



PRIVILEGES COMMITTEE REPORT

In the Matter of Privilege

**Re: Prime Minister and Minister for iTaukei Affairs and
Sugar Industry the Hon. Josaia Bainimarama**

and

Hon. Pio Tikoduadua



PARLIAMENT OF THE REPUBLIC OF FIJI
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1.0 MANDATE OF THE PRIVILEGES COMMITTEE

1.1 Pursuant to Standing Order 127(2) the mandate of the Privileges Committee (**'Committee'**) is to –

- (a) bring to the attention of Parliament any breach of the privileges of Parliament committed by any person;
- (b) consider any questions of privilege as may be referred to it by Parliament or the Speaker whether under Standing Order 134 or otherwise;
- (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.

1.2 Additionally, clause (3) provides that for the purposes of performing its functions and duties, the Privileges Committee may summon any person to appear before the committee to give evidence or provide information, and, for these purposes, the committee has the same powers as the High Court to –

- (a) enforce the attendance of witnesses and examine them on oath, affirmation, or otherwise; and
- (b) compel the production of documents or other material or information as required for performing the function or duty concerned.

2.0 COMMITTEE MEMBERSHIP

2.1 In accordance with Standing Order 127(1) and as announced by the Hon. Speaker in the Parliament, the Committee comprised the following Members –

- (a) Hon. Veena Bhatnagar, Deputy Speaker (Chairperson);
- (b) Hon. Aiyaz Sayed-Khaiyum, Attorney-General and Minister for Economy, Civil Service and Communications;
- (c) Hon. Inia Seruiratu, Leader of the Government in Parliament and Minister for Defence, National Security and Foreign Affairs;
- (d) Hon. Alvick Maharaj, Government Whip and Assistant Minister for Employment, Productivity, Industrial Relations, Youth and Sports;
- (e) Hon. Sitiveni Rabuka, Leader of the Opposition; and
- (f) Hon. Adi Litia Qionibaravi.

2.2 A letter was received from the Leader of the Opposition to inform the Privileges Committee that the two nominees from the Opposition would not be attending the meetings. At the 2nd meeting of the Committee, the Members from the Opposition joined in the meeting.

2.3 Following an objection by the Leader of the Opposition in a letter to the Hon. Speaker with respect to the Hon. Attorney-General's participation on the Committee, the Hon. Attorney-General informed the Hon. Speaker that he wished to recuse himself from the Committee. Hon. Dr Mahendra Reddy was nominated as a replacement.

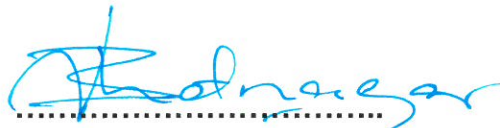
2.4 Following an objection from the Hon. Dr Mahendra Reddy with respect to the participation of the Hon. Leader of the Opposition on the Committee, the Hon. Leader of the Opposition recused himself from the Committee. Hon. Mosese Bulitavu was nominated as a replacement.

3.0 CHAIRPERSON'S FOREWORD

- 3.1 During the debate to appoint a Special Parliamentary Committee under Standing Order 129 to holistically look into the multifaceted risks of the hard drugs situation in Fiji, Hon. Pio Tikoduadua made certain accusations against the Prime Minister and Minister for iTaukei Affairs and Sugar Industry the Hon. Josaia Bainimarama **[hereinafter referred to as the Hon. Prime Minister]** which resulted in a point of order from the Hon. Prime Minister. The Hon. Prime Minister accused Hon. Pio Tikoduadua of making personal attacks against him.
- 3.2 Parliament is an independent arm of the State and is fully entitled to take such measures it deems fit to maintain its integrity and decorum. The Fijian Constitution and the Standing Orders of Parliament are very clear in that the control and administration of the Parliamentary precinct is vested in the Speaker. The Hon. Speaker has the authority to maintain order and decorum; to secure and maintain the honour and dignity of Parliament; and to take action for any breach of privilege or contempt of Parliament.
- 3.3 Having considered the complaints raised, the Hon. Speaker made a decision under Standing Order 134(2)(a) that there was a *prima facie* breach of privilege by both the Honourable Members for words allegedly spoken and acts allegedly done within the Parliamentary precincts on Friday, 9 August 2019.
- 3.4 The Hon. Speaker therefore referred the matter to the Privileges Committee and further directed the Committee to meet and consider all relevant evidence and table its report with recommendations to Parliament by no later than Thursday, 5 September 2019.
- 3.5 The Committee requested for extension of time to table its report given that it was still in the process of calling witnesses and reviewing the CCTV footage as well as the evidence given under oath. The Hon. Speaker duly approved the request by the Committee and directed that the report be tabled in Parliament on Friday morning, 6 September 2019.
- 3.6 Whilst this is a consensus Report, it should be noted that there were reservations¹ from the Opposition Members with respect to the suspension specified in the Recommendations.

