

**INTERNATIONAL
LABOUR
ORGANIZATION –
VIOLENCE AND
HARASSMENT
CONVENTION 2019**

APPENDICES

Submission by the Ministry of Defence and National Security



INTERNATIONAL LABOUR ORGANIZATION — VIOLENCE AND HARASSMENT CONVENTION 2019



INTERNATIONAL LABOUR ORGANIZATION — VIOLENCE AND HARASSMENT CONVENTION 2019



- Ministry of Defence & National Security Perspective of Convention
- Reservations
- Recommendation



FIJI CORRECTION SERVICE

PRESENTATION TO THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

2 MARCH 2020

BIG COMMITTEE ROOM No.2
PARLIAMENTARY COMPLEX
GOVERNMENT BUILDINGS
SUVA



SCOPE

- ▶ Treaty on the Prohibition on Nuclear Weapons
- ▶ International Labour Organization – Violence and Harassment Convention 2019
- ▶ International Labour Organization Protocol of 2002 to the Occupational Safety and Health Convention 1981
- ▶ Conclusion



C190 – VIOLENCE AND HARASSMENT CONVENTION



Fiji may ratify the Convention because:

- ▶ Fiji will narrow the gaps in legal frameworks and protections relating to violence and harassment in the workplace (Art. 9).
- ▶ The Convention is inclusive (Art. 2).



Cont.



- ▶ The Convention recognizes that violence and harassment go beyond just the physical workplace (Art. 3).
- ▶ Convention is necessary for the protections of its victims who may indirectly assist in our Country's Economic performance.



Cont'd

Reservations on the Protocol;-

- in that it should not apply to members of the discipline services.
- Members of the discipline services should be immune from any liability emanating from the conduct of training or during the conduct of a course of instruction.



International Labour Organization on Violence and Harassment Convention 2019

The International Labour Organization could not have come at a greater time than this to address an issue that has long survived the years because of our silence and no proper practical mechanisms to address violence and harassment at work places.

The Fiji Corrections Service before the Standing Committee submits that Fiji must ratify the Convention as it provides a framework for action and an opportunity to shape our country's future of work based on dignity and respect, free from violence and harassment. Fiji's position in advocating against violence and harassment in work place must be recognized to include unfair practices and unethical behaviors in work places irrespective of who the victim is and where it took place.

We submit that the ratification of the Convention will narrow the gaps in legal protections relating to violence and harassment in the workplace (Art9). At present, Fiji does not have a legal framework to address Violence and Harassment but mainly Sexual Harassment. The issue of Violence has always been associated with Domestic violence and not a workplace. Ratifying the Act will enable us to protect our workers who contribute to the development of the nation.

We support the ratification of the Convention because of its inclusiveness (Art 2). The issue and violence and Harassment at workplaces has always been associated with woman, however this

Convention includes all gender and sex and does not discriminate. It protects all workers and all persons in the workplace regardless of their contractual status even to the extent of termination or those who are volunteers, job seekers and job applicants as detailed in Article 2 of the Convention.

Furthermore, we agree to the ratification because the Convention recognizes that violence and harassment go beyond just the physical work place (Art3). With the working environments we currently have, the work environment is no longer “in the office” or “within the building” all the time. The Convention has created an extension as to the definition of workplace to include public and private spaces, even while taking a break or a meal, while using sanitary, washing and changing facilities. It also covers work related trips, travels, training and other places where any type of work could possibly be carried out.

The ratification of the Convention is necessary as it may assist in our Country’s Economic performance. Quite often victims of violence and harassment in work places are in fact the same people that contribute to the mass production and develop our Economy. The victims seclude themselves with shame and suffer silently affecting their work performance. The effect on workers can affect the Country’s Economy reducing the productivity levels. The adoption of this Convention will safeguard our workers in ensuring that they are never subjected to such negative behaviors and violence and harassment in workplaces and will not affect our country’s productivity.

Finally, however, there is reservations that the application of the provisions of the Protocol should not extend to apply to the security services. The environment where discipline services personnel, and for one corrections personnel work in, demand strenuous physical and mental training which may from the outset be regarded as harassment if the intention and purpose of such training is not well understood. This is of course to prepare and equip correctional personnel acquire the necessary mental and physical ability to enable them to be steadfast and arrest a situation while in the face of danger. It also allows personnel to realise their capabilities and as such optimize their productivity. Members of the discipline services must not therefore be held liable and should be immune from any form of liability emanating from the course of facilitating training or course of instruction.

Submission by the Ministry of Foreign Affairs



Submission to the Standing Committee on Foreign Affairs & Defence

Ministry of Foreign Affairs

3 March 2020

(2) ILO - Violence and Harassment Convention 2019

Fiji has ratified the following ILO Conventions:

1. 8/8 Core Conventions
2. 4/4 Governance (priority) Conventions
3. 26 Technical Conventions

These Conventions have been domesticated through the legislative policies administered by the Ministry of Employment, Industrial Relations and Productivity

At the Multilateral platform, the Convention aligns with the various international principles and sustainable development agenda.

Why is this Convention important?

It addresses critical issues which are of a global concern. i.e. The holistic protection of workers rights from violence and harassment.

Implications of Ratification :

The Convention aligns with the fundamental Human Rights Conventions that Fiji has ratified such as the:

1. Universal Declaration of Human Rights,
2. International Covenant on Civil and Political Rights,
3. International Covenant on Economic, Social and Cultural Rights,
4. International Convention on the Elimination of All Forms of Racial Discrimination,
5. Convention on the Elimination of All Forms of Discrimination against Women,
6. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the
7. Convention on the Rights of Persons with Disabilities

8. The Convention also aligns with the Sustainable Development Goals (8) on *"Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all"*
9. *SDG 8 Indicator - 8.8 Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.*
10. The Convention offers protection to all workers taking into account the different contexts of work and specifying the scope of its application. (Article 3) – It expands the context of harassment to include work related trips, travel, training, and work related communication technologies etc.
11. This protection covers Overseas workers (labour migrant workers) and vice versa in any Country which ratifies this Convention.

Recommendation

1. This protection covers Overseas workers (labour migrant workers) and vice versa in any Country which ratifies this Convention. As the Hub of the region, Fiji's ratification of this Convention, implies that Fiji affords adequate, holistic protection for all its workers. Fijian workers also have this protection when working overseas.
2. Based on Fiji's progress of implementation of International Conventions, and its significance for Fiji – our ratification of this ILO Treaty is supported.

Submission by the International Labour Organisation



International
Labour
Organization

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Parliament of the Republic of Fiji
Standing Committee of Foreign Affairs and
Defence
SUVA

3 March 2020

RE: Submission to the Standing Committee on Foreign Affairs and Defence

C190 - Violence and Harassment Convention, 2019 (No. 190)

ILO's International Labour Conference adopted the Violence and Harassment Convention (No. 190) and Recommendation (No. 206) on June 21, 2019.

The adoption of Convention No. 190 and Recommendation No. 206 recognizes the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment. For the first time this right has been articulated in an international treaty.

Violence and harassment in the world of work (further – Violence and Harassment) remains a widespread phenomenon, present in all countries and across all sectors, occupations and work arrangements.

With the adoption of the C.190, the global community has made it clear that Violence and Harassment will not be tolerated and must end.

Why ratification of C.190 is important

Violence and Harassment:

- can constitute a human rights violation or abuse, and poses a threat to equal opportunities,
- affects a person's psychological, physical and sexual health, dignity, and family and social environment,
- affects the quality of public and private services,
- may prevent persons, particularly women, from accessing, and remaining and advancing in the labour market,
- is incompatible with the promotion of sustainable enterprises and negatively impacts workplace relations, enterprise reputation, and productivity.

Gender-based Violence and Harassment disproportionately affects women and girls.

Domestic violence can affect employment, productivity, and health and safety.

Convention 190 – Key Articles

1. What is Violence and Harassment

Article 1 of the Convention defines the following terms:

(a) Violence and Harassment - a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.

This potentially covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

(b) Gender-based Violence and Harassment is directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.

Definitions in national laws and regulations may provide for a single concept or separate concepts.

2. The scope of the Convention is very wide

Article 2 protects workers and other persons in the world of work, including employees as defined by national law and practice, as well as persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants, and individuals exercising the authority, duties or responsibilities of an employer.

The Convention applies to all sectors, whether private or public, both in the formal and informal economy, and in both urban or rural areas.

The Convention applies to Violence and Harassment occurring in the course of, linked with or arising out of work (Article 3):

- a) in the workplace, including public and private spaces;
- b) in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities;
- c) during work-related trips, travel, training, events or social activities;
- d) through work-related communications, including those enabled by information and communication technologies;
- e) in employer-provided accommodation; and
- f) when commuting to and from work.

3. Core principles of the Convention

Article 4 provides that each Member shall adopt, in accordance with national law and circumstances and in consultation with representative employers' and workers' organizations, an inclusive, integrated and gender-responsive approach for the prevention and elimination of Violence and Harassment.

Such an approach includes:

- a) prohibiting in law Violence and Harassment, including gender-based violence and harassment;

- b) ensuring that relevant policies address violence and harassment;
- c) adopting a comprehensive strategy in order to implement measures to prevent and combat violence and harassment;
- d) establishing or strengthening enforcement and monitoring mechanisms;
- e) ensuring access to remedies and support for victims;
- f) providing for sanctions;
- g) developing tools, guidance, education and training, and raising awareness; and
- h) ensuring effective means of inspection and investigation of cases of Violence and Harassment.

Member States shall recognize the different and complementary roles and functions of governments, and employers and workers and their respective organizations.

Members shall ensure the right to equality and non-discrimination in employment and occupation for women and other persons belonging to vulnerable groups.

4. Protection and prevention

Article 9 requires that Members shall adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent Violence and Harassment, including gender based violence and harassment, in consultation with workers and their representatives, and in particular:

- a) adopt and implement a workplace policy on Violence and Harassment;
- b) take into account Violence and Harassment and associated risks in the management of OSH;
- c) identify hazards and assess the risks of Violence and Harassment and take measures to prevent and control them; and
- d) provide information and training.

5. Enforcement and prevention

Members shall take appropriate measures to (Article 10):

- a) monitor and enforce national laws and regulations;
- b) ensure access to appropriate and effective remedies, safe, fair and effective reporting and dispute resolution mechanisms, such as:
 - i. complaint, investigation procedures, and dispute resolution mechanisms at the workplace level;
 - ii. dispute resolution mechanisms external to the workplace;
 - iii. courts or tribunals;
 - iv. protection against victimization for complainants, victims, witnesses and whistle-blowers; and
 - v. legal, social, medical and administrative support for complainants and victims;
- c) protect the privacy;
- d) provide for sanctions;
- e) ensure that labour inspectorates are empowered to deal with Violence and Harassment.

6. Guidance, training and awareness raising

According to Article 10, Members shall seek to ensure that:

- a) violence and harassment in the world of work is addressed in relevant national policies;
- b) employers and workers and relevant authorities are provided with guidance, resources, training or other tools;

- c) awareness-raising campaigns are undertaken.

The Convention shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

The ILO has not registered any ratifications yet.

P155 – Protocol of 2002 to the Occupational Safety and Health Convention, 1981

1. Occupational Health and Safety Convention N.155

The International Labour Organization's Protocol of 2002 to the Occupational Safety and Health Convention, 1981 complements the *Occupational Health and Safety Convention, 1981* (No. 155) (C155).

69 ILO Member States ratified C155. Fiji ratified C155 in 2008 (registered on 28 May 2008).

Articles 11(c) and 11(e) of the C155 require States Parties, in formulating, implementing and reviewing their national OHS policy (under Article 4), to:

- establish and apply procedures for the notification of occupational accidents and diseases by employers and, when appropriate, insurance institutions (Article 11(c)),
- produce annual statistics on occupational accidents and diseases (Article 11(c)), and
- publish, annually, information on occupational accidents, occupational diseases and other injuries to health occurring at work (Article 11(e)).

2. Protocol of 2002 – Key Articles

Article 2 of the Protocol requires Member States to establish and periodically review requirements for recording and notification of the following:

- occupational accidents,
- occupational diseases,
- dangerous occurrences (as appropriate),
- commuting accidents (as appropriate), and
- suspected cases of occupational diseases (as appropriate).

Articles 3, 4 and 5 provide for specific requirements, details and content that should be included in the recording and notification.

Employers should be responsible for the following:

- to record occupational accidents, etc.;
- to provide appropriate information to workers and their representatives;
- to ensure appropriate maintenance of these records, etc.

The requirements and procedures for the notification shall determine the responsibility of employers to notify:

- the competent authorities;
- where appropriate, medical practitioners and other appropriate bodies.

The notification shall include data on:

- the enterprise, establishment and employer;
- injured persons and the nature of the injuries or disease; and
- the workplace, the circumstances of the accident or the dangerous occurrence.

Articles 6 and 7 require states to publish annual statistics representative of the country as a whole and require that the statistics be compatible with the latest relevant international schemes established under the auspices of the ILO.

The Protocol of 2002 has been ratified by 13 countries (Australia, Albania, Argentina, El Salvador, Finland, Luxembourg, Mali, Niger, Portugal, Slovenia, Sweden, Syria), and entered into force on 9 February 2005.

3. Why Should Fiji Ratify the Protocol?

Harmonisation: The Protocol provides a mechanism through which the reporting and notification of occupational accidents and hazards can be harmonised internationally.

Without this action internationally, it is impossible for the ILO and national governments to benefit from a global dataset of accidents and diseases.

