman.

HON. N. NAWAIKULA.- I do not see that there is a breach here. I think it is dangerous for us to make a decision on something as important as this, especially when it comes to the right and immunities of Parliamentarians to say whatever they want to say in Parliament. You should not curtail it and, therefore, I feel to be fair to everyone, this should have been referred. As it is, as a lay-person as I read this, I do not agree that it comes to that. It is too broad and because of the immunity that are given, even I feel that even taken to the Court, they will interpret it very very strictly because of that.

MR. CHAIRMAN.- Honourable Members, looking at the scenario itself, there is a breach. What we need to discuss in here after this, I open the floor to the two sides because the breach is there. We cannot take this one out of Parliament, we will have to make a decision today.

Going back through the other cases, Honourable Karavaki will know very well, most of the cases we have to go through up to midnight but I leave it to the Committee Members to talk about the penalties or whatever we are going to do in this case.

MR. J. DITOKA.- Honourable Chair, just so that we can record for the purposes of the record, has the Committee voted on the question of breach?

HON. N. NAWAIKULA.- For the record, can we just put that on vote because we want to go on record that we did not agree?

MR. CHAIRMAN.- Thank you. Let us put it on vote, because there is already the majority here.

MR. J. DITOKA.- I am just clarifying for the purposes of the Minutes, so I am recording the votes as 3 – that there is a breach, and 2 – that there is not a breach. Thank you.

So now that the Committee has decided that there has been a breach of privilege which is distinguished from a breach of the Standing Orders, the question then is, what sanctions is the Committee going to recommend to Parliament?

HON. A. SUDHAKAR.- Mr. Chairman, there are provisions in the Standing Orders that in making a determination, the Speaker or Deputy Speaker may look at precedents that have been previously set and the two cases have been heard by this Committee previously

The first case is in the case of Honourable Ratu Naiqama Lalabalavu where he had uttered words against one person, that is the Speaker of the House, and the sanction there was suspension for two years.

The second one was the case of Honourable Roko Tupou Draunidalo where the sanction was the suspension for the remainder of the term of Parliament but that was imputations against a Minister which he did not make and then Honourable Draunidalo compounded it by not withdrawing it and actually publishing and furthering it on the social media.

This, however, as Honourable Usamate has pointed out is a graver situation and this is something that is not between a person and a person. This is against communities that has got the potential of breaking apart a country that everyone of us present in this room has worked so hard to build. My suggestion would be, if you look at the precedents that have been established for offences that may have been a bit lesser in gravity, have quite extensive sentences meted out. So, my suggestion would be that, the sentence in this case should be in line with the two precedents that this Committee has previously set, if not, more severe.

MR CHAIRMAN.- That is what is coming from the Government side. From the Opposition side?

HON. N. NAWAIKULA.- I am asking us to look at this very seriously. Already, we do not look complete as a Parliament from our neighbours, from outside the world, so we must not say that we are isolated. We are part of the international community and we should be guided by the common values of the international community which we are member of and especially, I am referring to the Inter-Parliamentary Union.

The Inter-Parliamentary Union, although its decision is not binding, it has made it very very clear what its views are, accepting, “Yes, there can be breaches” but it is the punishment that they do not agree

with. Putting someone out of Parliament, when you come to Parliament, you are given all these immunities, you can say whatever you want, et cetera, in the end you are impinged again for that same thing. It was very clear in saying that in relation to the case of Ratu Naiqama that we have a human right to have to continue to represent our people and a sentence of two years is far far too much, considering those human rights so let us be guided by that.

HON. S.D. KARAVAKI.- Honourable Chair, while we are deliberating on the penalty over here, do we need to call the Honourable Tikoca to address this Committee? That is how people are always called before the court and they mitigate in the deliberations, determinations or what kind of penalty should be given out. I wonder whether we will consider that?

MR. CHAIRMAN.- Is the Honourable Tikoca ....

MR. J. DITOKA.- I believe he is anticipating being called.

MR. CHAIRMAN.- The procedure is, normally we have to call him. My apologies, I thought he was here already and had given his statement.

MR. J. DITOKA.- It is entirely up to the Committee but it is what has happened in both previous cases, both the complainant and the Member being accused of the breach were invited to make submissions.

MR. CHAIRMAN.- Honourable Members, looking at the previous cases that we have gone through, this is what has been happening. The complainant never want to show up or they did not show up at all. The good thing about them turning up, this is where they have to give their statements and then it is between the two parties to talk about what they are saying for the rest of them but then it is this forum that we have to decide the penalties.

HON. J. USAMATE.- Mr. Chairman, I think the complainant side, the letters and what is written there sets out everything that needs to be set out so there is no need for the complainant to be here, that is my point of view. I am not too sure about the other Members where you want Honourable Tikoca to come here?

MR. J. DITOKA.- Just to clarify, the complainant being the Honourable Prime Minister.

Does the Committee wish to call Honourable Tikoca? Do any of the Members want to ask him any questions?

HON. CDR. S.T. KOROILAVESAU.- I just feel that there is a dispute on the equation, it would be proper for him to explain himself but since the evidence is so strong, I feel that we are basically bringing him up here to face more questions on the obvious.

MR. CHAIRMAN.- Thank you, Honourable Nawaikula and Honourable Karavaki. Do you want to make other submissions because they have said whatever they ....

HON. N. NAWAIKULA.- Only the majority, what they say counts.

MR. CHAIRMAN.- I understand that what they say counts but this is the forum where you need to negotiate with them.

HON. S.D. KARAVAKI.- Mr. Chairman, I believe that even in the past two cases, the penalty was too harsh indeed. Now, the proposal by the Government to follow along that line, we are again going towards the same direction which we have been viewing as too harsh.

When we look at the Standing Orders from Standing Order 75 downwards to Standing Order 76 where it talks about disorderly behaviour in the House, when the Speaker has to deal with the situation right there and then, we have the kind of penalty that is provided over there.

Section 76(3)(a) starts with three days, then it goes on for seven days and then it goes on for 28 days. That is for grossly disorderly conduct in the House. Those are the kind of penalties provided in the Standing Orders and to me when I see that, that provides a guide for us, even when we sit in the Privilege Committee. What are the kind of penalties that we should be looking at? Because apart from that, there is no other but we should be using that as a guide.

I see now that we are going down that path, the path that I believe is wrong. Unfortunately, we are still waiting for the decision of the High Court in regards to that case because that should have aligned us already to understand what are the kind of penalties that should be rightfully given or recommended in this Committee. In my view, we should be looking at that kind of penalty that is provided under Section 76, Honourable Chair. I mean, the suspension is there also.

HON. N. NAWAIKULA.- Can we have a legal opinion on that, can they advise us? Given the situation now, what would be the appropriate penalty to give? This is not very clear because it will be dangerous for us to be meting out a punishment where there is nothing there. We are doing it in terms of numbers.

HON. A. SUDHAKAR.- Before we go to that legal opinion part, Mr. Chairman, if one looks at Standing Order 70 further down, all the way up to Standing Order 82, that is in fact regulating the conduct in-house by the Speaker. If something happens and the Speaker immediately makes a decision, Standing Order 75 basically says, "The Speaker may order any Member whose conduct is highly disorderly or repeatedly violates the Standing Orders to withdraw immediately from Parliament for a period of time that the Speaker decides, being no more than the remainder of that sitting day."

This is all in regards to the Speaker's powers of dealing with the matter on that particular day, even naming the Member and I have seen that in the Victorian Parliament when I was there. They named a Member and then they removed themselves from Parliament but the situation here is a bit different. It has been referred to the Speaker. The Speaker is not exercising her powers anymore. She has given it to the Privileges Committee and it is for the Committee to decide on this now.

HON. N. NAWAIKULA.- But it must come within the confines of this.

HON. S.D. KARAVAKI.- Yes.

HON. A. SUDHAKAR.- Not necessarily.

HON. N. NAWAIKULA.- He cannot give 20 years.