¹ Verbatim Report of the Privileges Committee Meeting held on Thursday, 5 September 2019, at p. 30.

- 3.7 This Report differs from those of Standing Committees in that the proceedings were held *in camera*. The Minutes, Verbatim Notes and most of the other written documentation are attached as Annexures.
- 3.8 I thank all Honourable Members of the Committee for the hard work and determination shown in their undertaking.
- 3.9 At this juncture Hon. Speaker, as the Chairperson of the Privileges Committee and pursuant to Standing Order 127(2)(d), I respectfully commend this Report to Parliament.



Hon. Veena Bhatnagar
**Chairperson, Deputy Speaker and Assistant Minister for
Women, Children and Poverty Alleviation**

4.0 SUMMARY OF PROCEEDINGS

4.1 First Meeting – Monday, 2 September 2019

4.1.1 The Committee convened at 1.00 p.m. and noted the absence of the Members of the Opposition. Communication from the Hon. Leader of the Opposition was received by the Chairperson informing her of the non-attendance of the Opposition Members at the Privileges Committee meeting.

4.1.2 For the purposes of the Committees' deliberation on the matter, it should be noted the Committee relied only on the official CCTV footage provided by the Parliament.

4.1.3 The Committee unanimously agreed to view the video footages taken from the CCTV camera of the alleged incident as well as the proceedings in Parliament leading up to the alleged incident. The Committee requested Secretariat to provide the required footages on the big screen and also provide individual copies to the Members.

4.1.4 The Committee agreed to issue summons to the Hon. Pio Tikoduadua, the Hon. Prime Minister, the Hon. Lenora Qereqeretabua and the Hon. Prof. Biman Prasad to provide evidence to the Committee the following day. The Committee also agreed for the other Parliament and Caucus staff appearing in the footage to be called upon if the need arose.

4.1.5 The Committee concluded its meeting at 2.25 p.m.

4.2 Second Meeting – Tuesday, 3 September 2019

4.2.1 The Committee convened at 1.00 p.m. and called upon the following witnesses to provide evidence –

- (a) Hon. Pio Tikoduadua;
- (b) Hon. Prof. Biman Prasad; and
- (c) Hon. Lenora Qereqeretabua.

4.2.2 The Secretariat was requested to collate further materials and research on precedents from Fiji and other relevant jurisdictions to assist the Committee in its continuing deliberations.

4.2.3 The Committee concluded its meeting at 7.25 p.m.

4.3 Third Meeting – Wednesday, 4 September 2019

4.3.1 The Committee convened at 1.00 p.m. and called upon the following witnesses to provide evidence –

- (a) Hon. Prime Minister;
- (b) Hon. Pio Tikoduadua; and
- (c) Mr Samisoni Tagivetaua (Personal Security to Hon. Prime Minister).

4.3.2 At the conclusion of the examination of the third witness, the Committee proceeded to deliberating on the evidence before the Committee.

4.3.3 The Committee concluded its meeting at 7.22 p.m.

4.4 Fourth Meeting – Thursday, 5 September 2019

4.4.1 The Committee convened at 1.00 p.m. and called upon the following witness to provide evidence –

- (a) Ms Komal Khushboo (Parliament Secretariat).

4.4.2 At the conclusion of the examination of the witness, the Committee was satisfied with the evidence collected so far for deliberation purposes and therefore decided not to call the other witnesses.

4.4.3 The Committee scrutinised and made amendments to their Report. Given the timeline to table their Report in Parliament, the Committee requested the Secretariat to incorporate the amendments and circulate to the Members by 8.00 p.m. for their further perusal.

4.4.4 The Committee concluded its meeting at 5.30 p.m. but agreed that they would further peruse the Report upon circulation later in the evening.

4.5 Fifth Meeting – Friday, 6 September 2019

4.5.1 The Committee convened at 8.00 a.m. to finalise their amendments and instructions to the Report.

4.5.2 The Committee endorsed the Report for tabling in Parliament.

4.5.3 The Committee concluded its meeting at 10.20 a.m.

5.0 ESTABLISHMENT OF *PRIMA FACIE* BREACH OF PRIVILEGE

5.1 Jurisdiction

5.1.1 Under Standing Order 127(2)(b), the Committee is required to consider any question of privilege referred to it by Parliament or the Hon. Speaker whether under Standing Order 134 or otherwise.