Following common requirements will also assist the global project of reducing workplace accidents and diseases, which number in the hundreds of millions per year.

Prevention: The main reason that a coherent dataset is desirable is to develop effective preventative action.

Effective recording and notification could serve as a warning system (and for suspected cases an 'early warning system') to prevent accidents and diseases, particularly because the Protocol requires comprehensive reporting.

Flexibility: Under the Protocol Member States can determine the criteria for notification requirements that provide a large amount of flexibility in its application.

In Fijian law, the criteria is currently provided for at section 26(1) of the *Health and Safety at Work Act 1996* and relevant regulations.

For example, under Article 2 States can record and notify 'as appropriate' on dangerous occurrences, commuting accidents and suspected incidents of occupational diseases.

Ratification of the up-to-date instrument on occupational safety and health:

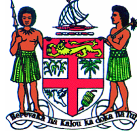
Following the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM TWG), the ILO Governing Body has submitted six outdated ILO Conventions to the International Labour Conference for consideration of their abrogation or withdrawal and has decided that some ILO Conventions will be abrogated.

Fiji has ratified the Underground Work (Women) Convention, 1935 (No. 45), which has been proposed for abrogation in 2024, but is still in force.

To ensure that its abrogation does not result in a gap in legal protection in Fiji, the ILO Governing Body encouraged the Government to consider ratifying related up-to-date instruments on occupational safety and health, including the **Protocol of 2002 to the Occupational Safety and Health Convention, 1981**, the Occupational Health Services Convention, 1985 (No. 161), the Safety and Health in Mines Convention, 1995 (No. 176) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

Ratification of the Protocol of 2002 will become an important step to close the gap in legal protection in Fiji after the abrogation of the Underground Work (Women) Convention, 1935 (No. 45) in 2024.

Submission by the Ministry of Employment, Productivity and Industrial Relations



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STANDING COMMITTEE ON FOREIGN AFFAIRS & DEFENCE

Tuesday 3rd March, 2020

Reference is made to the Call for Joint Submission on views of the Ministry of Employment, Productivity & Industrial Relations to the Standing Committee on Foreign Affairs and Defence on whether Fiji should fully ratify the following Treaties:

1. Treaty on the Prohibition of Nuclear Weapons
2. International Labour Organisation – Violence and Harassment Convention 2019;
3. International Labour Organisation Protocol of 2002 to the Occupational Safety and Health Convention 1981

The Ministry advises that the Fijian Government considers ratifying the abovementioned Treaties for the following reasons:

1. Treaty on the Prohibition of Nuclear Weapons

Hon Chair, the danger posed by nuclear weapons is a fundamental issue of humanity, the right to life, international law, intergenerational justice and sustainability. This danger not only impacted, military personnel, and civilians but our workers.

We wish to recognise our history. We acknowledge the test of time that our country withstood, and commemorate those who have endured and withstood nuclear testing, a period in history with ramifications that are still felt by our oceans, lands, and people. We acknowledge the issues both past and present that our nation has faced.

Some of our Fijian families and our communities are still suffering today from the effects of the atmospheric nuclear weapons tests between 1952 and 1958 by the United Kingdom. The operation codenamed, "Operation Grapple", was conducted at the Monte Bello Islands off the coast of Western Australia, at Emu Field and Maralinga in South Australia and at Malden and Christmas Island.

An estimated three hundred (300) Fijian servicemen enlisted in the Fiji Royal Naval Volunteer Reserve for service on Christmas Island to work alongside the British, Australian and New Zealand servicemen in monitoring the atmospheric testing of the UK's hydrogen bombs.

The consequences of this nuclear activity, are still being felt today by our fellow surviving Fijians – manifesting in, among other impacts, debilitating health and intergenerational maladies. This legacy continues to threaten not just our people, but the health and wellbeing of generations who depend upon them.

In response to the testimony and incidents reported by veterans, the Fijian government through Cabinet in 2014 approved a budgetary allocation of \$2.95m for payout as medical assistance to survivors and their dependents for the exposure to possible nuclear radiation. The Ministry of Employment and Ministry of Defense were responsible for the facilitation of compensation of these men as they continue to seek recognition and redress for the harm and

intergenerational impacts on their families. A total of two hundred and fifty (257) cases was paid **\$2,532,735.00** in compensation.

As Ministry responsible for the enforcement of the Health & Safety At Work legislations, our fellow Fijians' rights deserve to be protected wherever they work - be it locally or internationally, the Ministry therefore, overwhelmingly supports the ratification of this Treaty. By signing the nuclear weapon ban treaty we are ensuring that the threat of nuclear poisoning to our people does not happen again.

2. International Labour Organisation – Violence and Harassment Convention 2019;

Hon Chair, the new International Labour Organization (ILO) Convention 190, concerning the elimination of Violence and Harassment in the world of work, was adopted by the International Labour Conference in Geneva, during the Centenary celebration on 10 June 2019. The Convention is a major step towards giving workers across the world the right to a workplace free of violence and intimidation.

Convention 190 requires every state party to respect, promote and realize the right of everyone in the world of work free from violence and harassment. Violence and harassment in the workplace is a persistent problem for many workers worldwide.

Government considers sexual harassment in the workplace an important and a priority issue that Fiji has to address in order to ensure quality work environment - free of intimidation and sexual harassment, and to enhance productivity.

Government believes that every working person should be able to enjoy a working environment free from all forms of harassment and discrimination, whether on the basis of ethnicity, national or social origin, religion, political affiliation, gender or any other form of personal identity. Therefore, behavior and attitudes respecting the dignity and human rights of a worker should be actively promoted.

With the adoption of this new ILO Convention, workers will get a powerful tool to advocate their own rights in the workplace. This new global standard will promote the position of workers, especially women, as they often have to deal with various forms of violence and harassment in the workplace.

Whilst our existing instruments may have provisions for violence and/or harassment, these instruments may be limited in what is understood by violence or harassment **in the workplace**, including providing guidance on how to address its various forms and coverage for all workers. There is a need for a specific international legal instrument focusing on violence and harassment, including Gender Based Violence (GBV), in the world of work, considering limitations in existing instruments.

It has been established that domestic violence has an impact on the workplace and that employers should recognize the effects and help mitigate its impact in the world of work. The

treaty also gives workers in the informal sector, such as domestic workers, the right to protection.

Two thirds of women around the world experiencing intimate partner violence are in employment. Some of our women in Fiji are experiencing a similar fate. This means that their path to escape most likely affect their work life. They plan, they find accommodation, they seek police assistance, they attend court dates, they arrange counseling and medical attention for their children – they do all these while trying to navigate work. Lack of economic independence can also keep women trapped in violent relationships. The Convention is essential to end gender-based violence in the world of work, one of the most effective tools of oppression preventing gender equality.

Besides the human suffering it causes and its impact on health, violence and harassment, imposes a significant economic burden on society as a whole, in the form of healthcare costs, policing and legal costs, lost productivity and social costs to name a few.

By ratifying this Convention, Fiji can play an important role in establishing a new set of ILO standards on violence and harassment in the world of work.

By supporting the ratification of this Convention, Fiji will be signaling zero tolerance for violence and harassment as well as contributing to SDG Goal 5 and 8 of the UN 2030 Agenda on Sustainable Development – on gender equality and decent work respectively.

Rallying support for this Convention is a great opportunity to heighten awareness on gender-based violence, expose its harmful impacts, collectively empower women workers and end tolerance of gender-based violence in the world of work

The economic impacts of violence and harassment are worth millions of dollars. Creating a mechanism to help identify and prevent violence and harassment in the world of work will

help reduce the economic impacts on workers and their families, on businesses and on the public purse.

3. International Labour Organisation Protocol of 2002 to the Occupational Safety and Health Convention 1981

Hon Chair, Fiji ratified the International Labour Organization (ILO) Occupational Safety and Health Convention 1981 on 28 May 2008, which is in line with the Fijian Government's commitment to ensuring the health and safety of every person at the workplace.

The ILO General Conference adopted P155 – Protocol of 2002 to the Occupational Safety and Health Convention, 1981, on 20 June 2002, and came into force on 9 February 2005.

The Protocol was adopted by the ILO to prevent accidents and injury to health arising out of, linked with or occurring in the course, by minimising, so far as reasonably practicable, the causes of hazards inherent in the working environment.

Fiji's legislative framework is already in compliance with the obligations under the Protocol and will complement the Ministry's regulatory role to strengthen the recording and notification procedures for occupational accidents and diseases, to promote the harmonization of recording and notification systems with the aim of identifying their causes; and establishing preventive measures for all workplaces in Fiji.

Under section 20 of the Fijian Constitution, every person has the right to fair employment practices, including humane treatment and proper working conditions. The Health and Safety at Work Act 1996 (HASAWA 1996) and the Health and Safety at Work (Administration) Regulations 1997 provide the minimum requirements pertaining to the systems of notification and recordings of occupational accidents, occupational diseases, dangerous occurrences and suspected cases of occupational diseases by the employers to the competent authority in Fiji.

The relevant national laws and policies that are already in place indicate that Fiji is already in compliance with the minimum requirements of the Protocol.

Fiji's ratification of up-to-date ILO Conventions and Protocols as such could complement or add value to the existing Fiji policies by:

- i. Providing for greater protections for workers, by means of more stringent minimum requirements, particularly with identified high risk industries in occupational safety and health (OSH)
- ii. Complementing measures where current policies establish a procedural or coordinating framework.
- iii. Extending scope and coverage of protections, including formulation of new policies in response to current and emerging labour market risks.
- iv. Responding to national objectives of Fiji, such as gender equality, and the demands of the Fijian labour market in current and future economic contexts

In conclusion, Hon Chair, the ratification of International Labour Conventions is part of Fiji's efforts in promoting the universally agreed Decent Work Agenda. In recent years, Fiji, as well as other countries in the world, have intensified the ratification of ILO conventions. To date Fiji has ratified all 8 ILO core Conventions with 4 priority conventions and 26 Technical conventions, the fundamental principles and rights of these conventions have been domesticated within our National Laws and enforced to create a conducive work environment for all Fijians.

These are considered as Human Rights instruments, a key factor to accompany Fiji's objectives of quality employment, decent work and inclusive growth, and our commitment to the global agenda on SDG 8 – Decent Work and Economic Growth

-ENDS-



FWRM SUBMISSION ON THE RATIFICATION OF THE VIOLENCE AND HARASSMENT CONVENTION 2019

INTRODUCTION

The Fiji Women's Rights Movement (FWRM), established in 1986, is a multi-ethnic and multicultural nongovernmental organization committed to removing all forms of discrimination against women through institutional reform and attitudinal change, through targeted research and advocacy.¹

FWRM is the only domestic non-governmental organisation dedicated to undertaking research in areas affecting women, including sexual harassment at the workplace.

FWRM notes that at the time of preparing this submission, there have been nil ratifications by any country to the Violence and Harassment Convention 2019 (Convention).² This gives Fiji a unique opportunity to be the first country in the world to ratify this Convention, and thereby cement its position as being a champion of women's rights to be free from violence and harassment in the workplace. FWRM will also address some concerns raised.

As per the Concluding observations of the Committee on the Elimination of Discrimination against Women on the fifth periodic report of Fiji, it calls the State party's attention to the fact that sexual harassment does not only constitute an attack on the dignity of the woman but additionally has a discriminatory impact as it will often affect the victim in terms of wages, promotion and/or dismissal as well as create a hostile work environment which obstructs the victim's fulfilment of her professional potential.³

FWRM takes this opportunity to submit herein our recommendations to the Committee on the ratification of the Violence and Harassment Convention 2019.

PREVALENCE OF SEXUAL HARASSMENT IN THE WORKPLACE IN FIJI

FWRM's work in the area of employment reform as it relates to advancing women's rights began in the late 1990s under its Women's Employment and Economic Rights Project. The goal was to redress the social and economic disadvantaged women in the wake of labour reforms occurring in Fiji at the time.

We recognise that sexual harassment is more than a problem of safety and health, and unacceptable working conditions, but is also a form of violence (primarily against women).

In 2002 FWRM commissioned Tebbutt Research to conduct a ground-breaking research on the incidence and nature of sexual harassment of women in the workplace. This was the first ever research on the prevalence of sexual harassment in Fiji. Results of that study were widely utilised, and assisted FWRM to lobby and advocate against sexual harassment in the workplace, and to provide input into a decision to adopt a broader definition of sexual harassment for Employment Relations Act being developed at that time.

In June 2016, FWRM again commissioned Tebbutt Research to update the findings by conducting a follow up study. The core research objective was to replicate and update the key elements of the 2002 study, while incorporating some changes to make the project relevant to the 2016 workplace.

A quantitative study with 1000 women currently in paid employment was conducted in the urban centres of Suva, Nadi, Lautoka and Labasa. The study asked the question, *has the prevalence of sexual harassment in the*

¹ <http://fwrn.org.fj/>

² https://www.ilo.org/dyn/normes/en/I?ref=1000:11300:0:NO:11300:P41300_INSTRUMENT_ID:3999810

³ <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6CkG1d%2FPFRiCAchKb7Yh4jUNjw8dUF3pRrdCdan79i9Ym0cLGdH2T6Rp2kRyO%2bXVo21u4h2WC2wGx3R6dH8n03ksvngQbJ3JbeTrXXUT0hjpzuTHtoQT0GPG9Yf>

workplace changed with the increasing number of women in the workforce and/or with the increasing number of women in decision- making roles?