HON. A. SUDHAKAR.- That is maintenance of order within the House. The sub-title or sub-heading just before Standing Order 70 deals with in-house, and this is what our submission is. Even the Members seated, Members to stand as Speaker leaves the Chamber, point of order, disorderly conduct, this are all while the proceedings of Parliament is going on.

Here, something has been raised under Standing Order 134 after the proceedings had ended after a complaint by the complainant, the Honourable Prime Minister, and then it just goes through the proper channel and came down to the Committee. That is what we are saying. This guide here, Standing Orders 70 to 82 is maintaining decorum within the House of 28 days suspension maximum. The Committee's hands are not bound by Standing Order 76 here.

HON. N. NAWAIKULA.- Given the observation of the Inter-Parliamentary Union, I think it is only fair for everyone that we ask the Speaker, can we be guided by what kind of penalty we can give because it boils down to that?

MR. J. DITOKA.- I can confirm that on the first occasion the Privileges Committee sat, that the Speaker had commissioned an advice to the effect that Standing Orders 75 and 76 deal with conduct in the House, disorderly conduct and gross disorderly conduct. The Privileges Committee, when looking at sanctions was looking at the full range of sanctions. In fact, the full range of sanctions in Commonwealth Parliaments go beyond just suspension, there is also imprisonment and things that are drawn from the common law but which have not been imposed in a very long time. The full ambit of sanctions because ultimately it goes back to the constitutional provision that Parliament regulates its own conduct and again, I have to stress the point that this Committee is only making recommendations. It is not actually the Committee that is going to be imposing penalties but Parliament, after a motion is moved.

HON. N. NAWAIKULA.- So you are saying it is advisable to ask for opinion or not in relation to guideline?

MR. J. DITOKA.- It is really up to the Committee looking at how severe you feel the penalty is, acting within recognised penalties. In some countries, they have codified it. In our jurisdiction, it has not been done, so the Committee can look at precedents.

HON. N. NAWAIKULA.- Can we ask for precedents, please?

MR. J. DITOKA.- The two precedents that we have had from this Committee in terms of recommendations and sanctions are the two that were highlighted by Honourable Sudhakar.

HON. N. NAWAIKULA.- That's our own ones, the ones that we made?

MR. J. DITOKA.- Yes.

HON. N. NAWAIKULA.- Other jurisdictions?

MR. J. DITOKA.- This was prepared for the first Privileges Committee. The possible penalties can range from apology, suspensions, expulsions, fines and imprisonment. That is the broad penalties imposed that can be drawn from the Commonwealth but I should mention that imprisonment and fines are not things that have been exercised by modern Parliaments in the last 100 years or so. I think New Zealand did one fine against the private company and that was the first time in something like a 100 years, so there are some forms of punishment or sanctions that have fallen into disuse but suspensions are something that still do occur.

HON. N. NAWAIKULA.- Terms of Suspension?



MR. J. DITOKA.- Terms of Suspension varies, it can go from one day, two days, three days, up to a year or two years. This was something looked at by the first Privileges Committee inquiry into the case of the Honourable Ratu Naiqama Lalabalavu.

HON. J. USAMATE.- Mr. Chairman, I think the precedent has already been made, as Honourable Sudhakar has pointed out. I think in terms of the gravity of this particular issue because it is something that can have an impact on the future of our country which means, that sort of inciting people, to me, it is a very very grave issue. In terms of everything that has happened, it is probably right there at the top of the list.

If we are looking about precedents and what is happening in other Parliaments, we need to think about what is relevant to our country and our history. This issue of dividing communities within Fiji is something that led to our problems in the past. That means, it is a very important issue for us and in terms of the importance of the severity of the action needs to be taken, given our past, given all that had happened in the 1970s and 1980s, it is very important for us. So, the decision that we take on the action to be taken must be proportionate to the degree of this particular issue, so I think if we might get to all the different Parliaments but this particular issue getting communities to go against each other is very important for this country and the action taken must be proportionate.

HON. A. SUDHAKAR.- Mr. Chairman, I totally agree with what Honourable Usamate has just stated. Each country might have its own problems and history but Fiji has had a very checkered history in terms of race relations, ethnic group relations, communities.

While looking at the Standing Orders and Honourable Nawaikula's call of having precedents, I just came across (which I had already read earlier), Section 71(1) of the Constitution and this is supreme law, and I quote:

“Parliament may make Standing Orders and rules for the order and conduct of business and proceedings in Parliament and its committees and for the way in which its powers, privileges and immunities may be exercised and upheld.”

So this is the Constitution that provides for the Standing Orders and the Standing Orders are clear-cut on that. Parliament may regulate and by following that process under Standing Order 134, the Honourable Speaker has referred it to us. So, it is there that the decision should be made and the precedents, as I mentioned earlier, is there - the gravity of the offence does deserve a penalty that is even more severe than the two previous cases.

HON. S.D. KARAVAKI.- Mr. Chair, when we talk about deterrence, we seems to think that the longer we put someone away, the better it will be for others to learn from. We really do not understand how this works because when you think about those who are put away in prison, it would have been better for most of those to have been pardoned and be given other alternative sentence. When they go in there and when they come out, they are worse and we see the recidivism - people continue to return to go back.

I do not believe in that kind of reasoning because a person who is pardoned may have learnt their lesson better than the person that is incarcerated. Why I am saying this is because I raised these same reasoning before in the last two cases and now we have this case again. That is why I said, I only hope that the decision of the High Court was already out so that it can guide us in this matter rather than continue to bog down in this.



I still believe, Honourable Chair, that when we look at Standing Order 70 onwards, it talks about the misconduct and the grossly misconduct in the House but when the matter is not reported but raised up another day, then the Honourable Speaker or the Honourable Deputy Speaker cannot deal with it because it was done on the other day, so the normal process in that manner goes to the Privilege Committee, if the Madam Speaker finds that there is a breach of privilege. Those are the two different pathways.

Firstly, if this matter was raised there and then in the House it would have been dealt under this and then we would see the penalty – just one of these; three days, seven days, 28 days or even a suspension for a brief period. The only difference with this one here, because this matter was not raised in the House immediately when it occurred. Now, it came the other way to the Privileges Committee to look at it and when we come from here, we come for a recommendation for two years or more. It is totally inconsistent.

That is why I am saying, if we look at this, we do not come out with a reasoning because it can incite, it did not incite. We cannot read the minds of the people, over here we look at the other. When we go to court you have to ask to try to find the element. In my view, Mr. Chairman, to me the appropriate penalty, looking at a warning, three days or seven days or even 28 days of suspension, that is my view. I think we are blowing this thing out of proportion.

HON. N. NAWAIKULA.- Can I just go back to what I asked because I was not clear on that. I said before that I wanted to explore how this may not end up there, so what was the advice? Because I just want to be clear from that side that there is avenue for us to talk or there is no avenue, can I hear that?

MR. J. DITOKA.- In the Committee process, the Committee will adopt decisions by someone moving a particular view and voting on it.

HON. N. NAWAIKULA.- Can I just hear what Government's position in relation to that, do you want to kick him out or can we adopt something?

HON. A. SUDHAKAR.- Our position as I mentioned earlier not going in the roundabout way, we have two precedents here and our suggestion is that, the same sanctions that were levied in the Tupou Draunidalo case, that Honourable Ratu Isoa Tikoca be suspended for the rest of the Parliamentary term, that he not be allowed to enter the Parliamentary precincts, and he returns all Parliamentary equipment.

HON. N. NAWAIKULA.- I just want to ask that because the last time, 'Hey, if you come and say sorry we would have thought otherwise,' so I just want to be clear on that.

HON. A. SUDHAKAR.- There is another two or three other sentences in the Tupou Draunidalo's case, that is the precedent that we are submitting that this Committee applies and the prominent of them is that Ratu Isoa Tikoca be suspended from Parliament for the remainder of the term.

HON. CDR. S.T. KOROILAVESAU.- That does not only go for Honourable Tikoca, we would also abide with that if one of our Members carry out the same, we would not defend that.