5.1.2 The Hon. Speaker on 9 August 2019 decided under Standing Order 134(2)(a) that there was a *prima facie* breach of privilege by the Hon. Prime Minister and Hon. Pio Tikoduadua, for words allegedly spoken and acts allegedly done within the Parliamentary precincts.

5.1.3 The Hon. Speaker referred the privilege matter to the Committee and further directed the Committee to meet to consider all relevant evidence and table its report with recommendations to Parliament.

5.2 Analysis of Facts

5.2.1 On Friday, 9 August 2019, during his right of reply to the debate on the motion to appoint a Special Parliamentary Committee under Standing Order 129 to holistically look into the multifaceted risks of the hard drugs situation in Fiji, Hon. Pio Tikoduadua made certain accusations against the Hon. Prime Minister, which resulted in a point of order from the Hon. Prime Minister. The Hon. Prime Minister accused Hon. Tikoduadua of making personal attacks against him. Following the conclusion of the debate on the motion, Parliament voted on the motion which was defeated in Parliament.

5.2.2 Parliament then proceeded to the next agenda item which was oral questions as set out in the Order Paper for that day. During the fourth oral question on the current state of measles in Fiji, Hon. Pio Tikoduadua raised a point of order to bring to the attention of the House and to inform the Hon. Speaker that he had been physically assaulted by the Hon. Prime Minister. The Hon. Speaker ruled that the point of order raised had nothing to do with what was going on in Parliament at that moment.

5.2.3 During the fifth oral question, Hon. Prof. Biman Prasad interrupted the order of business, urging the Hon. Speaker to say something with respect to what Hon. Pio Tikoduadua had raised earlier. He asked Parliament to condemn the action of the Hon. Prime Minister. The Hon. Speaker informed the Honourable Member that he had made a ruling before, and that the Parliament would proceed with the agenda item of oral questions.

5.3 Analysis of Sworn Evidence

5.3.1 In its endeavour to undertake its mandate and as referred by the Hon. Speaker, the Committee had to analyse evidence pertaining to (i) the personal attack; and (ii) the words allegedly spoken and acts allegedly done.

(i) Personal attack on the Hon. Prime Minister on the floor of the House, by the Hon. Pio Tikoduadua:

5.3.2 The Committee noted from the verbatim notes on Tuesday, 3 September 2019 that the Hon. Pio Tikoduadua stated that the Hon. Prime Minister should be the last person talking about violence against women in the House. When asked what made him say that, he replied, “Of things that I know.” When asked whether he viewed the Hon. Prime Minister as a violent person, given what he said that he should be the last person to say this, the Hon. Pio Tikoduadua replied that there are things irrespective of what the Committee was going to say, about the Hon. Prime Minister he was not going to share to the Committee wherever it would take him. He further stated that that he would keep. He also stated that he had mentioned to the Hon. Speaker that he would keep it to himself.²

5.3.3 When Hon. Pio Tikoduadua was asked if he knew something about the Hon. Prime Minister in person with regards to violence against women, he replied “Yes”.³ When asked the same question on Wednesday, 4 September 2019, the Hon. Pio Tikoduadua did not hesitate to answer and even implicated an Honourable Minister. The Committee fully noted that the incident referred to by Hon. Pio Tikoduadua on Wednesday, had completely nothing to do with the Hon. Prime Minister and therefore the Committee established that Hon. Pio Tikoduadua was trying to cover up the fact that he had personally attacked the Hon. Prime Minister by referring to his own house.

5.3.4 Members of the Government side comprising the Hon. Inia Seruiratu, Hon. Dr Mahendra Reddy, were of the strong view that the use of the words “.....own House” in the response by the Hon. Pio Tikoduadua, was an attack on the Hon. Prime Minister’s family which provoked the Hon. Prime Minister to rise on a point of order. The Members argued that the Hon. Pio Tikoduadua’s testimony to the Committee did not sufficiently clarify otherwise.

² Verbatim Report of the Privileges Committee Meeting held on Tuesday, 3 September 2019, at pp. 30 and 31.

³ Verbatim Report of the Privileges Committee Meeting held on Tuesday, 3 September 2019, at p. 22.