Whilst the incidence of sexual harassment in the workplace in 2016 as compared to 2002 has decreased, the findings of the research point out interesting relations to Fiji's economic development in past decade. The Food, Beverage and Hospitality sector (35%) has the highest incidence of sexual harassment followed by Public Service (23%), Health (24%) and Retail (23%) with Education (8%) sector being the lowest.

In the study, Nadi (33%) was identified as the 'hotspot' for incidences followed by Suva (19%), Labasa (18%) and Lautoka (11%). In 2002, Lautoka was reported to be the 'hotspot' for sexual harassment. Two hypotheses can be formed on the improvement in the situation on Lautoka; (1) being the tourism infrastructure restructure has contributed to this and (2) the expiry of the Multi Fibre Agreement in 2003 which saw the demise of many garment establishments in the city.

Younger women (25% of under 30 year olds) and those women from i-Taukei (29%) are most likely to be harassed, as are casual (43%) and part-time (30%) employees. Incidences are higher for women with these job requirements: serving members of the public; working on weekends; working at night; shift work; changing in and out of uniforms at the workplace; working on own in isolation; attending office parties. The most common types of sexual harassment that women face is Verbal (12%), Gestural (10%) and Physical (9%) harassment.

Most types of harassment are happening at the usual place of work and have occurred in the last 12 months. Most types have been experienced in the current organization rather than previous organization, indicating that majority women remain in workplaces where they experienced sexual harassment. The study confirms that majority of the offenders are males with a small proportion being females. Most of these offenders were between the ages 20-39 years. Therefore, young males are most likely to offend.

For the 20% of women who have experienced sexual harassment in the workplace, half have experienced more than one type of harassment. Those working in the Food, Beverage and Hospitality sector are most likely to report multiplicity (10% 4+types) of offenses.

In the 2016 survey, the idea of sexual harassment instigated through communal or familial ties (*tauvu*, *tavola* etc) was explored. Almost one in eight women claimed to have experienced sexual harassment in the workplace or during the course of doing a job that was the result of traditional, cultural or kinship relationship.

The decrease in the incidence of sexual harassment in the workplace is encouraging, however, more work needs to be done for workplaces to adopt and implement sexual harassment policies that are consistent with the national standards as stated in the Employment Relations Act. With strong patterns indicating high prevalence in the Food, Beverage and Hospitality sector, advocacy and knowledge base on sexual harassment needs to be strengthened across this industry.

Most young people being victims and offenders of sexual harassment in the workplace indicates a long term issue since these people will remain in the work force for a long time.

ISSUE WITH CURRENT LEGISLATIVE FRAMEWORK

The National Sexual Harassment Policy⁴ which is a guiding policy document, unfortunately has not been able to contribute to the eradication of sexual harassment in the workplace faced by women, as our research shows.

As per our research shows, despite 20% of all working women interviewed stating that they experienced sexual harassment at their workplace, only 18% actually reported it. These incidences occurred whilst national legislation and policy framework was in place (to date). FWRM is deeply concerned at these figures.

This is due to multiple reasons such as; not being reviewed since 2008, non-inclusion of social media as a means of perpetuating sexual harassment and outdated references to the *Penal Code* which is now repealed by the *Crimes Act*.

The current laws and policies (Employment Relations Act, National Gender Policy and National Sexual Harassment Policy) lack uniformity and relevancy in addressing the issue of sexual harassment in the workplace.

⁴<http://www.employment.gov.fj/images/640/erlws/National%20Policy%20on%20sexual%20Harassment%20in%20the%20Workplace%202008.pdf>

For example, we note the submissions made by the disciplined forces to the Standing Committee last week in support of ratification. However, it is worth highlighting that the ERA does not apply to the member of the Fiji Corrections Services, Fiji Police Forces and Republic of Fiji Military Forces as per Section 3 (2). They may have their own internal processes for dealing with sexual harassment and violence cases but we are not privy to this information.

Furthermore, the CEDAW committee had put forward the following recommendations relating to sexual harassment; to examine the organization culture in workplaces to address the factors that may facilitate sexual harassment and/or assault, to widely disseminate information on reporting procedures ensuring that the complaints are investigated and perpetrators are brought to justice, conducting regular labour inspections to verify the sexual harassment policy being in place and amending the Employment Relations Act to ensure that it applies to all employers, including Republic of Fiji Military Forces, the Fiji Police Force and Fiji Corrections Service.⁵

RECOMMENDATION

FWRM strongly recommends that the State ratify the Convention as it would bring about the timely review of all relevant national laws and policies which need updating. We also recommend that all sectors be included under the one regulation for easier recording and monitoring and evaluation purposes as well as ensure greater and exemplary transparency and accountability.

When we have uniform and transparent reporting process and an assurance of fair and just outcome, this in turn results in more victims and survivors speaking up and coming out to report their cases as they would have faith in the system. This would also ensure that Fiji is meeting all its international obligations under the Sustainable Development Goals with violence-free workplaces and decent work for all.

⁵ Concluding observations on the fifth periodic report of Fiji, Committee on the Elimination of Discrimination against Women 9 March 2018



FIJI TRADES UNION CONGRESS

32 DES VOUEX ROAD, P.O. BOX 1418, SUVA, FIJI

PRESIDENT: Daniel Urai

YOUR REF:

NATIONAL SECRETARY: Felix Anthony

OUR REF: MISC/02

DATE: 09/03/2020

Hon. Alexander O'Conner
Chairperson
Standing Committee on Foreign Affairs and Defense
Ministry of Foreign Affairs
P. O. Box 2220
Government Buildings
Suva
Fiji

Re: Ratification of C190 on Violence and Harassment at Work

I refer to your correspondence dated 26th February, 2020 on the above and would like to thank the Standing Committee of Foreign Affairs and Defense for inviting FTUC to submit our views. Due to the short time, we are unable to make an oral submission hence a written submission as support for the call for the ratification of the Convention on Violence and Harassment is being made.

1. We fully agree that the Convention 190 on Violence and Harassment at Work be ratified as soon as practical.
2. The Fiji Government at the ILC 2019 readily supported the adoption of the Convention when it was discussed in Geneva. The adoption of this Convention was a historical event on the occasion of 100 years of the ILO, after two years of negotiations on the text in which the FTUC was immediately involved as party the global trade union campaign to formulate the Convention.
3. There was agreement and support by both the Employers (FCEF) and the Fiji Government to support the adoption, as was the position of the Workers organisation (FTUC).
4. The ratification of this convention will bring us closer to being in line with the Fijian Constitution provisions on Bill of Rights.

5. Fiji has good systems in place that will assist in the full implementation of this Convention at national level, including the various organizations that work in this subject area. These organizations have been actively involved in this thematic area who can contribute positively to the policy development at national level to ensure full adoption, implementation and monitoring.
6. The FTUC was part of the global campaign calling upon the Convention's adoption and we are now working on launching the call for its ratification by Fiji as part of our International Women's Day activity that will be held together with the 18th Women's Biennial Conference.
7. We call upon Government to take necessary steps to ratify this Convention without delay. We are very confident that the Employers (FCEF) in Fiji are of the same view. We could be one of those countries that need to ratify so that this Convention becomes effective.
8. We look forward to the ratification and developing renewed partnership in making the adoption and implementation of this Convention a reality. We envisage that post its ratification; our national laws will be swiftly amended to reflect this ratification by Fiji.

Yours sincerely



Felix Anthony
National Secretary

All correspondence to be addressed to the National Secretary
Phone: (679) 3315377, 3315402/ Mobile: (679) 7975377 / Email: ftucns@fmc.org.fj

Submission by the



**PACIFIC INSTITUTE OF OCCUPATIONAL HEALTH & SAFETY
PROFESSIONAL CONSULTANCY**

Nabua Post Office, P.O Box 294, Suva City, Fiji
Contact No: 9418827
Email Add: piohs.pc@gmail.com

3 March 2020

Attn: **Hon. Alexander O'Connor – Chairperson**
The Chairperson Standing Committee on Foreign Affairs and Defence
PO Box 2352
Government Building, Suva

Sub: **Position Letter**
(Re; Treaty on the Prohibition of Nuclear Weapon, ILO-Violence and Harassment Convention 2019 and ILO Protocol of 2002 to the Occupational Safety & Health Convention 1981.)

Dear Sir,

Greetings!!!

Reference to your e-mail pertaining to the above subject line, Pacific Institute of Occupational Health & Safety Professional Consultancy (PIOHS-PC) wishes to impart our position on the subject matter as follows:

1. Treaty on the Prohibition of Nuclear Weapon

We need an ample time to prepare the details on this matter although specifics are already detailed in the Treaty on the Non-Proliferation of Nuclear Weapons that yet to be enforce. Nevertheless, our institution totally opposed to any nuclear related activities by any means.

2. With respect to the ILO – Violence and Harassment Convention 2019 and ILO Protocol of 2002 to the Occupational Safety and Health Convention 1981, PIOHS-PC humbly proposed the following to further enhance, expand, augment and promote the substance and requirements detailed in these conventions as follows:

- a) NOHSS shall develop a Code of Practice. Such Code of Practice will reinforce NOHSS commitment to further improve the health and safety standards of all contracts and activities, (including but not limited to industrial and non-industrial operations and activities) and to standardize their approach to health and safety throughout their sphere of operations. The code of practices shall be established from the best and most appropriate International health and safety standards.
 - b) NOHSS shall establish Environment, Health and Safety Management System that integrates all health and safety management of all business operations into one coherent system. The integration of these components allows businesses to achieve its objectives efficiently by managing its impact to the environment and minimizing occupational risks.
-

c) Development of Health and Safety Regulatory Framework.

To convey its commitment to Health and Safety of employees and the protection of the Environment as well as to ensure the enforcement and compliance to the Environment, Health and safety Management System, the Government, through NOHSS, shall craft a Regulatory Framework that aims to:

- ✓ Integrate existing health, safety and environmental laws and regulations. (NOHSS shall suggest amendments on hasawa 2013 to include any vital details in the regulatory framework)
 - ✓ Serve as a management tool to achieve compliance with Fiji's health, safety and environmental laws and regulations.
 - ✓ Ensure that Fiji's health, safety and environmental policy objectives are achieved.
 - ✓ Drive continuous improvement in the management of health, safety and environmental issues to achieve the best outcomes while having regard to the social and economic development of Fiji; and
 - ✓ Develop appropriate management system and technical requirements to ensure health, safety and environmental issues are addressed in a systematic matter.
- d) Develop a comprehensive and technical Health, Safety and Environment Training Program for Health and Safety Practitioners. Such Training Program shall provide aspiring individuals with technical knowledge with regard to Health, Safety and Environmental studies and applications. A training program shall be established based on the most updated international standards. In relation to this training program, this will open an opportunity of employment amongst Fijians.

It is highly recommended that a future amendment shall be made on HASAWA 2013 once the establishment/development of the above particulars is completed or finalized.

In view of the above, our institution can offer our services in assisting you for the above concerns and any relevant matters pertinent to Health, Safety and Environment.

Sincerely,

Tukai Maiwiriwiri
Managing Director

Submission by Professor Shaista Shameem

Submission to the Parliamentary Standing Committee on Foreign Affairs and Defence

On the following:

1. Treaty on the Prohibition of Nuclear Weapons.
2. International Labour Organisation Protocol of 2002 to the Occupational Safety and Health Convention 1981.
3. International Labour Organisation- Violence and Harassment Convention 2019

By Professor Shaista Shameem SJD, PHD, LLM, MA, LLB, BA.

Fellow of the Royal Society on the Encouragement of Arts, Manufactures and Commerce (FRSA).

1.0 Introduction

I am grateful to be provided with an opportunity to make submissions on the Treaty and the ILO Conventions.

I am making these submissions as a citizen of Fiji who has the relevant qualifications and professional experience to be able to do so and not on behalf of my Employer the University of Fiji.

2.0 Treaty on the Prohibition of Nuclear Weapons.

My background as an activist in Fiji in opposition to nuclear weapons goes back to the 1970s student and NGO protest movement against testing when we mobilised over French testing on Mururoa. The Fiji Anti-nuclear Testing Movement and ATOM (Against Testing on Mururoa) is the context around which I became a radical protester in opposition to all sorts of injustice, and not just testing.

Fast forward a number of decades, and I am surprised that I am still talking about this subject. What are the new issues, if any, for the Fijian Government to consider in relation to the Treaty? 2

(i) Old Juice in a new bottle

There was a time when nuclear weapons, let alone nuclear weapons testing, was a prohibited subject in any political discussion in the north/south debates. Independence movements in the Pacific were formed around the issue of testing in our own backyard. There was also a time when the subject became moot- because the super powers backed off the topic and the Rainbow Warrior saga in NZ turned the tide of public opinion against nuclear weaponry and testing in the Pacific.

So why are we still discussing it and why should the Fijian Government make a stand by ratifying the Treaty?

It is because the 1987 Intermediate-Range Nuclear Forces (INF) Treaty, which established a kind of detente between the Soviet Union and the United States, is in jeopardy. In July 2014 the US declared that Russia was in violation of the INF Treaty obligations which Russia denied. The Trump Administration has repeated the allegations and by February 2 2019 it declared suspension of US obligations under the Treaty; Mr Putin declared the same. USA formally withdrew from the Treaty on August 2 2019.

The United Nations' attention was drawn once more to an age-old concern, and in 2017 the General Assembly, within its own mandate, decided to convene a UN Conference to negotiate a legally binding instrument to prohibit nuclear weapons- towards total elimination. The Treaty was adopted on 7 July 2017 and opened for ratification.