HON. J. USAMATE.- Yes, Mr. Chair, I think Honourable Sudhakar has clarified the position. It is just the severity of this issue.

MR. CHAIRMAN.- Thank you very much Honourable Committee Members. Mr. Ditoka, do you want to say anything?

MR. J. DITOKA.- I need to clarify for the record, so that is the Government's position?

HON. N. NAWAIKULA.- For us, this is my view and also for the record. I think we should be guided by the international community and suspension for the remaining term is too harsh. It is totally laughable. I have gone around the world and I tell them what is happening here, and they laugh at us, "How can you send someone off for that whole period?" If he is found to be guilty, the appropriate term I felt relative to this would be an apology and a week of suspension, that would be suitable.

MR. J. DITOKA.- That was from the two sides and that it be recorded as it was done with Honourable Ratu Lalabalavu was that, when the Honourable Members were not able to find consensus, they just stated their two positions and it was left at that.

HON. MEMBER.- When can we have a draft?

MR. J. DITOKA.- I am just trying to put together a report and Members can endorse it. I am going to put it up on the screen, there is dinner there.

HON. N. NAWAIKULA.- Obviously, you have recorded what we have said?

MR. J. DITOKA.- The Committee has to endorse the split content as well.

When does the Committee want to report back?

HON. S.D. KARAVAKI.- When are we expected to report back?

MR. J. DITOKA.- The expectation is at the very latest before the end of the week, Friday.

HON. N. NAWAIKULA.- Just in relation to the contents, obviously, you will record what we said.

MR. CHAIRMAN.- Thank you, Honourable Committee Members. I take this opportunity once again to thank you for your deliberations and as Mr. Ditoka has mentioned, dinner is provided there and we will wait for them to put out a draft before us this evening. *Vinaka Vakalevu.*

The Committee adjourned at 6.42 p.m.

# **PARLIAMENTARY PRIVILEGES COMMITTEE**

*Verbatim Report of Meeting*

**HELD IN THE**

**COMMITTEE ROOM (WEST WING)**

**ON**

**WEDNESDAY, 28<sup>TH</sup> SEPTEMBER, 2016**

**VERBATIM REPORT OF THE MEETING OF THE PRIVILEGES COMMITTEE HELD IN THE COMMITTEE ROOM (WEST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON WEDNESDAY, 28<sup>TH</sup> SEPTEMBER, 2016 AT 5.16 P.M.**

**Present:**

Hon. Ruveni N. Nadalo, Deputy Speaker (Chairman)  
Hon. J. Usamate (Minister for Employment, Productivity & Industrial Relations - Member)  
Hon. CDR. S.T. Koroilavesau (Minister for Fisheries - Member)  
Hon. A. Sudhakar (Member)  
Hon. S.D. Karavaki (Member)  
Hon. N. Nawaikula (Member)

**In Attendance:**

Mr. Joeli Ditoka, Director, Legislative Process  
Ms. Salesni Prasad, Tables Office

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MR. CHAIRMAN.- Honourable Committee Members, welcome back. I thank you all for turning up at this meeting.

As per deliberation this morning, we are here to hear Honourable Ratu Isoa Tikoca's submission and we will hear his submissions, so if any Honourable Member would like to ask questions, we will wait after he has given his submissions. I will open the floor then. Will it be alright for us to call the Honourable Tikoca?

HON. N. NAWAIKULA.- I think, Mr. Chairman, it is important to know the purpose of why he is here because we have already made a decision. If he is here to mitigate on the recommendation that we have, that is alright, but if he is here to make a submission when we have already made a decision on this then we feel we cannot be impartial to that for fairness and you will understand and we will need to appeal on that.

HON. A. SUDHAKAR.- If I may just add to that, Mr. Chairman, in the morning, Honourable Karavaki pointed to us that he was not too happy with the Report and the conclusion. So my understanding was that we did not sign the Report on the basis that we will allow it to be revisited so there is no Report, there is no conclusion yet, that is my understanding.

HON. N. NAWAIKULA.- No, no, no!

HON. A. SUDHAKAR.- Yes.

HON. N. NAWAIKULA.- And the verbatim will speak for itself.

MR. CHAIRMAN.- Can we have a clarification on that, Mr. Ditoka?

HON. N. NAWAIKULA.- You cannot go away from the verbatim.

MR. J. DITOKA.- We put it back to the Committee as to what the intention is because whether the proceedings yesterday will be doing this *de novo* because procedurally the Committee will decide whether or not it needs to hear from witnesses.

HON. N. NAWAIKULA.- We did not, and my understanding is that, majority ruled that he breached. Then majority ruled the punishment, and that is a decision. And we noted the minority, so how can we now say that we have not made a decision?

MR. CHAIRMAN.- We have deliberated on the matter yesterday about the breach and the penalty, however, in all fairness to you, we would like to hear the views and submissions from the Honourable Ratu Isoa, in all fairness because this was brought up yesterday.

HON. N. NAWAIKULA.- Exactly!

HON. S.D. KARAVAKI.- Can I just add on to that, Honourable Deputy Speaker, yes, you are exactly right, we should have done that yesterday before we deliberate on our decision, but we have gone forward in deciding not to call him. I know that you were not here earlier on, Honourable Deputy Speaker. Probably, you assumed that that had already been done and that is why, Honourable Deputy Speaker, you came in and then we continued from there, thinking that that was already being done because it is always be the first thing to do before any deliberation on any decision or judgment is made. However, we went forward and deliberated on the decision and the majority and the minority views, and then we started preparing the Report.

We were coming this morning just to finalise the Report because we had already made the decision. We are, in fact, at the stage of finalising the Report. When I came this morning, we talked about it and I made some suggestion that the Director Legislature was looking into for the input so that we can all agree with the Report. In the process of doing that, now we are told to reconvene because we want to call the Honourable Ratu Isoa in to hear from him.

Procedurally, the danger in there that we have already made a decision and by hearing him, will that influence us to change our position? Mentally for any human being once you have made a decision, it is not very easy for you to change your decision because the decision is always the last thing to do. It is not, what should come first then you hear the people later, maybe some people always do that, you dish out the penalty and then you ask questions to find out what actually happened. That is exactly what we are doing here. We have already penalised him and then we say, "Okay, let's bring him in, let's hear him out" whether we will change our decision or not because now when we look at it, we have already been tainted. The only proper thing to do is for him to come in and mitigate because we have already made a decision. That is the only thing that we can do at this stage, for him just to come and mitigate and say, "I am sorry for what I have done" because that can influence the decision we are going to finally make.

Now, we have already passed the judgment on him and to us, if we look at ourselves, we are not appropriately allowed to remain as a Member of the Committee if we follow that, to bring him in and listen to him giving his part of the account of what he actually believed happened. Then we are going to hear to determine his mental status at that point in time, what he actually meant when he said that. Those are the things that we should have heard from him long ago but we did not do that and in our position, we think legally, we should recuse ourselves if we take that step to call him now and for him to give his account for the purpose of us finally arriving at our final determination of what decision should be made.

If that is going to be done, we believe that we should not be a part of this Committee any more. We are going to recuse ourselves to be part of this Committee, and we believe that the whole Committee should recuse themselves from it because of that. We are already tainted. The only appropriate way forward is for this Committee to be reconvened, reconstituted with new Members, and if we are to follow to give him the right or opportunity to be heard and comply with natural justice. As far as we are concerned we are already tainted (all of us) and we should not just hear him for the purpose of saying at

the end; "We already accorded to him the opportunity to be heard." Mr. Chair, that is the position that we are in right now.

It would be alright for us as we have decided to go ahead and make a decision and if he comes in, then he just do his mitigation because we already made the judgment. But if we listen to him and still remain, that we will not change other decision that we have made, it is just like what I am saying - you had already beaten up the child, when he has suffered so much then we asked the child, "What happened? Why did you do it?" This is exactly what we are doing here, Mr. Chair. Thank you.