5.3.5 However, Hon. Adi Litia Qionibaravi and Hon. Mosese Bulitavu did not agree with this interpretation as they were of the view that it could also refer to the Parliament Chambers, the august House, the other side of the House or the FijiFirst Party.⁴ This was supported by Hon. Pio Tikoduadua's testimony on 3 September 2019.

5.3.6 The Committee noted that the Hon. Pio Tikoduadua personally attacked the Hon. Prime Minister on live television.

(ii) Words allegedly spoken and acts allegedly done within the Parliamentary precincts by the Hon. Prime Minister:

5.3.7 The Committee had earlier resolved on 2 September 2019 that the video recording of the incident will be restricted to the official CCTV footage provided by Parliament.

5.3.8 After hearing evidence from Hon. Pio Tikoduadua, the Committee reviewed the CCTV footage again and noted that the Hon. Pio Tikoduadua only took one step back as opposed to being thrown back. The Committee established that there was no evidence of a forceful shove/push/touch from the Hon. Prime Minister as alleged by Hon. Pio Tikoduadua.

5.3.9 The Committee noted from the Hon. Prime Minister's testimony that he pulled the collar to attract his attention about what he said about him. Furthermore, whilst responding to Hon. Mosese Bulitavu's question, "Can you recall what words did you say?", the Hon. Prime Minister responded and said "Well I abused him."⁵ The Hon. Prime Minister further stated in his testimony that he was distraught and depressed.⁶

5.3.10 The Hon. Prime Minister admitted that he was remorseful. He realised that he was wrong and immediately on the same day at around 3.30 p.m. he apologised to the Hon. Speaker. He also advised the Hon. Speaker that he was willing to apologise to Hon. Pio Tikoduadua. In that regard, the Hon. Speaker attempted to arrange a meeting with Hon. Pio Tikoduadua and the Hon. Prime Minister but this meeting did not eventuate. Hon.

⁴ Verbatim Report of the Privileges Committee Meeting held on Tuesday, 3 September 2019, at pp. 23-26.

⁵ Verbatim Report of the Privileges Committee Meeting held on Wednesday, 4 September 2019, at pp. 12 and 13.

⁶ Verbatim Report of the Privileges Committee Meeting held on Wednesday, 4 September 2019, at p. 14.

Prime Minister made another attempt to apologise to Hon. Pio Tikoduadua a week later but was again unsuccessful.

- 5.3.11 During the examination of the Hon. Prime Minister, the Committee noted that he was remorseful of his actions and again offered to apologise.⁷ When Hon. Pio Tikoduadua was asked by the Committee whether he would accept Hon. Prime Minister's apology, he responded "Why should I apologise?" and later he replied that he will require time to think about it. When asked whether he would apologise to Hon. Prime Minister, he replied that he has done nothing wrong and therefore has nothing to apologise for.

⁷ Verbatim Report of the Privileges Committee Meeting held on Wednesday, 4 September 2019, at p. 10.

6.0 CONCLUSION

- 6.1 The Committee after hearing all evidence and considering all relevant matters is satisfied that there is a breach of privilege on the part of the Hon. Prime Minister and the Hon. Pio Tikoduadua.

7.0 RECOMMENDATIONS


7.1 Having scrutinised the evidence provided to the Committee, the Committee recommends the following to Parliament –

- (a) that both the Hon. Prime Minister and Hon. Pio Tikoduadua to immediately issue their apologies in Parliament today; and
- (b) if the Hon. Prime Minister and Hon. Pio Tikoduadua fail to do so, that they be suspended from Parliament for a period of six months, with immediate effect from 6 September 2019.

8.0 ENDORSEMENT

8.1 We, the undersigned Members of the Privileges Committee of the Parliament of the Republic of Fiji hereby endorse this Report –

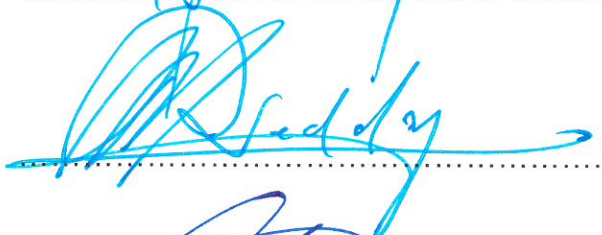
Hon. Veena Bhatnagar



Hon. Inia Seruiratu



Hon. Dr Mahendra Reddy



Hon. Alvick Maharaj



Hon. Adi Litia Qionibaravi

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Hon. Mosese Bulitavu

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