(ii) Humanitarian consequences

At the outset, it must be stressed that the Treaty is about **humanitarian** consequences of the use of nuclear weapons. For Fiji, in ratifying- this must be the bottom line- we are considering the inevitable consequences not only of deliberate, but also of any **accidental or miscalculated** nuclear weapon detonation. Fiji must stand together with ALL STATES to prevent any use of nuclear weapons, as a public good and collective security focus. The specific attention that the Treaty pays to indigenous peoples, the principles of humanity, and dictates of human conscience, is a 21st century philosophical advancement on the issues that concerned us in Fiji in the 1970s.

The responsibility given to States by the provisions of the Treaty is simple, compassionate, and obligatory. Fiji cannot avoid it and should never have any 3

problems with the modern sentiments it expresses. We have to totally eliminate nuclear weapons- that is a legal and political commitment Fiji has, not only to the international community, but more so to its own people. All states need to implement national measures in facilitation of ratification. For Fiji, as a non-nuclear nation, this should not pose a problem.

(iii) the right to life and the environment

The Constitution of Fiji, under its Bill of Rights provisions, states that every person has the right to life, health and the environment (section 40), among other similar rights. That means that the State has already taken responsibility to protect its people from harm, and should reiterate that this includes harm that can be caused by detonation of nuclear weapons. If Fiji has already taken responsibility for protecting those rights, then ratification merely represents a signal to the international community of that protection of its people.

3.0 P 155 -Protocol of 2002 to the Occupational Safety and Health Convention 1981.

The P155 Protocol of 2002 to the Convention of 1981 is, as I see it, an appropriate ratification in the international sphere, and a commitment in regards to national implementation, for worker protection from and reporting of accidents and diseases in the broader area of health and safety at work.

The fact that the protocol, like the Convention, protects the worker not only at work but also during commuting to and from work is a value added protection not at present covered in the section 20 constitutional protection of the worker. The protocol also protects workers from being penalised as a retaliatory measure if they have reported any incidences regarding health and safety matters. Personal data, such as workers' medical records, is similarly protected by both the Convention and P 155 protocol. In a small place such as Fiji the right to personal data privacy is important.

Workplace health and safety are matters for national data collection, and the protocol establishes that such statistics must be compiled in the national interest- the categories are available through the ILO templates and thus the burden on government regarding data collection is reduced.

Fiji's statutory regime is already in compliance with the Protocol and all is needed is international ratification which will showcase Fiji's own national

advancements in the area of workplace health and safety regulation, protection and monitoring.

Ultimately what the protocol does is ensure that employers and companies operating in Fiji have appropriate protections, and monitoring of those protections, for their workers- namely the Fijian workers who in reality produce the labour surplus, also called profit, not only for their employers, but also for the nation. A healthy and safe workforce thus provides the nation with the kind of productivity that it needs for development. That is the overarching philosophy that supports ratification of this protocol, and is in the spirit of the Employment Relations Act 2008, the Preamble of which sets out in detail our basic principles, including to *'creat(e) minimum labour standards fair to workers and employers alike and to build productive employment relations'*, as well as to *'comply.. with international obligations and give... effect to the Constitution'*.

4.0 C 190 Violence and Harassment Convention 2019 (No 190).

Fiji's ratification of this Convention will mean that some adjustments will need to be made to the current statutory regime on workers' right to be free from violence and harassment at work, since this is an ILO General Conference resolution. The rights to be protected by this Convention are broader than what is provided in Employment Relations Act 2008, the National Sexual Harassment Policy, National Gender Policy and other policies such as on child labour and by Fiji's ratification of international conventions such as CEDAW.

Fiji's ERA covers a comprehensive set of rights of workers, and its preamble broadens that to cover the general sentiments expressed in the Constitution of Fiji. However, it appears that protection against violence and harassment at work is merely confined currently in the law to sexual harassment and violence but not to violence and harassment un-related to that of a sexual nature or to the discrimination provisions expressed in the Constitution and the Human Rights Commission Act. Thus, for example, workplace bullying is not specifically protected in Fiji's laws but this convention, if ratified, should allow Fiji to prohibit such other objectionable practices.

I strongly support this Convention and urge Parliament to ratify it because over the past 4 years in Fiji, as an employment lawyer, representing individuals as 5

well as a union in the higher education sector, I have witnessed workplace bullying being inflicted on Fijian citizens by expatriate supervisors. I have noted collegial bullying as well of Fijian citizens. This has included not just verbal bullying, but also other types of serious harassment such as interference with employment contracts, demotion without cause, defamation and harm caused to reputations, again without cause, and breach of Fijian labour laws. In one organisation where I represented the workers, the pattern was established over a series of expatriate appointments creating a culture of workplace harassment of Fijian citizens.

This brings me to the issue of localisation. I have heard that the government favours localisation in the executive job market, and I would support that specifically for higher education- not only for the higher educational institutions but also for the statutory bodies that monitor higher education in Fiji.

I cannot be more explicit due to the fact that several of these cases of workplace harassment inflicted on Fijian citizens are before the judicial mechanisms of dispute resolution currently. However, it is an issue that requires government attention immediately, as workplace harassment of the broader variety than sexual or gender-based harassment is a hidden problem that ratification of the C 190 convention will help to alleviate.

At the same time, ratification will only be effective as long as it is accompanied by other policy and statutory changes nationally. Specifically we need a broad critique and investigation of the kind of employment pool from which our top managers and executives are being recruited. In education this is particularly critical at this juncture of our development as a nation. Fiji had a localisation policy immediately after independence but, probably due to the skills flight from the 1980s until 10 years ago, we seem to have relaxed that policy. It is time to revisit it because the health and safety of workers in Fiji is demanding a review of our employment policies on recruitment. Thus I see the two ILO Conventions currently before parliament for ratification, namely health and safety and violence and harassment as being inevitably related.

For ratification of C 190, the statutory amendments required would be to the definition of harassment in the ERA- currently confined mainly to sexual harassment, but should include now *'unacceptable behaviours and practices or threats thereof, whether a single occurrence or repeated, that aim at, result in,* 6

or are likely to result in physical, psychological, sexual or economic harm, and includes gender based violence and harassment'.

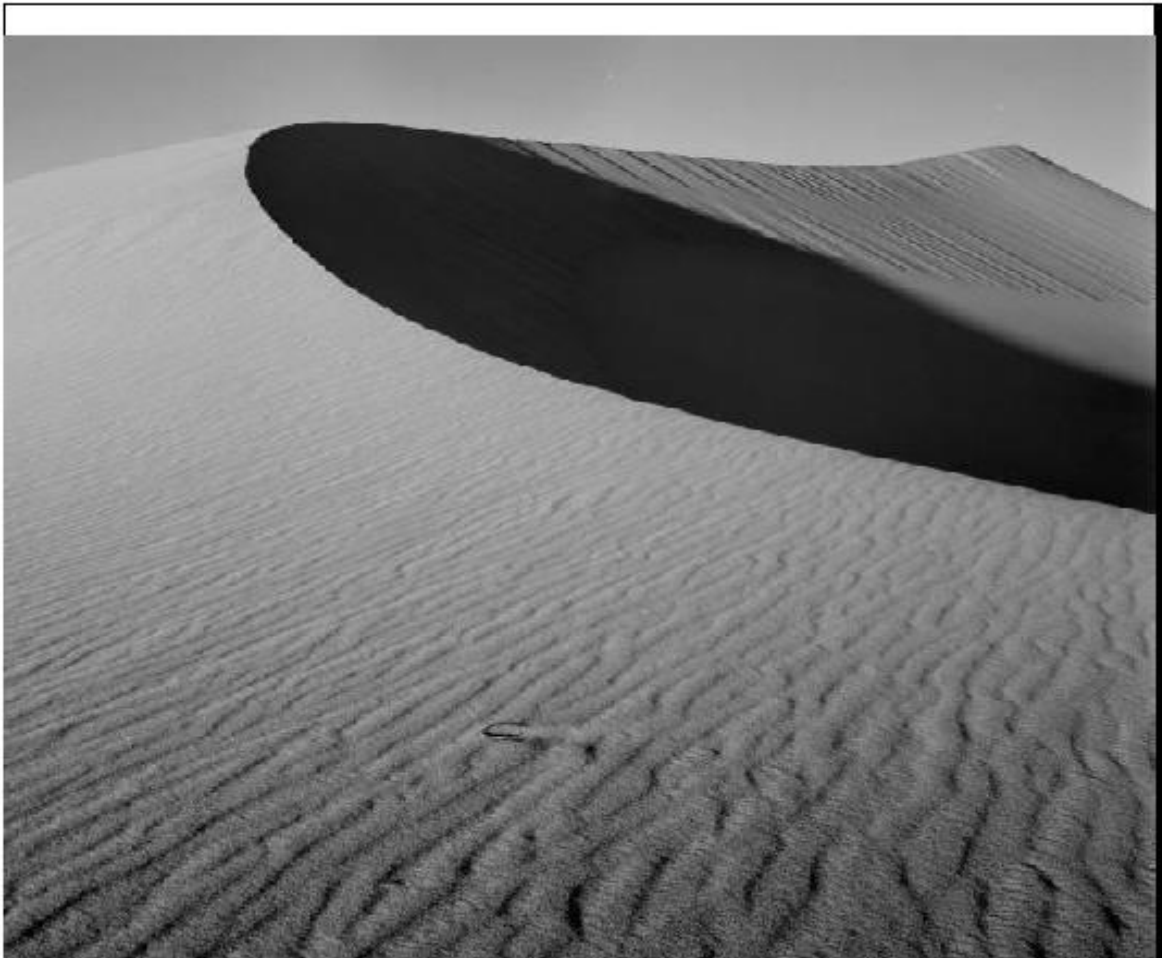
This inclusive definition would cover the growing pattern of non-sexual and non-gender-based harassment at work that I have witnessed, and formally protected Fijian workers against, in an important employment sector in Fiji.

Fiji should ratify this Convention but consistency between the Convention and Fiji's statutory regime should now also be reviewed for the purposes of reporting on our compliance.

5.0 Conclusion

In my view the Treaty on the Prohibition of Nuclear Weapons and two ILO Conventions should be ratified by Government, with the adjustments that need to be made to the current labour laws in Fiji- based on the C 190 Violence and Harassment Convention- also recommended.

Submission by Mr. Reginald Lutu



**ILO PROTOCOL 2002 TO THE OCCUPATIONAL SAFETY
AND HEALTH CONVENTION 1981.**

**PERSONAL SUBMISSION TO FIJI PARLIAMENT STANDING
COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE.**

This is a personal submission, which focusses primarily on ILO Protocol 2002 to the Occupational Safety Health Convention 1981.

Reginald M. Lutu.

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ILO PROTOCOL 2002 TO THE OCCUPATIONAL SAFETY AND HEALTH CONVENTION 1981.

SUBMISSION TO FIJI PARLIAMENT STANDING COM

Although, Fiji's legislative framework incorporates:

- Article 3 (the responsibility of employers: to record occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; to provide appropriate information to workers and their representatives concerning the recording system; ensure appropriate maintenance of these records and to refrain from instituting retaliatory or disciplinary measures against a worker
- Article 4 (Responsibility of the employers to notify competent authorities on procedures to report accidents whether fatal or non-fatal and diseases) and
- Article 5 (Notification by employers shall include the name of enterprise, the name of the person(s) involved in the disease; accident whether it causes injury or not; the particulars of the accident.

The other components in the Convention which is not systematically undertaken in Fiji are the Part III (Articles 6 & 7).

Submission to Parliament Standing Committee.

This is a personal submission that specifically focuses on Protocol 2002¹ to the Occupational Safety and Health Convention 1981.

Annual statistics on occupational accidents, occupational diseases representative of the country as a whole; are not published in Fiji contrary to Article 6 and 7 of Protocol 2002.

CHERRY PICKING COMPLIANCE TO 'THE CONVENTION'

While Fiji's legislation on
Health and Safety
[specifically Section 20-(1)
of Health and Safety at
Work Act 1999 and
Regulation 6-(1) of Health
and Safety at Work
(Administration)
Regulations 1997] conform
to the requirements of
Article 4 and 5 of the
Convention, Articles 6 and
7 are not captured in Fiji's
Health and Safety
legislation; nor are the
practices are being

currently undertaken by the
relevant competent agency
Fiji, namely National
Occupational Health and
Safety Services (NOHSS).

¹ "P155 - Protocol of 2002 to the Occupational Safety and Health Convention, 1981." Protocol P155 - Protocol of 2002 to the Occupational Safety and Health Convention, 1981, International Labor Organization, www.ilo.org/dyn/normlex/en/f?p=NOBLEX:PUBLIC:12100%3A20%3A20%3A12100%3AP12100_ILO_CODE%3AP155.

Article 6

Each Member which ratifies this Protocol shall, based on the notifications and other available information, publish annually statistics that are compiled in such a way as to be representative of the country as a whole, concerning occupational accidents, occupational diseases and as appropriate, dangerous occurrences and commuting accidents as well as the analyses thereof.

Article 7

The statistics shall be established following classification schemes that are compatible with the latest relevant international schemes established under the auspices of the International Labour Organization or other competent international organizations.

Without published annual statistics on Occupational Accidents and Occupational Diseases; the exercise of developing Fiji's policy for Health and Safety, becomes a bridge too far. The Development of a national policy for Health and Safety, is required by Article 4 of Occupational Safety and Health Convention 1981³; which states:

1. Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organisations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.
2. The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

Good policy making requires good data and good data analysis. I quote, Mr. W. Edwards Deming, the father of Total Quality Management, who once said: "Without data, you're just another person with an opinion".