HON. N. NAWAIKULA.- Can I go back, as I have said, the verbatim speaks for itself. If we go to page 21 there is a clarity there. I am just clarifying the purpose of the Minutes or the record of the votes here. The question was, was there a breach?

Before you make the decision we look at all the Summary Of Facts, we look at all the Charges , we call him to give his right - natural justice, then we make the decision, "Yes, he breached." But if you look at that, so I am recording the votes, that is, breach - you, not breach - us; it is clear. We cannot run away from that. We have made the decision. The formality was only to formalise what is already there, so that is where we are coming from and we put it on record.

MR. CHAIRMAN.- Thank you. The floor is open now.

HON. A. SUDHAKAR.-If I may add to that, Mr. Chair, I do respect the views of the two Senior Counsels who are also Members of Parliament on the other side.

Firstly, the contents of a report is not public until it is tabled in Parliament and we all know that. We have deliberated on the issue but the verbatim says that; "Yes, there were submissions by the Government side, there were submissions by the Opposition side." Until the contents of the Report is tabled in Parliament, that is when it ends.

In law, if you take a cue from the legal perspective, until an order is sealed a judge can still revisit his orders. Once it is sealed, then it is for the appellate court to revisit, that is the position in law. I am not saying this is a court of law but you have powers of the high court in terms of summoning witnesses, but if a cue is taken this Committee has deliberated, you as the Chair made decisions here but this matter, you are still seized of the matter, you are not functus.

Also, my learned friend have pointed out that if Honourable Ratu Isoa Tikoca does appear today he can only appear in mitigation. But if there is a case then even a sentence that was there, there is a recommendation by the Committee as you had ruled yesterday and that was part of the recommendations of the draft report. As I clearly recalled it was a draft report that was circulated to all of us. If that is the position that is taken, he will not even be able to mitigate because mitigation happens before the sentence. So taking the view of, if I may call it conviction and sentencing, this Committee does not sentence nor does it pass a judgment, it prepares a report, it pushes it to Parliament, and then there is a motion to pass the sentence. If there is a motion before Parliament and the motion gets defeated, none of the verbatim which are records of proceedings, go through, they fall flat.

What I am saying is that, the position that the Honourable Members on the other side are taking that the decision has been reached is outside of our powers to say that the decision has been reached. Until the motion is passed by Parliament and it is legitimised or legalised, the Committee is open to change its views and that is what we have done in other Committees as well, I mean, albeit this is a special Committee. Just a recent case of Emoluments Committee, there was a decision reached by the

Emoluments Committee and then they had another meeting and that Report was signed and tabled on Monday and the motion will moved tomorrow.

If the motion fails, then what happens to the contents? We cannot say that whatever was deliberated becomes actionable or the Parliamentary Finance team should take action on the verbatim. That is not our place, we have deliberated, we prepare a Report and we give it in. The Report was not signed, we came here in the morning to review the report and it was in draft form until this morning. Yesterday, it was circulated in a draft form.

In my submission, that is not the end of the matter. What if we complete it, we send it and still there is a change of circumstances in Parliament itself and voting is done differently. Then the verbatim do not mean anything until there is a consensus of Parliament on the Report. In applying the same position here, yesterday we did deliberate and this morning we agreed. Honourable Karavaki was here and he was suggesting that he is not in the position to sign on the Report because of some reservations he had on the Report. He did not agreed but we suggested that we will not sign it then, we will not complete the Report and we will hear the matter further.

Yesterday when we adjourned the matter, I do not see anywhere here which says that this matter is finished or taken care of. So, my submission in reply to the submission of the Honourable Members of the Opposition is that, you are not functus, which means you have not finished with the matter and you are still seize of the matter because as I said earlier, until the Report is signed, tabled in Parliament that is when the Committee's job is finished.

MR. CHAIRMAN.- Thank you. Any other Honourable Members who want to give comments?

HON. J. USAMATE.- Thank you, Mr. Chair. I am not a lawyer so I am not fully familiar with all the terms but I think the explanation given by Honourable Sudhakar sounds sensible to me. I think overall in your capacity as Chair, you have called us again together because we feel that it is something that we need to do and I think in your capacity, Mr. Chair, you have called this meeting, we have given an opportunity to the Honourable Tikoka to make a presentation and in your capacity, you feel that there is something that is essential as Members of the Committee, I am prepared to go along with it to make sure that when we do present our Report that whatever we have done is as complete as possible. When we were discussing it at yesterday, we were not thinking may be along those lines but in your capacity, Mr. Chair, you make that decision and I think that it is something that we should go ahead with in order to try to make sure that we complete it as much as possible.

MR. CHAIRMAN.- Thank you. Honourable Koroilavesau?

HON. A. SUDHAKAR.- Before giving it to the Honourable Minister, just one point that I noticed on the past page, Page 27 of the verbatim, your last phrase was, "Mr. Chairman, thank you Honourable Committee Members I take this opportunity once again to thank you for the deliberations and as Mr. Ditoka had mentioned dinner is provided there and we will wait for them to put out a draft before us this evening." That is the last sentence, it is a draft it is not a complete report.

HON. N. NAWAIKULA.- You look at the draft, it says there, "The majority found there has been a breach of privilege", on Page 5 - Summary of Proceedings.

HON. A. SUDHAKAR.- That is actually a draft report, it can be changed at any time. It is not here....

HON. N. NAWAIKULA.- We have addressed our mind to that.



MR. CHAIRMAN.- Mr. Ditoka, do you have any comments?

MR. J. DITOKA.- Again it depends on what the intention of the Committee is because Honourable Sudhakar had mentioned the decision will be taken ultimately by Parliament but the Committee themselves have to deliberate on what is the intention, is it just to put this information before Parliament, where the ultimate decision will be taken or is it to mitigate or is it to re-hear the matter? I mean that is the matter for the Committee to decide.

HON. N. NAWAIKULA.- I understand that. By the same token the Committee must give him the right to be heard before it makes a decision.

HON. S.D. KARAVAKI.- Mr. Chair, our Committee exercises judicial functions. Although the decision is going to be made in the House, we are looking at the evidence. That is done by judicial bodies, therefore, we are exercising judicial functions over here - looking at the evidence, weighing the evidence and finally making recommendations to be considered in the House, and the decision is finally made in the House. So we cannot be compared with any other Committee of this House because no other Committee exercises judicial functions like us. Therefore, we should follow the judicial process of inquiring into evidence. That is the reason why we are highlighting this one. Once we fail in the process, it will affect the outcome, that is how these are done judicially. When we fail in the process it affects the outcome, that is the only point I would like to raise, Mr. Chair.

HON. J. USAMATE.- Mr. Chairman, I think the process is still not complete and that is why we are here. From your part as the Chairperson of this Committee, you feel that it is necessary to undertake this part, we had made the decisions that we had made based on looking at all the papers that were before us but we feel that the process is still not complete until the document is signed off and presented to Parliament, so we are still in the process. I do not see any reason why we cannot invite the Honourable Tikoca to have him make his presentation, we are still in the process, we have not completed and it is still an ongoing issue.

MR. CHAIRMAN.- Thank you, Honourable Committee Members. To me, I think it will be only fair to hear from Honourable Tikoca before this goes before the House tomorrow.

HON. S.D. KARAVAKI.- Mr. Chair, in my position in that case, I will have to ask leave to recuse myself because as I have already explained, I cannot be part of this process when I know that this is just affording him the opportunity to come before us but that does not affect the outcome of the decision at all, the one that we have made. That is the reason why it is a matter of principle and it is legal fairness to us and to him coming before this Committee. Thank you Honourable Mr. Chair.

HON. N. NAWAIKULA.- Mr. Chair, because I am going to take the same stand, I just want to speak for the record. I feel that this Committee, it is very very clear from the verbatim and from what has been drafted that it has made the decision of whether or not was there a breach. We know before we make the decision, we first should give the right for that person to be heard and yesterday we clearly did not do that.