While Fiji's legislation on Health and Safety [specifically *Section 26-(1) of Health and Safety at Work Act 1996* and *Regulation 6-(1) of Health and Safety at Work (Administration) Regulations 1997*] conform to the requirements of Article 4 and 5 of the Convention, I would submit to the Fiji Parliament

³ "C155 - Occupational Safety and Health Convention, 1981 (No. 155)." *Convention C155 - Occupational Safety and Health Convention, 1981 (No. 155)*, International Labor Organization, www.ilo.org/dyn/complex/en/P?p=NORMLJXXPLB%3A12100%3AP%3A%3A%3A%3A12100%3AP12100_ILD_CODE%3AC155.

Standing Committee for Foreign Affairs & Defence, that Articles 6 and 7 are not specifically captured in Fiji's legislation.

As such, cherry picking compliance of 'the Convention' by successive Fiji Governments are actually undermining the legitimacy of Occupational Safety and Health in Fiji. In the process, contributing to the problem of unsafe workplaces across Government and private companies.

I would contend that, by the absence of annual published statistics (data) for occupational accidents and diseases in Fiji and data analysis, actually contributes to unsafe work places and by extension creating a situation where accidents and diseases thrive in an unmonitored environment. That is, the high occupational accidents and disease rates in Fiji are being distorted; by design.

To mask that statistics of Occupational Accidents and Diseases in Fiji, numerous agencies were created by Parliament with their own statutory requirement; without the necessary inter-operational functions and interactions. Each of these agencies (detailed list will follow) are operating within their own silos, frequently operating without lateral communication or coordination with other stakeholders.

Fiji Parliament has abdicated its oversight responsibilities; by failing to ensure Government agencies with statutory responsibilities are being monitored closely, to ensure that these regulatory functions that Parliament had delegated are routinely called to account.

This means all powers delegated by Parliament in the form of Statutes must undergo regulatory impact assessments. All powers delegated by Fiji Parliament which appear in statutes should be reviewed. This Parliamentary oversight cannot be done simply reviewing the Annual reports of the agency.

Essentially, my contribution supports the notion for Fiji to ratify the above convention. However, there are certain caveats to this submission.

Ratification of the Convention, should not merely be a cosmetic one. Meaning that, Parliament should not take the Government's word that Fiji has fully complied with the Convention. Instead, Parliament should trust but verify.

Relevance of Article 6 and 7 and the Impact to Fiji.

Academic studies suggest that occupational accidents and diseases place a high burden on the families, employers and health systems of the host country and contributes actively to creating poverty. In addition, occupational accidents and diseases rob national economies of much needed tax revenue base, as well as removing skilled and experienced workers. One by-product of occupational accidents and occupational diseases are loss in productivity. The current global outbreak of coronavirus ³, underscores this situation. Therefore I submit to the Standing Committee that, It is Imperative that Fiji use International best practices to obtain, store and analyze data for occupational accidents and diseases.

One of the challenges in Fiji is that there is no single data collection agency in Fiji; to tally "occupational accidents, occupational diseases, dangerous occurrence and commuting accidents pursuant to Article 4 and 5. There is no Inter-agency understanding or coordination with respect to data collection; let alone Investigation of occupational accidents/diseases.

Below listed are the agencies in Fiji that collect data; within their narrowly prescribed categories.

1. National Occupational Health and Safety Service.
 - a. The competent agency which all employers are legally mandated to report accidents and diseases.
 - b. Investigates workplace serious accidents and diseases.
2. Workers Compensation unit.
 - a. Administers workers compensation (fault scheme) cases until Jan 1st 2019.
3. Accident Compensation Commission of Fiji.
 - a. Effective Jan. 1st 2019, this nascent agency, Administers compensations of Injuries and fatalities (no fault) for the following categories:

³ "Coronavirus." World Health Organization, World Health Organization, www.who.int/health-topics/coronavirus.

- I. Motor vehicle accidents.
 - II. Accidents at schools.
 - III. Occupational accidents/diseases.
- 4. Fiji Police Force.
 - a. Investigates injuries and accidents involving members of the public.
 - b. Investigates motor vehicles accidents.
 - c. Enforces traffic violations.
- 5. Land Transport Agency.
 - a. Investigates motor vehicles accidents.
 - b. Enforces traffic violations.
 - c. Develops policies and legislation pertaining to roads, land based public transport.
- 6. Maritime Safety Authority of Fiji.
 - a. Investigates maritime vehicles accidents.
 - b. Develops policies and legislation pertaining to maritime industries and maritime based public transport.
- 7. Ministry of Health.
 - a. First responder to Occupational Accidents/Diseases.
 - b. Treats workers who were involved in Occupational accidents/ diseases.

Occupational accidents and diseases in Fiji may fall into one or more of the above categories. There may be incidents where serious accidents are investigated by one or more agencies. Due to the multitude of agencies involved, there is no single coordinating or operational control agency as a result there data acquisition will be challenging.

Coupled with the numerous agencies, within Government there is no consistent categorization of industry. I.e. Bureau of Statistics have their own system of industry classification, Ministry of Trade has

its own Industry classification and National Occupational Health and Safety Services categorizes occupational accidents and occupational diseases in its own Industry classification.⁴

Currently, there is no information sharing or joint investigation protocols between any of the above 6 agencies in Fiji. This contributes to the data collection problems and the subsequent data analysis.

Conclusion.

- I. Considering the number of agencies collecting statistics, the real picture of occupational accidents and diseases in Fiji, are currently distorted.
- II. There is a valid argument to ascertain; considering the numerous numbers of agencies collecting data on occupation accidents/diseases and the reluctance of the Government of the day, to centralize the statistics function; may be a political construct in itself, however flawed the decision is. This would be analogous to a tax collection agency of the Government, being divided among several agencies instead of having a single agency.
- III. Parliament needs undertake the due diligence to inquire, by using the following methods:
 1. Ensure that the competent agency is implementing all of the ratified Convention; by holding regular physical inspections into the competent agency (National Occupational Health and Safety Services).
 2. Monitoring the submission to Fiji Parliament; of annual publications pertaining to Occupational Accidents and Diseases.
 3. Ensure that funding and resources are allocated to the competent agency (National Occupational Health and Safety Services) to ensure that the functions and responsibilities that accompany the ratification of International Treaties and Protocols and undertaken; with the welfare of the workers of Fiji in mind.

⁴ "International Standard Industrial Classification of All Economic Activities (ISIC) - Global Inventory of Statistical Standards." United Nations, United Nations, unstats.un.org/unsd/isa/International-Standard-Industrial-Classification-of-all-Economic-Activities-ISIC.aspx.

4. Parliament Sub-committee should undertake regulatory oversight into the activities of the competent agency (National Occupational Health and Safety Services) to ensure strategic objectives and enforcement plans are derived from the analysis of the annual publications; pertaining to Occupational Accidents and Diseases.
5. Parliament must ensure that enacted Statutes in Fiji, undergo regulatory Impact assessments (RIA); to ascertain their effectiveness. Regulations are an essential part of the policy Instruments governments can use to achieve their objectives but regulations usually have widespread effect, i.e., they affect many different groups in society and the effects may be of many different types. Many of the effects are "hidden", or difficult to identify when a regulation is being considered. Therefore, RIA ⁸ can help Law makers to have a good understanding of who will be affected by regulation and how.

⁸ "Regulatory Impact Analysis (RIA)." *Malaysia Productivity Corporation (MPC)*, www.mpc.gov.my/ria/RI1460050728652-e665512b-4acc.

Appendix.

P155 - Protocol of 2002 to the Occupational Safety and Health Convention, 1981

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Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 90th Session on 3 June 2002, and

Noting the provisions of Article 11 of the Occupational Safety and Health Convention, 1981, (hereinafter referred to as "the Convention"), which states in particular that:

"To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out:

--

- (c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;

--

- (e) the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work",

and

Having regard to the need to strengthen recording and notification procedures for occupational accidents and diseases and to promote the harmonization of recording and notification systems with the aim of identifying their causes and establishing preventive measures, and

Having decided upon the adoption of certain proposals with regard to the recording and notification of occupational accidents and diseases, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a protocol to the Occupational Safety and Health Convention, 1981;

adopts this twentieth day of June two thousand and two the following Protocol, which may be cited as the Protocol of 2002 to the Occupational Safety and Health Convention, 1981.

I. DEFINITIONS

Article 1

For the purpose of this Protocol:

- (a) the term "occupational accident" covers an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury;
- (b) the term "occupational disease" covers any disease contracted as a result of an exposure to risk factors arising from work activity;
- (c) the term "dangerous occurrence" covers a readily identifiable event as defined under national laws and regulations, with potential to cause an injury or disease to persons at work or to the public;
- (d) the term "commuting accident" covers an accident resulting in death or personal injury occurring on the direct way between the place of work and:
 - (i) the worker's principal or secondary residence; or
 - (ii) the place where the worker usually takes a meal; or
 - (iii) the place where the worker usually receives his or her remuneration.

II. SYSTEMS FOR RECORDING AND NOTIFICATION

Article 2

The competent authority shall, by laws or regulations or any other method consistent with national conditions and practice, and in consultation with the most representative organizations of employers and workers, establish and periodically review requirements and procedures for:

- (a) the recording of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and
- (b) the notification of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases.

Article 3

The requirements and procedures for recording shall determine:

- (a) the responsibility of employers:
 - (i) to record occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases;
 - (ii) to provide appropriate information to workers and their representatives concerning the recording system;
 - (iii) to ensure appropriate maintenance of these records and their use for the establishment of preventive measures; and
 - (iv) to refrain from instituting retaliatory or disciplinary measures against a worker for reporting an occupational accident, occupational disease, dangerous occurrence, commuting accident or suspected case of occupational disease;
- (b) the information to be recorded;
- (c) the duration for maintaining these records; and
- (d) measures to ensure the confidentiality of personal and medical data in the employer's possession, in accordance with national laws and regulations, conditions and practice.

Article 4

The requirements and procedures for the notification shall determine:

- (a) the responsibility of employers:
 - (i) to notify the competent authorities or other designated bodies of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and
 - (ii) to provide appropriate information to workers and their representatives concerning the notified cases;

- (b) where appropriate, arrangements for notification of occupational accidents and occupational diseases by insurance institutions, occupational health services, medical practitioners and other bodies directly concerned;
- (c) the criteria according to which occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases are to be notified; and
- (d) the time limits for notification.

Article 5

The notification shall include data on:

- (a) the enterprise, establishment and employer;
- (b) if applicable, the injured persons and the nature of the injuries or disease; and
- (c) the workplace, the circumstances of the accident or the dangerous occurrence and, in the case of an occupational disease, the circumstances of the exposure to health hazards.

III. NATIONAL STATISTICS

Article 6

Each Member which ratifies this Protocol shall, based on the notifications and other available information, publish annually statistics that are compiled in such a way as to be representative of the country as a whole, concerning occupational accidents, occupational diseases and, as appropriate, dangerous occurrences and commuting accidents, as well as the analyses thereof.

Article 7

The statistics shall be established following classification schemes that are compatible with the latest relevant international schemes established under the auspices of the International Labour Organization or other competent international organizations.

IV. FINAL PROVISIONS

Article 8

- 1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.
- 2. The Protocol shall come into force 12 months after the date on which ratifications of two Members have been registered by the Director-General. Thereafter, this Protocol shall come into force for a Member 12 months after the date on which its

ratification has been registered by the Director-General and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol.

Article 9

1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its Article 25, by an act communicated to the Director-General of the International Labour Office for registration.
2. Denunciation of the Convention in accordance with its Article 25 by a Member which has ratified this Protocol shall ipso jure involve the denunciation of this Protocol.
3. Any denunciation of this Protocol in accordance with paragraphs 1 or 2 of this Article shall not take effect until one year after the date on which it is registered.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 12

The English and French versions of the text of this Protocol are equally authoritative.

- (a) satisfy themselves that, so far as is reasonably practicable, the machinery, equipment or substance does not entail dangers for the safety and health of those using it correctly;
- (b) make available information concerning the correct installation and use of machinery and equipment and the correct use of substances, and information on hazards of machinery and equipment and dangerous properties of chemical substances and physical and biological agents or products, as well as instructions on how known hazards are to be avoided;
- (c) undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with subparagraphs (a) and (b) of this Article.

Article 13

A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.

Article 14

Measures shall be taken with a view to promoting in a manner appropriate to national conditions and practice, the inclusion of questions of occupational safety and health and the working environment at all levels of education and training, including higher technical, medical and professional education, in a manner meeting the training needs of all workers.

Article 15

1. With a view to ensuring the coherence of the policy referred to in Article 4 of this Convention and of measures for its application, each Member shall, after consultation at the earliest possible stage with the most representative organisations of employers and workers, and with other bodies as appropriate, make arrangements appropriate to national conditions and practice to ensure the necessary co-ordination between various authorities and bodies called upon to give effect to Parts II and III of this Convention.
2. Whenever circumstances so require and national conditions and practice permit, these arrangements shall include the establishment of a central body.

PART IV. ACTION AT THE LEVEL OF THE UNDERTAKING

Article 16

1. Employers shall be required to ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health.

2. Employers shall be required to ensure that, so far as is reasonably practicable, the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken.

3. Employers shall be required to provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects on health.

Article 17

Whenever two or more undertakings engage in activities simultaneously at one workplace, they shall collaborate in applying the requirements of this Convention.

Article 18

Employers shall be required to provide, where necessary, for measures to deal with emergencies and accidents, including adequate first-aid arrangements.

Article 19

There shall be arrangements at the level of the undertaking under which—

- (a) workers, in the course of performing their work, co-operate in the fulfilment by their employer of the obligations placed upon him;
- (b) representatives of workers in the undertaking co-operate with the employer in the field of occupational safety and health;
- (c) representatives of workers in an undertaking are given adequate information on measures taken by the employer to secure occupational safety and health and may consult their representative organisations about such information provided they do not disclose commercial secrets;
- (d) workers and their representatives in the undertaking are given appropriate training in occupational safety and health;
- (e) workers or their representatives and, as the case may be, their representative organisations in an undertaking, in accordance with national law and practice, are enabled to enquire into, and are consulted by the employer on, all aspects of occupational safety and health associated with their work; for this purpose technical advisers may, by mutual agreement, be brought in from outside the undertaking;
- (f) a worker reports forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health; until the employer has taken remedial action, if necessary,

the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.

Article 20

Co-operation between management and workers and/or their representatives within the undertaking shall be an essential element of organisational and other measures taken in pursuance of Articles 16 to 19 of this Convention.

Article 21

Occupational safety and health measures shall not involve any expenditure for the workers.

PART V. FINAL PROVISIONS

Article 22

This Convention does not revise any international labour Conventions or Recommendations.

Article 23

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 24

- 1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
- 2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
- 3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 25

- 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
- 2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound

for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 26

- 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
- 2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 27

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 28

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 29

- 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 25 above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
- 2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 30

The English and French versions of the text of this Convention are equally authoritative.

See related

Constitution

1. [Constitution Article 32](#)

Key Information

Convention concerning Occupational Safety and Health and the Working Environment (Entry into force: 11 Aug 1983)

Adoption: Geneva, 87th ILC session (22 Jun 1981)

Status: Up-to-date instrument (Technical Convention).

Convention may be denounced: 11 Aug 2023 - 11 Aug 2024

See further:

[Report of the third meeting of the SSM TWG](#)

[Governing Body discussion and decision](#)

See also

[Ratifications by country](#)

[Submissions to competent authorities by country](#)



ILO CONVENTION C190 – VIOLENCE AND HARASSEMENT IN THE WORLD OF WORK

Submission to the Standing Committee on
Foreign Affairs and Defence

The University of the South Pacific
9 March 2020



HISTORICAL BACKGROUND

- The Convention was adopted in line with the World Bank Reports citing 59 countries in the world where women are not legally protected from sexual harassment at work place.
- The process of this ILO Instrument began in 2015 with a global outcry for protection of workers and persons at workplace on Violence and Harassment
- The ILO during its 108 (Centenary) session of the International Labour Conference (ILC) in Geneva on 21 June 2019 adopted this convention

HISTORICAL BACKGROUND

- Every person at workplace must be treatment with dignity and respect and must be accorded the same justice system that even the highest ranking worker in the organization enjoys.
- On 21 June 2019, the ILO adopted the Convention C190, coming into force on 21 June 2020.
- Article 1 - defines the term violence and harassment at workplace as "wide range of unacceptable behaviors and practices and threats that result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.
- Article 2- protects workers and other persons in the world of work, including employees as defined by national laws and practice.

FIJI'S NATIONAL EMPLOYMENT LEGISLATION - ERA 2007

- In addition to the Constitution, this is the main national labour law and is aligned to the provisions of the 2013 Fijian Constitution Fiji.
- Outlines the process to ensure that workers are given fair protection, in line with fundamental ILO and Human Rights Conventions.
- Outlines the process stipulated to ensure that workers are given fair protection that is in line with fundamental ILO and Human Rights conventions.
- Contains various sections and clauses to protect employees violence and harassment at workplace. The main sections are Part 9,10,11,12 and 13.

FIJI'S NATIONAL EMPLOYMENT LEGISLATION - ERA 2007



- Contains various sections and clauses to protect employees violence and harassment at workplace. The main sections are Part 9,10,11,12 and 13.
 - **Part 9** deals with Equal Employment Opportunities- clause 75 deals with Prohibited grounds of discrimination, clause 76 deals with Sexual harassment and clause 77 protects workers from discrimination in employment matters.
 - **Part 10** Clauses 91 deals with Prohibition of worst forms of child labour.
 - **Part 11** Clauses 101 deals with Rights of women on maternity leave.

NATIONAL POLICY ON SEXUAL HARASSMENT WITHIN ERA 2007



- The ERA also has a National Policy on Sexual Harassment that recognizes and ensures that violence in the form of sexual harassment is not tolerated.
- Workers who face the sexual harassment of any kind can easily refer their case to Ministry of Employment for redress.

RATIFICATION

- Each member of the ILO ratifying this convention shall respect, promote and realize the right of everyone to a world of work free from Violence & Harassment.
- Workers must have the right to voice their concern on any employment related matters without fear or favor to anyone and authorities including the internal committee within the organization must have powers to deal with matters.
- We suggest that Fiji should take the lead and be the first country to ratify Convention C190 and be an example to other countries.
- It is important that Fiji ratifies this Convention as Fiji has the basic laws relating to violence and harassment at workplace together employment relations and consultation process through the Unions and Employers.

POSSIBLE IMPACTS OF RATIFICATION & CONCLUDING REMARKS

Recommend that ILO Convention C190 - Violence and Harassment be ratified by Fiji

However, this will imply that Fiji may have to make amendments to some clauses of the ERA (2007)

VERBATIM REPORTS

[VERBATIM REPORT]

STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

TREATY/CONVENTIONS

1. Treaty on the Prohibition of Nuclear Weapons
2. ILO Convention 190 - Violence and Harassment Convention 2019
3. ILO Protocol 155 – Protocol of 2002 to the Occupational Safety and Health Convention 1981

INSTITUTIONS: Ministry of Defence & National Security
Republic of Fiji Military Forces (RFMF)
Fiji Police Force (FPF)
Fiji Corrections Service (FCS)

VENUE: Big Committee Room (East Wing)

DATE: Monday, 2nd March, 2020.

VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE HELD AT THE COMMITTEE ROOM (WEST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON MONDAY, 2ND MARCH, 2020 AT 1.35 P.M.

Interviewee/Submittees: Ministry of Defence and National Security

Department of Immigration

Republic of the Fiji Military Forces

Fiji Police Force

In Attendance:

Ministry of Defence and National Security

1. Mr. Manasa Lesuma - Permanent Secretary
2. Mr. Akuila Savu - Director, Monitoring and Evaluation
3. Ms. Silina Cama - Manager, Ministry of Defence and National Security
4. Mr. Joji Dumukoro - Manager Police
5. Mr. Savenaca Raiwalui- Manager Corporate Services
6. Ms. Marica Rinakama - Principle Administration Officer - Administration & Budget
7. Mr. Eroni Rokisi - Senior Administration Officer - Defence and Police
8. Mr. Lorima Sautu - Administration Officer - Defence and National Security

Department of Immigration

1. Ms. Litia Saumaka - Acting Assistant Director
2. Mr. Umeshwar Ram - Principal Accounts Officer

Republic of Fiji Military Forces

Captain John Fox - Chief of Staff

Fiji Police Force

SSP Aporosa Lutunauga - Senior Superintendent of Police, Director Planning

MR. CHAIRMAN.- Welcome Honourable Members, members of the public and the media, to today's Committee Meeting on livestream, those watching through the Parliamentary Channel and Walesi Platform and also on Facebook on the submission by the Ministry of Defence and National Security on the Ministry of Defence and National Security 2016-2017 Annual Report.

I take this opportunity to welcome the Officials from the Ministry of Defence and National Security, Permanent Secretary and your team, who have agreed to appear before today's Committee hearing.

Please, be advised that the Meeting is open to the public and media and any sensitive information concerning this review that cannot be disclosed in public, can be provided to the Committee either in private or in writing.

At the outset I wish to remind members of the public and the media present in the room that minimum movement is to be maintained during the duration of the submission. Allow me to introduce the Honourable Members of my Committee.

(Introduction of Committee Members by Mr. Chairman)

I now take this opportunity, Permanent Secretary, if you could introduce your team and then the floor is yours, Sir. Thank you.

MR. M. LESUMA.- Thank you, Mr. Chairman. Firstly, I would like to acknowledge and thank the Committee for its request to make the submission this afternoon with regards to our 2016-2017 Annual Report, likewise with the three Treaties that you have alluded to earlier. Let me introduce my Team this afternoon.

(Introduction of Ministry Officials by the Permanent Secretary)

MR. CHAIRMAN.- Sorry, if I just may intervene, PS, I forgot to mention that I am ably assisted by the Secretariat staff and a Hansard Reporter.

MR. M. LESUMA.- We have what the Secretariat had actually circulated to you, Mr. Chairman and Honourable Members, the responses. What we actually did was, we looked at the questions that had been sent to us with regards to the Annual Report and we identified the questions in relation to the various Departments that comes under the Ministry.

Prior to that, Mr. Chairman, if I could go back to the PowerPoint that is before you this afternoon, the scope of our presentation this briefly talks on the role of the Ministry and the legislation that governs the Ministry. We will be responding to the questions that were raised with regards to the 2016/2017 Annual Report that was recently tabled in Parliament. There are also responses that we have prepared with regards to the Sustainable Development Goals (SDG) questions that were raised to the Ministry. The second phase of the presentation which we will later touch on, as I am been briefed, round about 2.30 p.m. today would be the Treaties itself.

If I may, Honourable Chairman, the Ministry of Defence and National Security is mandated by His Excellency the President of Fiji to provide a safe and secure environment that we can all live in peace and harmony.

The core responsibility of the Ministry is to manage the nation's security through the formulation and implementation of policy initiatives, the programmes and projects on matters of defence, national security and intelligence.

The legislation that governs the Ministry, you will have that listed before you, Honourable Chairman and Committee Members. We have the:

- ☐ Defence and National Security;
- ☐ Anti-Personnel Mines Decree 2011;
- ☐ Arms and Ammunition Act 2003;
- ☐ Biological and Toxic Weapons Decree 2011;
- ☐ Chemical Weapons Convention Act 2005;
- ☐ Geneva Conventions Promulgation 2007;
- ☐ Police Act (Cap. 85);
- ☐ Public Order Act (Cap. 20);
- ☐ Public Safety Act (Cap. 19);
- ☐ Rehabilitation of Offenders Act 1997;
- ☐ Republic of Fiji Military Forces Act (Cap. 81);
- ☐ Security Industry Act 2010; and
- ☐ Visiting Forces Decree 1991

In terms of our responses, as I had alluded to earlier, Honourable Chairman, we have taken note of the questions that were raised to the Ministry and we have actually laid out our responses based on the respective Departments and Units that are under the Ministry of Defence. They will note, as I respond to questions, I will definitely be highlighting the questions that you have raised.

Some of the questions are very much HR and come under our Corporate Service Division, while the next lot of questions that we will be responding on, come under the National Security Defence Review Secretariat, the Security Forces Division, the Security Divisions and the last two questions, I have my colleagues from the Department of Immigrations, who will be responding to the questions on immigration.

With regards to Question No.1, that was raised by the Committee to the Ministry, on the KPIs and the measuring progress of the Ministry's performance; it was highlighted that the Ministry's Workplan had KPIs and outputs were well defined, however, they were not used to measure the progress and performance of the Ministry's activities.

Our response, whilst we noted the questions that was raised, we wish to advise that the Report had been provided in general, taking into consideration the wide range of areas of reporting. Although this may not have been clearly reported, there were internal mechanisms in place, such as weekly and monthly reporting that are used to measure the progress of the Ministry's performance. Additionally, the Ministry undertake activities that are related to national security,

that were not factored as part of the deliverables of the reporting year, and these have also been reported.

On Question No. 5 still under Corporate Service Division, on Page 15, what is the progress and update on the 15 acting appointments before you? Honourable Chairman and Honourable Members of the Committee, these acting appointments were made on vacant positions and on subsequent acting. Details as tabulated before you are updates and responses on individual acting appointment.

Moving on to Question No. 13: Can the Ministry update the Committee on the Savings of the \$290,000 under the Special Expenditure Allocation which was mainly due to the non-establishment of the seven vacant project position for the NSDR (National Security Defence Review) on page 46?

Ever since the establishment of the National Security Defence Review Project, the recruitment of staff were planned to be done in three phases. The first phase was for the seven positions as highlighted before you the:

- ☐ Director Strategic Planning Policy;
- ☐ Director for Monitoring and Evaluation;
- ☐ Director for Intelligence and Assessment;
- ☐ Principal Administration and Budget;
- ☐ Principal Intelligence Officer;
- ☐ Principal Assessment Officer; and
- ☐ Senior Accounts Officer.

The Committee may also have noted that this was when all Ministries and Departments undertook the Job Evaluation Exercise (JEE) in 2017 with the implementation of the new salary structure and transitioning of officers from permanent to contract basis. Although recruitment of officers were delayed due to the need in further clarifying the implementation of the JEE on these new positions, acting positions were granted on the positions of:

- ☐ Principal Intelligence;
- ☐ Principal Assessment;
- ☐ Principal Administration and Budget; and
- ☐ Senior Accounts Officer.

This was to ensure that necessary support is provided to the appointed Director-General that was heading the project during that time.