Then we went to the second step of deciding on the sentence. So clearly from that record of the verbatim and the record of what is drafted there, any reasonable person will come to the conclusion, "Yes, we had made a decision." To call him after that, cannot take away the fact that we cannot be impartial to the task and I will even feel and advise him, "Look, this is the way I feel and this is also the way I feel as a solicitor, you will not have a fair hearing because a decision has been made and we propose to go now and write to the Honourable Speaker of how we feel and we hope that the Honourable Speaker will agree



to what we are saying and decide to reconvene”, because when you talk about fairness it is very important that you do not only look to be impartial, you must be impartial as well as looked to be impartial.

So, for that I thank you very much and we are recusing ourselves. We will also advise him that he will not get a fair hearing for that reason and further to that, we will now attend to the Honourable Speaker to look into this plight and I hope that a decision will come to that.

Thank you very much, gentlemen.

HON. CDR. S.T. KOROILAVESAU.- Mr. Chair, just before they leave I would like to highlight something. We have a draft document, we had a look at it yesterday, we had a look at it again this morning and we did not come to an agreement on the draft. But I understand at the sitting this morning in Parliament, Honourable Tikoca stood up and apologised. So where do we put that to define what we are?

He has already stated that he is guilty but we have not even made a decision. So where are we in that position verses the draft document that we have? If he is standing up to state in Parliament that he would like to apologise for the wrongs that he had done, then he has decided for himself that he is guilty.

HON. N. NAWAIKULA.- That is a different matter but for this one, like I said before if he was to come here and mitigate, that is alright for us.

HON. CDR. S.T. KOROILAVESAU.- Mr. Chair, we cannot be allowing double standards. Here we are, we have a draft document and then in Parliament he stood up this morning and made a point of order and stated that he would like to apologise which basically stated that that is an admission. We still have the draft document so why is he admitting and apologising?

HON. N. NAWAIKULA.- That is even better for us.

HON. S.D. KARAVAKI.- We cannot even speak for him.

HON. CDR. S.T. KOROILAVESAU.- No, no, I am just stating the facts, as what has transpired from yesterday and this morning.

HON. J. USAMATE.- Mr. Chair, as we talked about the process is still an ongoing process. You decided that we should continue this process, there is an opportunity to be able to do this, to have the discussion, minds may be changed, minds may not be changed but they still allow us to give a fair hearing to the Honourable Tikoca. So to my mind, the process can be ongoing. He can come, he can make his presentation, we can listen to him and we can deliberate on that afterwards. I do not see any problems with that.

MR. CHAIRMAN.- Thank you, Honourable Committee Members. That is exactly how I look at what is before us now because even this morning when the newspapers and TV interviewed me, I never told them anything. However, I was surprised this morning that Honourable Tikoca raised a point of order. I was a bit confused because we were still in deliberation stages in here, so somehow or the other the matter must have been leaked out to him. My decision is, we will still reconvene whether you are present here or you be excused, we will still reconvene.

HON. N. NAWAIKULA.- Mr. Chair, we ask for your leave.

(Honourable Karavaki and Honourable Nawaikula left the meeting)

HON. A. SUDHAKAR.- Mr. Chair, the Honourable Members have left. Probably that would not have stopped them but just for the record, if one looks at Standing Order 127 which is specifically on Privilege Committee on page 159 of the Standing Orders, it says as I was elaborating earlier, I quote:

The mandate of this Committee is to –

- (a) bring to the attention of Parliament any breach of privileges of Parliament committed by any person;
- (b) consider any questions of privilege as may be referred to it by the Parliament or the Speaker whether under....
- (c) inquire into any complaint that may be referred to it by Parliament or Speaker concerning any breach of privilege on the part of any person or persons; and
- (d) provide reports and recommendations to Parliament as a result of any matter referred to it.

So really, this Committee's function is to just give recommendation. It does not say that it is a finality that this Committee reaches so my submission is that, we are still in this session and we can still hear it before we give a final recommendation to the Parliament.

MR. CHAIRMAN.- I thank you, Honourable Sudhakar, we will still reconvene. We will still move ahead with this.

Any other comments, Mr. Ditoka? Was the notice served to Honourable Tikoca?

MR. J. DITOKA.- I believe the Honourable Tikoca had given instructions on where to deliver it when being asked for his location.

I also note for the record, Honourable Chair, that Honourable Nawaikula and Honourable Karavaki had mentioned earlier in this meeting that he would be prepared to come and they would advise him, only to come if it was for the purposes of mitigation. I believe he was prepared to come.

I also note for the record that Honourable Nawaikula had said that they would advise him, perhaps it may not be in his best interest to come. I am just noting that, that was what was stated by Honourable Nawaikula.

MR. CHAIRMAN.- Thank you, Honourable Committee Members, may be, the Committee Attendant could check if Honourable Tikoca is there, and if he is willing to come in because we will still go ahead with the proceedings, thank you.

HON. CDR. S.T. KOROILAVESAU.- Mr. Chairman, I wanted to be put on record when I raised the issue that Honourable Tikoca, without even completing the draft, stood up this morning and apologised. When I stated that, Honourable Nawaikula said, "That is even better for us." I would like to ask him, what is the purpose of that statement? What is he trying to imply?

Basically, it implies to me that they have been advising Honourable Tikoca on the discussions that we have held here. That is the implication I have from his statement when I said, why did he rise in this morning session and asked for forgiveness? That basically means that that is a sign of guilt and then for Honourable Nawaikula to say that it is even better for them, I do not understand.

MR. CHAIRMAN.- May be, that is the lawyers' interpretation, we all do not know about that. I had thought if no one mention it, I was going to mention that because when the point of order was raised this morning, I was asking myself, how come? The reason is because we are still in deliberation stages.

HON. A. SUDHAKAR.- The question is, what do we do with the Report? There is a draft report here. We have afforded the opportunity to the Members of the Opposition, including the Honourable Member to be heard and he was notified. It is being confirmed by the legal team. I believe an e-mail was sent to his address and also communication was made and he was notified of the notice of the meeting. The two Opposition Members said that he was prepared to come for mitigation but not for anything else. That means the notice was communicated to him properly, and that should form part of the record now.

MR. CHAIRMAN.- We will go ahead with our deliberations. Whatever recommendation we do tonight, that will be prepared to be submitted to Parliament tomorrow.

The Committee adjourned at 5.50 p.m.

The Committee resumed at 6.01 p.m.

**In Attendance:**            **Honourable Ratu L.D. Tikoca**  
   **Member of Parliament, Opposition**

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MR. CHAIRMAN.- Honourable Ratu Tikoca, thank you for appearing before this Committee.

(Introduction of Committee Members)

Unfortunately, Honourable Nawaikula and Honourable Karavaki have requested to be excused from this forum. I would like to take this opportunity again to say thank you to you for showing up.

As you know, a matter of privilege was raised with the Honourable Speaker pursuant to Standing Order 134(1) initially on Wednesday, 6<sup>th</sup> July, 2016. There followed an exchange of correspondences which ended with the Honourable Speaker referring the matter to the Privileges Committee yesterday, 27<sup>th</sup> September, 2016 for consideration in accordance with Standing Order 127(2).

I say with all due respect that the above Committee would like to hear your submission in regards to the matter before us this afternoon. After your submissions, Honourable Members will be asking questions. Then after that, you will be excused to leave the room, after all the questions are asked by the other Members.

I now give you the floor to present your submission.

HON. RATU L.D. TIKOCA.- Thank you, Honourable Chair.

The Honourable Members who are members of the SODELPA who are supposed to be here with you have arrived upstairs and told me that they have recused themselves and that was all. It is up to me whether to appear or not, so I have decided to appear before your Committee this evening.

“My Statement:

I, Isoa Delamisi Tikoca, Member of Parliament, make the following Statement regarding the complaint referred to the Privileges Committee to inquire into the complaint by the Honourable Prime Minister to the Honourable Deputy Speaker and Speaker, did not decisively rule on statement I made on 5<sup>th</sup> July, 2016 in Parliament.