You will also note, Mr. Chairman and Honourable Members of this Committee, that during this time, we also had seconded officers from the two Forces, who were assisting the Ministry and

were being paid from their respective payroll. So they would have indicated savings also in those areas.

On Question No. 4: What is the capability, the level of resourcing and training available for Security Forces for outbreaks of epidemics for 2016-2017 and for the most recent, the COVID-19?

The Ministry, again, acknowledges the importance of the question that have been raised but wishes to inform that the Ministry of Health and Medical Services take lead role in any such outbreaks. Nevertheless, the Security Forces stand ready to assist the existing mechanisms in line with the mandated roles under the 2013 Constitution. The Republic of the Fiji Military Forces has a medical corp with a Level 1 capability, a medical centre that is available to RFMF personnel and families, which is resources with capable doctors and nurses and equipment to deal with any outbreaks of epidemic.

In terms of resources and support for outbreaks of epidemics in mission areas, the RFMF deploys MEDIC team consisting of doctors and nurses with the contingent that is being deployed. The role of the Fiji Police Force in this regard is to ensure the containment of any epidemic through the enforcement of laws and legislation, such as the Public Order Act regarding any epidemic outbreak. Any police response will be conducted in coordination with the Ministry of Health, such as the cordoning off of quarantine areas. This was evident in the recent measles and typhoid outbreak.

The Police Special Response Unit is a special Unit within the Fiji Police Force that conducts training and drills for such emergencies and the Unit is also well equipped with resources capable of deployment to any affected area.

On Question No. 8 on Page 29 under the Security Forces Division, what are the updates on the Review of the RFMF Act (Cap. 81), the Fiji Police Act (Cap. 85), the Illicit Drugs Act 2004, the Bail Act, the Chemical Weapons Act 2005 and the Formulation of Search and Rescue and Cyber Crime Bill?

Mr. Chairman and Honourable Members, with regards to the RFMF Act, the Ministry has been liaising closely with RFMF and the Office of the Solicitor-General on the review of Cap 81. Considering its state, most of the provisions of the Act of 1948 have been considered obsolete and, therefore, requires a complete review. In view of the genesis under the British rule, the RFMF Act was aligned to the British Military Law and as such, we have requested the British for assistance by providing their Manual of Military Law as a guiding reference.

We have been closely working with the New Zealand Defence Legal Team under the mutual assistance partnership to align our review against the New Zealand Military Law and we are also currently working on the RFMF Military Justice Bill, which is separate from Cap. 81. It is expected that the Bill would be subject to public consultation before it is presented to Parliament.

Mr. Chairman, with regards to the review of the Fiji Police Act (Cap. 81), it has been finalised and now awaits its presentation to the Honourable Minister. The final draft will repeal the 1956

Act which is archaic in nature. The draft incorporates provisions relating to science and technology for solving crimes in the 21st century.

Mr. Chairman, with regards to the Illicit Drugs Act 2004, the Ministry and the Office of the Solicitor-General, in consultation with key stakeholders amended the Illicit Drugs Act 2004 late last year, taking into consideration most emerging drugs, precursors and other control pharmaceutical products. The amendments also incorporate provisions of testing kit findings and to further analysis by the Forensic Chemistry Expert. The amendments will be tabled soon in Parliament sometime this year.

Mr. Chairman, with regards to the review of the Bail Act, the need then to review the Bail Act was to increase the detention period of an apprehended person for questioning from 24 hours to 48 hours. However, the 2013 Constitution of the Republic of Fiji has a provision for mandatory of 48 hours consistent with the international standard, hence there is no need to review the Bail Act.

Mr. Chairman, with regards to the Chemical Weapons Act 2005, this has been amended. The Ministry has done the first round of consultations with relevant stakeholders in 2019.

The provisions of the Act, given the evolving technology and in the sphere of science, we need to take into considerations new chemicals which are precursors of weapons and most are used in mining industries and for commercial use. Monitoring of chemicals at the border is essential, compelling importers to provide a list of chemicals for approval prior to ordering.

Mr. Chairman, on the formulation of the Search and Rescue Bill and Cyber Crime Bill, the final Search and Rescue Bill is currently with the Office of the Solicitor-General for vetting and submissions to Parliament.

The formulation of the Cyber Crime Bill is currently being undertaken by the Ministry of Communications. The Ministry is a key stakeholder, providing contributions from the national security perspective, as outlined in the response provided. The Bill will be tabled in Parliament soon after extensive consultation with the public.

Question No. 9: On Page 29 under the Search and Rescue Bill, what are the provisions available for relatives to claim compensation for their loved ones, who were lost at sea or the drowning cases in rivers and streams? How can amendments to the Inquest Act address issues of loved ones lost at sea?

The Ministry appreciates, again, the questions and concerns that have been raised by the Committee on the availability of claim/compensation for loved ones lost at sea or drowning cases in rivers and streams. However, it is also to be noted by the Committee that the Search and Rescue Bill is a proposed legislation that aims to enhance rescue response mechanism for land and sea rescue operations, particularly on the establishment of the Fiji Rescue Coordination Centre.

Currently, Mr. Chairman, there is no specific provisions in the draft Search and Rescue Bill for compensation claims for relatives or persons lost at sea. However this is an area that the Ministry

can consider looking into, with other relevant legislation and compensation mechanisms, like the Accident Compensation Commission to address compensation claims.

On Question No. 10 on page 32, can the Ministry update the Committee on the cyber security platform in Fiji?

With regards to the cyber security platform in Fiji, Mr. Chairman, the Ministry was mandated by Cabinet in 2011 to undertake work in strengthening Fiji's cyber environment through commissioning of Fiji's Cyber Security Working Group to undertake the role of research and survey with the task of working towards national strategy, policy and legislation. However, the National Security and Defence Council in its meeting on 19th March, 2018, endorsed that the Ministry of Communication was to take on the official responsibility of cyber security, and that the Ministry of Defence and National Security was to provide assistance from the national security perspective.

It is to be noted that the rationale from the decision is within the cyber security space. The major threat at the moment for Fiji has more to do with crimes and not the shutdown of financial institutions, like other bigger and more developed countries. The Committee may be aware that the Cyber Crime Bill is currently in its consultation stage.

The Ministry of Communication works with the European Council on Cyber Convention Committees, which administers the Budapest Convention on Cybercrime. The Convention provides technical assistance to member States, including signatory States; sought assistance, including funding and technical expertise in the implementation of strategies and policies that gives effect to the implementation of the Budapest Convention.

Fiji is on track to acceding to the Budapest Convention with the finalising of the Cyber Crime Bill.

On the establishment of the Online Safety Commission, the Ministry advises that the Ministry of Communication provides advice and responses to the Standing Committee on the progress of Fiji's cyber security platforms, as they are now the mandated Ministry in regard to this agenda.

With regards to the donation of 30 million RMB by the People's Republic of China to the RFMF as outlined on Page 32, Mr. Chairman, the RFMF appreciates the support and assistance provided by its defence partners, like China who had donated 30 million RMB to facilitate the areas of defence co-operation covered under the Memorandum of Understanding between the two countries.

The 30 million RMB donation, plus other grants ensured our attainment of some of the following development assistance that we have received so far:

□ RFNS Kacau in 2018....

HON. PROF. B.C. PRASAD.- PS, can I just interrupt you and ask a question now so that you can answer it straightaway; you mentioned the Cyber Crime Bill and you said that it is already at the consultation stage, does the Ministry already have a position on the Cyber Crime Bill? Have you looked at it? Have you made a submission?

MR. M. LESUMA.- We are working with the Ministry of Communication. They have actually sent us the draft and we are providing also our comments from the national security perspective. It is in progress at the moment.

HON. PROF. B.C. PRASAD.- Thank you.

MR. M. LESUMA.- Mr. Chairman, with regards to the relocation of the Naval Base Project, since Fiji's accession to the United Nations Convention on the Law of the Sea (UNCLOS) in 1982, where Fiji's sea boundaries extended from the traditional 14 miles territorial sea to now include 200 miles of the Exclusive Economic Zone (EEZ), this substantial increase puts Fiji's sea area to 1.4 million square nautical miles.

The large sea area and the evolving security landscape have led to an increase in the naval fleet and its capabilities, and there should be a corresponding increase in the capacity of infrastructure to support this. This was the rationale behind the concept to relocate and expand our Naval Base in order to enhance the navy's capacity and capability.

Honourable Chairman, the current location of the Stanley Brown Naval Base at Walu Bay has limited space for possible expansion. As per the 2016/2017 Ministry's Annual Report, the RFMF wanted to look at the possibility of identifying a site for a possible naval base. As part of this plan, a feasibility study of Togalevu Naval Base was being upgraded to support the full naval base with wharves, et cetera. However, preliminary geo-tech survey as reported during this period, recommended that the proposed site would require substantial works to make it suitable.

A further consultation on suitable site was conducted which identified the lower Lead House site at Nakula Street, Lami, to be upgraded. This, Honourable Chairman, was a more suitable location compared to the initial proposed location at Togalevu.

So, the Ministry was provided the capital projects budget to undertake the relocation of the Naval Base in two phases:

1. Phase 1 was the renovation of a temporary location of the 3DP Suva Coastal Radio Station to the existing quarters at the lower lead house in Lami; and
2. Phase 2 was construction of a full facility to accommodate the three essential services of the Fiji Navy and their headquarters.

Honourable Chairman, I am happy to say that Phase I has now been completed and the 3DP Suva Coastal Radio Station are currently operating out of their renovated existing lower lead quarters in Lami, and the implementation of the second phase will be phased out over the next three-year period.

The Ministry wishes also to inform this Committee that the Australian Government has committed to the designing of the proposed project which is currently underway. The project is currently in design phase with construction is planned to commence in 2021.

On Question No. 3: What is the crime statistics in the reporting period of 2016/2017 till to date and what are the crime trends - gaps identified as strategies and results to curb crime from 2016 to 2017?

Before you, Honourable Chairman, and the Honourable Members, we have the statistics for your reference. Now, the Fiji Police Force performance is driven by its role and functions set in the Police Act, the Constitution Crimes Act and the Force Standing Order. The overall organisational performance of the Fiji Police Force is measured in terms of 18 KPIs. For the reporting 2016/2017 period till to-date, the Fiji Police Force KPIs record is tabulated before you.

We have a corresponding graph that illustrates the figures that are tabulated before you for the reporting period till the four years, the following was noted:

- ☐ The overall crimes decreased by 15 percent;
- ☐ Serious crime decreased by 19 percent;
- ☐ Crimes against women decreased by 13 percent;
- ☐ Crimes against children decreased by seven percent; and
- ☐ the number of illicit drugs cases registered shows an increase of 133 percent.

Strategies to curb crime; the key strategies that were implemented by the Fiji Police to reduce crime in this reporting period, included the following:

1. Focusing and prioritising on the Duavata Community Policing through initiatives, such as:

- (a) Know Your Neighbour Concept;
- (b) Catch Them Young;
- (c) Scholastic Programmes;
- (d) Loloma Blue Light Life Skill Edge and School Camp;
- (e) Vueti Ba;
- (f) Follow Your Star;
- (g) Entertainment Policing through Sports;
- (h) Music;
- (i) Religion;
- (j) Vanua;
- (k) Youth; and
- (l) Media Engagements

2. Our strengthening partnership and collaborations with stakeholders, such as the:

- (a) Ministry of Women, Children and Poverty Alleviation;
 - (b) Ministry of Education; and
 - (c) NGOs, faith-based Organisations, Civil Society Organisations (CSOs), including regional and international counterparts.
3. Enhancing police capabilities through Government's provision of resources, such as vehicles, police boats, solar and hiring of drones.
4. Execution of operations nationwide targeting drugs, serious crimes and crimes against women and children, such as:
- (a) Operation (OPS) Cavouraka;
 - (b) Operation Sa Rauta Mada;
 - (c) Operation Tatarovi;
 - (d) Operation Viribai;
 - (e) Operation Gauna ni Marau;
 - (f) Operation Tagimoucia, et cetera
5. Strengthening of technological capabilities, such as forensics and DNA.
6. Stringent monitoring and evaluation of police programmes and activities.

On Question No. 2, the follow-up questions from the previous Report on the issue of Critical Asset....

HON. PROF. B.C. PRASAD.- PS, if I can just interrupt you, again, I think just to make it easier for us to ask a question as we go along; just on the crimes statistics, I take it that this statistics is based on the number of crimes reported, it does not say anything about the investigation, the conviction, so these are statistics of crime reported?

MR. M. LESUMA.- Thank you Mr. Chairman, I will ask my colleague from the Fiji Police Force to further elaborate and respond to the Honourable Member.

MR. A. LUTUNAUGA.- Thank you, Mr. Chairman, in response to the question, this is the number of registered cases that have been reported in the 34 Police Stations around the country, registered and the accused have been charged.

HON. PROF. B.C. PRASAD.- So, what you are saying is, all those reported or registered have been charged, not just reported or registered?

MR. A. LUTUNAUGA.- Yes, Honourable Member. Many cases may be reported but these are the ones who have been found to have committed an offence, charged and were produced in court.

HON. PROF. B.C. PRASAD.- So, you do not have statistics on the number reported?

MR. A. LUTUNAUGA.- As this presentation, this does not include the number of cases reported, only the ones that we have registered as criminal cases.

HON. PROF. B.C. PRASAD.- And charged?

MR. A. LUTUNAUGA.- And charged.

HON. PROF. B.C. PRASAD.- Thank you.

MR. M. LESUMA.- Thank you, Honourable Member, for the question.