1. I appear under protest before this honourable Committee. The reason is that, under Standing Order 74(6), the decision of the Honourable Speaker and Deputy Speaker on a point of order is not open to appeal and may not be considered by Parliament, except on a substantive motion with notice.
2. During my speech on 5<sup>th</sup> July 2016, the Honourable Sudhakar raised a point of order. The Deputy Speaker made that ruling that:
  - (a) I continue;
  - (b) with a warning that I bear in mind his words to confine the debate to the budget and not make implications against any other Member of Parliament. I attach

copies of speech and ruling of Honourable Deputy Speaker as Annex 1 – this is on this side of the House.

3. This was in accordance with the earlier ruling of the Honourable Speaker, that matters be brought promptly and not later as has been done now. I attach the earlier rulings on Annex 2 and I quote:  
  
“I request that such instances and concerns should have been raised immediately when the action was done and not two or three days later. Secondly because of that, if the issue had been brought up at that time, it would have captured the spirit of the moment at that time. Anyway, that is my opinion of it but such an issue should be brought up immediately when it happens and I would have made a ruling at that time. Right now, it is a bit too late to bring it up.”
4. The ruling on point of order by Honourable Deputy Speaker was confirmed by the Honourable Speaker in her ruling dated 9<sup>th</sup> August, 2016 which is marked as Annex 3, also in the documents available.
5. Standing Order 74(6) makes the rulings not subject of the appeal, except by motion of Parliament.
6. At Para 4 at the summary of complaint, a complainant, apart from being out of time, is appealing the rulings referred to his saying that they did not decisively rule.
7. The Honourable Deputy Speaker is the Chairman of the Privileges Committee under Standing Order 127(1)(a).
8. The Honourable Deputy Speaker has been complained of cannot, therefore, chair the Privileges Committee because of conflict of interest, in having his decision inquired into. I therefore ask that the Deputy Speaker recuses himself.
9. As such, I have received legal advice that this honourable Committee has no jurisdiction to recommend, overturning the rulings given nor can its jurisdiction be invoked by an appeal by way of letter of complaint.
10. Parliament has no jurisdiction under the letter to you by the complainant to overturn the rulings, as well the rulings of the Honourable Deputy Speaker.
11. It would, therefore, be prudent to advise Madam Speaker accordingly to serve to secure the honour and dignity of Parliament as mandated under Section 77(6)(b) of the 2013 Constitution.
12. The complainant could also be advised to raise the matter by motion in Parliament if he so wishes.
13. I have this morning apologised in Parliament and do repeat that I did not insinuate anything against any religious, nor racial grouping. I again apologise for any such insinuation or implications read in by the complainant into my words as by words “your kind” are used. I meant the FijiFirst choices. If I had gone beyond that to elaborate, I would have stated; what about SODELPA choices and Federation choices?”

14. The English language, Honourable Chair, is not my mother's tongue. I was brought up in my native tongue from Tokatoka, which means if I said something, it probably means something else. This type of language is inbuilt in my system since birth and at times when I use them, I thought people would understand the same meaning.

If my statement was misconstrued, I humbly apologise and sincerely request for your forgiveness. I thank you, Honourable Chair."

MR. CHAIRMAN.- Thank you, Honourable Committee Members. I now open the floor for any questions.

HON. RATU I.D. TIKOCA.- Mr. Chair, my Statement as I said because I stood in protest in appearing, I would ask to leave your room now.

MR. CHAIRMAN.- Thank you very much, Honourable Tikoca, for coming and appearing before the Committee this evening.

(Honourable Ratu I.D. Tikoca left the room)

Thank you Honourable Members, do you want to have a break now or shall we continue?

HON. CDR. S.T. KOROILAVESAU.- Mr. Chair, I think we should deliberate little bit more before we take a break since the submission by Honourable Tikoca is still fresh in our mind. Then we can take a break after that.

HON. A. SUDHAKAR.- It is unfortunate that Honourable Tikoca did not stay back for the questions but he mentioned that the issue was raised two or three days later, but in Annex 2, was this submission received from Honourable Tikoca?

Annexure 2, he annexes a letter dated 9th August where it is clearly written on the first paragraph, first sentence, the issue arose on 5th of July and the Speaker is writing, "I refer to my ruling on 6th of July whereby I provided some guidance to all Members with respect to the Point of Order raised by the Government Whip in relation to statements made by yourself."

The matter was brought to the Honourable Speaker's attention within a day so it happened on 5th July and she ruled on 6th July, and the letter by the complainant to the Honourable Speaker was also on 6th of July. It was just one day and not two or three days when the issue was raised with the Speaker. If the words are immediate, then it is quiet immediate, there is no delay by any complainant. I just want to point that out.

MR. CHAIRMAN.- Honourable Koroilavesau?

HON. CDR. S.T. KOROILAVESAU.- Mr. Chair, I am little bit confused because the statement made by Honourable Tikoca seems to state that he has a different letter when he made his statement. It is not in line with the letter that we have been given. May be he has a copy of another letter.

Mr. Chair, we never had a copy of this letter that is made available now which is Annex 2. Do we have an Annex 1?

MR. CHAIRMAN.- Annex 2 was the letter written to Honourable Tikoca on 9th August, is that the one you are talking about?

HON. CDR. S.T. KOROILAVESAU.- No, I am receiving it now for the first time. I am just asking my two colleagues here if they had received this letter before?

HON. J. USAMATE.- I think the issue at hand was that he was saying that we are going back against the ruling of the Honourable Speaker but I think our consensus yesterday was that the ruling had not been done. I think the point that was made by the Honourable Tikoca is that the ruling has been done, who are we to go against that ruling?

In our discussions yesterday, to my mind, if I have to go back to the verbatim, I think we had discussed this and it was clear that the ruling had not been done. So, it is still part of the process, so we are still in that process.

HON. CDR. S.T. KOROILAVESAU.- Now, I understand.

HON. J. USAMATE.- I think those 12 points that he mentioned, he did not give us a copy of that but it will be in your verbatim report?

MR. J. DITOKA.- Yes.

MR. CHAIRMAN.- Yes, it should be in the verbatim report.

Any other comments from your side, Honourable Sudhakar?

HON. A. SUDHAKAR.- If I may round up the proceedings of what has transpired since yesterday, as I have said, the Committee heard the matter, there was no decision reached, no vote taken and no motion moved. Honourable Tikoca appeared today, and of course, the issue of service delivery and e-mail is now water-under-the-bridge because he appeared, that means he was notified, albeit, he said he appeared under protest. He did touch on matters that the Committee deliberated on and he apologised again for whatever he said which means that he has actually touched the crux of the matter, it was not a mitigation itself. It was first challenging the validity of the Committee, the constitution of the Committee, then he was also addressing the 14 points that he raised.

He also raised the issue of the explanation of what he was trying to say. In the sentence that we read, he also mentioned that English is not his mother tongue, so he was actually addressing the pertinent issues of the Committee itself. It was not mitigation, it was actually an explanation of his conduct here. So it is mitigation as well as submission on the substantive issue which completes the process. That means he appeared and he had an opportunity to be heard. We have heard him and he also gave us some annexures here, and now the Committee is in a position to deliberate further and revisit, reopen or reconfirm its decision, that is clear-cut.

HON. J. USAMATE.- Thank you, Mr. Chairman, I am glad that we have had the opportunity to listen to the Honourable Tikoca about the things that he has raised. My impression is, I have not heard him say anything that changed any ideas that I have had before his coming. I think to my mind, the way that I have read the comments, it is definite that there has been a breach of privilege and that serious action needs to be taken, as we have discussed. There is nothing that I have heard that has changed my opinion on that particular aspect.

MR. CHAIRMAN.- Thank you, Honourable Members, now we can confirm that there is a breach.

HON. A. SUDHAKAR.- As is already mentioned, he has apologised, so we can now confirm.

HON. CDR S.T. KOROILAVESAU.- Mr. Chairman, I am not a lawyer but to me by the admission that he has apologised twice seems to give a clear indication of guilt. Whatever we need to sit and discuss here, basically would not change anything because whatever we have discussed in the last two days, and again his position in Parliament this morning and again, when he made his opening statement.

HON. A. SUDHAKAR.- I think it is pertinent to note, Mr. Deputy Speaker, that because we had said that the Report was not complete and we allowed him the opportunity to be heard, we basically heard it and we will deliberate afresh after hearing him. The previous decision that was reached was still open to a fresh revisit and we are now ready to revisit the issues. So, basically after hearing him, we consider it “afresh” because it is not like it is not an appeal where we will say that we stand-by our decision. We had left it open, we heard him and now we consider our decision afresh.

My position is that, after reading the papers, the summary of facts, after hearing him, in my opinion there is a breach of the privileges. I would like to hear from other Members as well.

MR. CHAIRMAN.- Honourable Sudhakar, they have already confirmed that there is a breach.

HON. A. SUDHAKAR.- Yes, Sir, what I was saying was that, yes, the breach is confirmed. We cannot say we confirm the decision earlier, we basically revisit them, come to a conclusion that there is a breach and consider the sentencing as well.

MR. CHAIRMAN.- Now, I open the floor for your recommendations.

HON. S. KOROILAVESAU.- I suggest we take a break and start afresh.

MR. CHAIRMAN.- Thank you, Honourable Members, let us take a break now.

The Committee adjourned at 6.23 p.m.



The Committee resumed at 6.50 p.m.

MR. CHAIRMAN.- Thank you, Honourable Members. We may now reconvene. We will just continue from where we left off before we had our break.

HON. CDR. S.T. KOROILAVESAU- I think we just need to make a point and establish where we were and the fact that we have made a decision based on the information that we have received. We have made a decision on the status of privilege.

Now, we have confirmed that there is a matter of privilege which has been established and we now carry on and look at the premise of what we would recommend in the Report.

MR. CHAIRMAN.- Thank you, Honourable Member. Can I have your recommendation, Sir.

HON. A. SUDHAKAR.- Mr. Chair, yesterday when we deliberating, I had suggested some recommendations. Today after hearing afresh the proceedings and having had the benefit of hearing Honourable Ratu Isoa Tikoca and incorporating his explanations in the proceedings, we have again by consensus had a look at the elements and I think now finally by majority, we have found there is a breach.

After the hearing, my fresh recommendation would be, and this is my suggestion, it is open to other Members to consider afresh as well, that Honourable Ratu Isoa Tikoca is suspended from Parliament for the rest of the Parliamentary term; that he not be allowed to enter the Parliamentary precincts thereafter; and that he returns all Parliamentary equipment that has been given to him during his term. That is from my side.

MR. CHAIRMAN.- Any other recommendation?

HON. A. SUDHAKAR.- We had and we had an opportunity to hear him, so a fresh we are considering the recommendation afresh after having the benefit of having heard him.

HON. J. USAMATE.- Thank you, Mr. Chairman. Yes, we have had the opportunity to listen to the Honourable Tikoca and we have taken note of the points that he has raised. I think there is nothing that he has mentioned has changed my opinion, that a breach of the Privileges is done and that is a very severe breach of privilege in terms of the way that his comments can be construed as attacking a certain community and the implication that it has on the whole country. As such, I agree with the recommendation that is done by the Honourable Sudhakar in terms of our recommendation to the House on what action should be taken.

MR. CHAIRMAN.- Thank you, Honourable Koroilavesau.

HON. CDR. S.T. KOROILAVESAU.- Mr. Deputy Speaker, I concur with the recommendations made by Honourable Sudhakar and the amplifying remarks that has been stated by Honourable Usamate which basically confirmed the decision that we had made and was contained in the draft that we had made previously before we reconvened this afternoon.

MR. CHAIRMAN.- Thank you, Honourable Members. We have now come to the conclusion and we just need to wait for Mr. Ditoka for the drafting of...

HON. A. SUDHAKAR.- For completeness, Honourable Chair, there is usually another recommendation that usually is at the end that if the Honourable Ratu Isoa Tikoca first to comply with

any of the above that necessary enforcement measures must be imposed to ensure compliance. I suggest that that be also included in terms of the previous reports.

MR. CHAIRMAN.- Thank you, Honourable Members. I believe you all agree to whatever is here on the screen now.

Once again, I would like to take this opportunity to thank the Committee Members for your deliberations and we will conclude from here. *Vinaka Vakalevu.*

The Committee adjourned at 7.00 p.m.

## **HON. RATU ISOA TIKOCA'S ANNEXURES**

9. The Central Bank is co-managed by Mr. Arif Ali.
10. The Finance Intelligence Unit managed by Mr. Razim Buksh.
11. The Elections Office managed by Mr. Mohammed Saneem.
12. Government ITC – management headed by Mr. Nisar Ali. They are also digitalizing the *Vola ni Kawa Bula* in iTLTB.
13. Our Geneva Mission where World Trade Organisation is based is managed by Mrs. Nazhat Shameem Khan.
14. Hamid Ali founder of the road contractor NAIM from Malaysia, close friend of some people on that side.
15. Recently FICAC laws were amended and now given the same powers as Police. So, now Fiji has two Police Force; one Controlled by Commissioner of Police and another controlled by the AG himself.

The recent bickering in Parliament has drawn concern of the Fijians and negative feeling against certain elite groups in Fiji being the minority group, however, assuming critical chairmanship and CEO leadership positions in Fiji.

HON. GOVERNMENT MEMBER.- Talk about the Budget.

HON. RATU I.D. TIKOCA.- That is the Budget.

(Chorus of interjections)

Mr. Deputy Speaker, there appears to be rampant cronyism of the economy. Fiji faces biggest threats since Independence, we have never faced such threat before in our history. Civilization, lifestyle and culture is under threat. The nation is under threat. Mr. Deputy Speaker, sunset clause is fully operational now.

Mr. Deputy Speaker, I am concerned about this important issue. It is not a laughing matter. Government needs to address this immediately as Fijians are disgusted about this. The concentration of economic power seems to be with a few elite. There is animosity growing within our various Fijian groups questioning why this elite group is being advanced over others. The fury with the stigma "one man" leading the nation with his kind. The people of Fiji have started to build misconception about others within his group but have failed to identify that it is only one man that we need to isolate as the real dictator.

Mr. Deputy Speaker as I conclude my contribution to the Budget, I want to reassure the people of Fiji...

HON. A. SUDHAKAR.- Mr. Deputy Speaker, I rise on a Point of Order.

Mr. Deputy Speaker, Standing Order 62(4) says that there cannot be any imputation that animosity between different ethnic or religious groups. The Honourable Deputy Whip has

mentioned; "He continues to rule with his kind". What is he trying to imply? What he is trying to say, Mr. Deputy Speaker, is against Standing Order 62(4) (a) to (d).

I request that the Honourable Opposition Whip withdraw's that statement where he said that one person continues to rule "with his kind". Rule with his kind is wrong. May I have a ruling on that Mr. Deputy Speaker?

HON. RATU I.D. TIKOCA.- Mr. Deputy Speaker, he is not listening to what I said. The Ministry of Economy has direct oversight over the strategic sectors, so the strategic sectors has a CEO and I am merely mentioning that. That is it!

HON. A. SUDHAKAR.- You said, "with his kind".

HON. RATU I.D. TIKOCA.- That is it!

HON. A. SUDHAKAR.- The words that were used were; "with his kind."

HON. RATU I.D. TIKOCA.- But what are you afraid of?

What is quite clear is that we are witnessing a *coup* within a *coup*. You do not understand that.

HON. A. SUDHAKAR.- I rise on a Point of Order.

HON. RATU I.D. TIKOCA.- May I continue?

HON. GOVT. MEMBERS.- No, no!

HON. J. DULAKIVERATA.- You are not the Honourable Speaker, you listen there!

(Chorus of interjections)

HON. RATU I.D. TIKOCA.- Who are you?

(Chorus of interjections)

MR. DEPUTY SPEAKER.- Honourable Members, let us confine the debate to the Budget and not make implications against any other Member of Parliament. So, the Honourable Member may continue, bearing this in mind...

(Chorus of interjections)

HON. RATU I.D. TIKOCA.- Mr. Deputy Speaker, thank you very much.

MR. DEPUTY SPEAKER.- ...that if you continue again, I will stop you from that, Honourable Member. Thank you.

HON. RATU I.D. TIKOCA.- Very well, thank you very much, Mr. Deputy Speaker.



# PARLIAMENT OF THE REPUBLIC OF FIJI

PARLIAMENT COMPLEX, GLADSTONE ROAD  
P.O. BOX 2352, GOVERNMENT BUILDING, SUVA  
PHONE 3225600, FAX: 3305325



File Ref: Parl 6/19

Date: 09 August 2016

Hon. Ratu Isoa Tikoca  
SODELPA Whip  
Opposition Chambers  
Parliament Complex  
SUVA

Dear Hon. Ratu Isoa

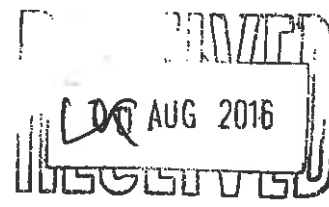
**RE: CONCERN ON STATEMENTS MADE DURING DEBATES IN THE HOUSE**

1. I refer to my ruling on Wednesday, 06 July 2016 whereby I had provided some guidance and caution to all Honourable Members with respect to a point of order raised by the Government Whip on Tuesday, 05 July 2016, in relation to the statements made by yourself that raises animosity between different ethnic or religious groups.
2. Whilst the matter has been dealt with at the time by the Honourable Deputy Speaker, at this point, I wish to reiterate with emphasis that when responding to debates in the House, Honourable Members are indeed urged to focus their responses to the substance of the debate and relate their contributions to the issue at hand.

Thank you.

Yours sincerely

**Hon. Dr Jiko F. Luveni**  
**SPEAKER OF PARLIAMENT**



*civilisation, lifestyle and culture is under threat. The nation is under threat. Honourable Deputy Speaker, the sunset clause is fully operational. Honourable Deputy Speaker, I am concerned about this important issue. It's not a laughing matter. Government needs to address this immediately as Fijians are disgusted by this. The concentration of economic power seems to be with a few elite. There is animosity growing within our various Fijian groups questioning why this elite group is being advanced over others. The fury with the stigma of one man leading the nation with his kind. People of Fiji have started to build misconception about others within this group but have failed to identify that it is only one man that we need to isolate as the real dictator.*

...

*What are you afraid of? What is quite clear is that we are witnessing a coup within a coup. Understand that."*

4. The Complaint asserted that the matter had not been decisively dealt with at the time when Hon. Tikoca made the statement and when a Point of Order was raised by the Government Whip. It further asserts a caution by the Hon. Speaker to Hon. Tikoca to all Honourable Members on Wednesday, 6 July 2016 and a warning letter to Hon. Tikoca failed to properly address the seriousness of the breach of privilege.
5. The integrity and sanctity of Parliament and the Honourable Speaker must be protected at all time from statements made by members of Parliament both inside and outside Parliament which promote ill-will and hostility between communities or ethnic groups within Fiji, and thereby undermine Parliament and the Honourable Speaker as the embodiment of Parliament. It explained that for those reasons that the Government has been steadfast in

# ATTACHMENT 1

ANNEXURE 4

		position of the accused persons, and I would like an order from you, Madam Speaker.	
		HON. S.B. VUNIVALU. - Point of Order. HON. N. NAWAIKULA. - What is the point of order? HON. S.B. VUNIVALU. - Standing Order 62, Madam Speaker, which says, "When speaking, a member must not input improper motives to any other member." You said "you people".	MADAM SPEAKER. - Please do not use the word "you", it is in the Standing Orders
Monday	16/11/2015	Debate on 2016 Appropriation Bill  Point of order by Hon Aiyaz-Sayed Kaiyum HON. A. SAYED-KAIYUM. - Sorry, Madam Speaker, the Honourable Draunidalo, I heard her call the Whip of the Government a "fool". Is that parliamentary language, Madam Speaker? HON. ROKO T.T.S. DRAUNIDALO. - I withdraw, I do not want to offend any fools. HON. A. SAYED-KAIYUM. - Madam Speaker, just listen to her apology with due respect. She said, "I withdraw that because I do not want to insult the fools." That is not any apology, Madam Speaker, she is taking us for a joke. HON. ROKO T.T.S. DRAUNIDALO. - I withdraw unconditionally. Can I now speak to the Point of Order, Madam Speaker HON. ROKO T.T.S. DRAUNIDALO. - No, no, I withdraw unconditionally	MADAM SPEAKER. - Can you withdraw that word if you have said it.  MADAM SPEAKER. - Order! Honourable Draunidalo can you just repeat what you just said  MADAM SPEAKER. - I only asked you to withdraw, you do not have to question that withdrawal again
Friday	20/11/2015	Point of Order by Hon. Isoa Tikoia	



		<p>HON. RATU I.D. TIKOCA.- Thank you, Madam Speaker. Just as we are about to continue the order for this week's proceedings, and as we are about to discuss the Consequential Bills, the Point of Order is to raise Standing Orders 62(1) and 62(4)(d). It says and I quote:</p> <p>"62(1) When speaking, a member must not impute improper motives to any other member.</p> <p>62(4) It is out of order for a member, when speaking, to use –</p> <p>(d) words that are likely to promote or provoke feelings of ill-will hostility between communities or ethnic groups within Fiji."</p> <p>Madam Speaker, three days ago in this House, during the Committee of Supply which was broadcasted around the globe, I was challenged in this House to provide it with proof that the Honourable Minister of Finance and the Acting Prime Minister is corrupt. This happened during the debate on the Acting Prime Minister's decision to stop civil servants from briefing the Members of the Opposition.</p> <p>874 Point of Order 20th Nov., 2015</p> <p>Whilst talking, the Acting Prime Minister decided to imitate my voice. What is unacceptable was, when he began to act like a monkey, whilst imitating my voice. I am sure that he knows his pathetic acting skills at trying to imitate a monkey has gone viral. I hope he was not inferring with his</p>	
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		<p>inappropriate and immature behavior in this House three days ago, that as a native Fijian, I am a monkey.</p> <p>I might add, Madam Speaker that you failed to stop this and all of the Fiji First members and Members on the other side found it amusing, even though his gesture was aimed, not just at me, but at all indigenous Fijians.</p> <p>On Facebook, the people of Fiji are throwing heated words and racial slurs at each other because they saw the Acting Prime Minister's action was racist.</p> <p>Madam Speaker, we must guard against racism at all times, highlighting ethnic concerns and facts that concern our indigenous people is not racist but an Acting Prime Minister making racist gestures and reaffirming negative stereotype is a totally different story</p> <p><u>Point of order by Hon. Nawaikula</u></p> <p>HON. N. NAWAIKULA. - I rise on a Point of Order.</p> <p>MADAM SPEAKER. - Only if it is not on this issue.</p> <p>HON. N. NAWAIKULA. - It is not Madam. It is on the conduct of the Acting Prime Minister pointing; that is un-parliamentary. Could he be cautioned not to do that?</p> <p>HON. A. SAYED-KHAIVUM.- (Inaudible)</p> <p>HON. N. NAWAIKULA.- Do not point</p>
		<p>MADAM SPEAKER. - I request that such instances and concerns should have been raised immediately when the action was done and not two or three days later.</p> <p>Secondly, because of that, if the issue had been brought up at that time, it would have captured the spirit of the moment at the time. Anyway, that is my opinion of it but such an issue should be brought up immediately when it happens, and I would have made a ruling at that time. Right now, it is a bit too late to bring it up.</p> <p>MADAM SPEAKER. - Point of Order taken. Please Honourable Members, there has been continuing complaints about Members pointing at each other, let us not continue to point at each other</p>