Moving on to Question No. 2 that was raised to the Ministry with regards to the follow-up questions from the previous Report on the issue of Critical Asset Protection, the Ministry appreciates the Committee's concern on the issue of Critical Asset Protection.

In response the Ministry wishes to update the Committee on the following Policies that are now in place or being reviewed for the protection of critical assets:

- The Critical Infrastructure Protection Strategy was endorsed by Cabinet in 2011 which provided the Ministry with the mandate to stocktake critical infrastructure assets; and
- Evaluate protection levels of these assets and make recommendations to Cabinet, with irrespective of asset owners on mitigating any risk that threatens the operations of these assets.

Moreover, the Ministry has finalised and is awaiting the endorsement of the Protective Security Policy that has a physical security component which will provide guidelines for the protection of critical assets.

The Ministry is expected to conduct yearly surveys for these critical assets and appraise the National Security and Defence Council and Cabinet on the reports of these surveys for earlier identification and mitigation of threats. Given the change in security threats, the Ministry appreciates the comments of the Committee on the Critical Infrastructure Protection Policies and we will work on the review of the Critical Infrastructure Protection Strategy, in order to be on par with the changing trends and the advancing technologies.

In terms of licensing and security on conveyance of dangerous goods and explosive, Mr. Chairman, the Ministry advises that the licensing regime for conveyance of dangerous goods and explosives is regulated by the Land Transport Authority (LTA). However, the Ministry is mandated to vet and monitor the security of importation, conveyance and storage of explosives and fireworks and subsequently recommends to the Department of Mineral Resources for the issuance of permits and licences to import.

On Question No. 6: What is the composition of the National Security and Defence Council and what are the activities of the Council?

The National Security and Defence Council (NSDC) comprises of national security and defence related portfolio and associated Ministers. Mr. Chairman, the current NSDC membership comprises of the following, the:

1. Honourable Prime Minister as Chairman;

2. Minister of Defence and National Security and Foreign Affairs;
3. Honourable Attorney-General and Minister for Economy, Civil Service and Communications;
4. Honourable Minister for Health and Medical Services;
5. Honourable Minister for Agriculture, Rural and Maritime Development, Waterways and Environment;
6. Honourable Minister for Infrastructure, Transport and Disaster Management;
7. Commander of the Republic of the Fiji Military Forces (RFMF); and
8. Commissioner of Police.

The Permanent Secretary for Defence and National Security is the Secretary to the NSDC.

Mr. Chairman and Honourable Members of the Committee, the functions of the NSDC is:

1. to determine and direct the actions to be taken in relations to defence and national security related issue;
2. to provide guidance and direction to government agencies responsible for the maintenance of good order in Fiji;
3. the overall development of military on both traditional and non-traditional military engagements; and
4. the preparations of national level intelligence collections; and
5. to monitor the national security of all Fijians and the impact of ongoing and forecasted possible traditional and non-traditional threats.

Mr. Chairman, moving on to Question No. 7 that was raised to the Ministry with regards to the National Security Strategies and the Defence White Paper for RFMF and the Fiji Police Force, with regards to the National Security Strategy (NSS), the draft NSS has been finalised after two years of consultation and review. The National Security and Defence Council at its meeting held in November 2019, had considered this draft and subject to consultations with the Office of the Solicitor-General. The NSS is currently being vetted by the Office of the Solicitor-General before it will be submitted to the Council for endorsement, and further to Cabinet prior to its launching.

With regards to the Defence White Paper for RFMF and the Fiji Police, the Ministry of Defence and National Security in its 2019 and 2020 Operational Plan anticipates that the first draft for both, Defence and Police White Paper will be formulated before the end of the current financial year. It is envisaged that the passing of the National Security Strategy (NSS) will provide a useful context to this work into the 2020-2021 financial year.

Mr. Chairman, moving on to Question No. 11 that was raised to the Ministry on Page 38, in regards to the variance of \$3 million existing between the Integrated Border Management System (IBMS) and FMIS General Ledger and the next question is on Question No. 12 with

regards to the detail listing of work permits holders equating to the security bond of \$25,215,349 not being maintained by the Department of Immigration; if I may, Mr. Chairman, I request that my colleagues from the Department of Immigration address the two questions and elaborate more on the issues and concerns that are being raised by the Committee.

MS. L. SAUMAKA.- Thank you, PS. Mr. Chairman and Honourable Members, on Question No. 11, I think it is proper that I explain the two systems – the Integrated Border Management System (IBMS) and the Financial Management Information System (FMIS).

The IBMS is a software used by the Department of Immigration for all immigration processes, supported by Informatics, a company from Sri Lanka. On the other hand, FMIS is the system provided by the Ministry of Economy for all Government financial activities, and used by all Government Ministries and Departments.

The variance reported was due to the receipt of payments of all immigration processes received from our Foreign Missions and from our Consular Offices through the Ministry of Industry, Trade and Tourism. All these payments were posted directly by the Department of Immigration's FMIS revenue allocation.

However, the Department of Immigration's standalone system, the IBMS, only records payments of all applications registered using our software at our local stations in Fiji. This has resulted in the variance reported. Moreover, manual receipts are issued for those applications received during power outage or network downtime, which also contributes to the variance.

The Department of Immigration has managed to identify solutions within, and we are currently working with the service-provider, Informatics, to factor both, manual and system receipts with a provision to be created in the IBMS to cater for all payments effective from 1st August, 2019. Furthermore, we have also liaised with Informatics on the IBMS to cater for all immigration-related revenue received from our Foreign Missions.

Moving on to Question No. 12, a security bond is an amount paid by either a permit holder or the company which equates to one-way economy class travel to country of origin, should they breach their permit conditions and the company feels to repatriate them.

The Department of Immigration has maintained a detailed listings on a manual register to update all bond fee records, receipts and refunds, however, we failed to maintain a database in excel sheet to record the same. This would ease the equating of the detailed listing and the spreadsheet.

Honourable Chairman and Honourable Members, we have commenced with the updating of the database with effect from 25th January, 2019 for the period 1980 to 2008, and we are still continuing from 2008 to January 2019. We are still working on that as backlog for the time being. However, from February 2019 to date, the record has been updated.

The second part of the question, where is the money being held in trust; currently the trust fund is deposited in two commercial banks, Westpac and HFC Bank.

PROF. B.C. PRASAD.- Mr. Chairman, a quick question. Thank you for that answer.

What you are saying is that, the bond which I understand is refundable to the companies or the individuals, is paid at the end of their permit.

MS. L. SAUMAKA.- Yes.

PROF. B.C. PRASAD.- So the question is, how much do you refund? Is there a process of refund? If this is in the trust accounts with these two Banks, then what does that mean to the Department of Immigration?

MS. L. SAUMAKA.- Thank you, Sir. The second part of the question as to why do we have two bank accounts, last year in August, we transferred part of the bond trust to HFC, the reason being HFC is giving us three percent annual interest whereas Westpac is giving us 0.1 percent. Some of our Offices around the country do not have access to HFC Bank and that is why we still maintain Westpac. We are using Westpac Bank as our revolving account for now. We make withdrawals for their fare to be paid from this Westpac account but we make HFC as our deposit account for the long term.

For your other part of the question on this Trust Fund, they are used for airfares of those who have breaches, as I have mentioned, or those who have completed their term and they are equated to 50 percent of their one way back to their country.

HON. PROF. B.C. PRASAD.- Can you give some indication as to the volume of these refunds and breaches? How regular is it? How often is it?

MS. L. SAUMAKA.- Can we get back to you on that question, Sir?

MR. M. LESUMA.- Honourable Chairman, in regards to the SDG-related questions for the Ministry to provide gender statistics for males and females recruited and employed by the Forces from the period of 2015, 2016 and 2017 and are there plans to promote women to senior positions; for the RFMF, there is currently 250 women out of the total of 3,549 personnel in the RFMF. The female strength in the RFMF is currently eight percent of the total force, and the RFMF is working towards increasing this percentage to 15 percent, to ensure our compliance to the UN peacekeeping requirements.

Promotions within RFMF is based on merit, irrespective of gender. On the same note, the RFMF is pushing for promotions of women in Senior UN Staff positions, for example, Lieutenant Colonel Silipa Vananalagi, who was the Chief Military Planning Officer for UNDOF Mission from 2018 to 2019.

As for the Fiji Police Force, Honourable Chairman, the Fiji Police Force is an equal opportunity employer that values and strives for equal participation of both, males and females in the workforce. The organisation employs both, sworn and unsworn officers, meaning police and civilian staff, whose conditions of employment are embedded under Section 129 of the 2013 Constitution of the Republic of Fiji.

From the period of 2015 to 2017, the Fiji Police Force recorded the gender statistics tabulated before you. In 2015, there were 3,233 male and 945 female officers. In 2016, there were 3,180 male and 919 female officers. In 2017, there were 3,388 males and 970 female officers.

The Fiji Police Force restructure and reform provides an opportunity for women officers to apply for senior positions in the organisation. However, the Fiji Police Force's policy on promotion is, again, merit-based, which means that an officer is to meet the minimum qualification requirements to fill a senior position and rank.

Since the tabling of the 2016/2017 Ministry of Defence Annual Report, the Fiji Police Force currently has two women in the command group as Directors, one of which is seconded to the United Nations as Commissioner of Police in South Sudan. Furthermore, we have three female Deputy Directors in Forensics and Criminal Investigations and Corporate Services portfolio.

In 2018, Honourable Chairman, one female cadet officer was commissioned as an officer after graduating from the Commissioner of Police Cadet Programme. The same officer is currently pursuing Masters of Policing Programme at the University of China. Furthermore in 2019, three more female cadets were commissioned as Officers. All these women officers have been earmarked for leadership positions in the Fiji Police Force.

Mr. Chairman, for last year, the Fiji Police Force received further leadership training for women officers with the Pacific Faculty of Policing (PFP) at the Australian Institute of Police Management with the intention of progressing them into leadership roles within the organisation. Five female senior officers have completed the training, and another five female senior officers are earmarked for the same training this year.

As far as plans to provide women into senior positions, the Fiji Police Force has always provided opportunities and prospects for women to progress into senior positions, but we wish to highlight that such progression must be done so through merit.

On the second question that was raised – how does gender parity affects Fiji in terms of its UN Peacekeeping contribution and the composition of Forces and Force development moving forward from the reporting period till 2020 and beyond; Mr. Chairman, the United Nations' mandate under the United Nations Security Council Resolution (UNSCR) 1325 on Women, Peace and Security, recognises the importance of women participation in peace operations. The UN has seen the women are active agents of peace in conflict situations. This Resolution allows Fiji to participate equally in peacekeeping contributions by ensuring that the 15 percent women quota is met.

With regards to the RFMF, RFMF takes this UN requirement seriously as evident in the increase in female recruitment and the enlistment since the reporting period. The Committee may also have noted that the first-ever recruitment of women in the Fiji Navy. Additionally, the Fiji Navy is continually increasing its vessels capability to ensure that it is also user-friendly for female naval personnel.

However, the difficulty encountered by the RFMF is the lack of women that hold middle management positions or Senior and CO's level. This retention of female in the RFMF is a challenge, as a good number of women who were enlisted leave the Force due shifting priorities, such as family commitments.

Mr. Chairman, with regards to the Fiji Police Force, the UNSCR 1325 also extends to the Fiji Police Force by ensuring that the 15 percent quota is met for its deployments. It is through this Agenda that the Fiji Police Force has taken an initiative to conduct an All-Female United Nations Selection Assessment and Assistant Team, to select suitable and qualified candidates for peace operations. The Fiji Police Force has also maintained a 20 percent female composition in all its peacekeeping missions.

In the UN Security Council Meeting on 11th April, 2019 on the topic of Women in Peacekeeping, Fiji's Permanent Representative to the United Nations, Mr. Satendra Prasad, noted that the women currently make up 21 percent of the UN Staff POs and 51 percent as individual police officers who are IPOs. This indicates Fiji's gender equality commitment, as far as UN Peace Operations is concerned.

To date, there are 16 female officers serving in the Mission, while one is seconded to the UNPOL as Police Commissioner in South Sudan. The Fiji Police Force is currently putting plans in place to prepare all female from the Police Unit, to be deployed to the UN Mission as required by the UN through the commitment made by the Fijian Government.

Moving on to the next question on the RFMF, to confirm when was the last time the RFMF Annual Report was submitted to Parliament; the RFMF is currently, at this point in time, working backwards from 2019 to compile its Annual Reports and have yet to submit these to Parliament.

HON. PROF. B.C. PRASAD.- PS, again, I think the question is pretty simple, which says, when was the RFMF last submitted an Annual Report? Can you tell us, since when the RFMF has not provided Annual Reports?

MR. M. LESUMA.- Through you, Mr. Chairman, with regards to the question that was raised, there has not been any Annual Report that has been submitted. We have the Chief of Staff who can probably further elaborate on that but currently, we are now working on the 2019 Annual Report as we speak.

HON. PROF. B.C. PRASAD.- I think you are still not answering the question. When was the last RFMF Annual Report submitted?

MR. M. LESUMA.- Through you, Mr. Chairman, like I have mentioned earlier, Honourable Professor Prasad, we have not submitted any report.

MR. CHAIRMAN.- He did earlier mention that they have never done that.

MR. M. LESUMA.- Thank you. Moving on to the next question, Mr. Chairman and Honourable Members of the Committee, advances in ending violence, promoting the rule of law, strengthening institution and increasing access to justice are uneven and continue to deprive thousands of Fijians, the security rights and opportunities and undermine the delivery of public service and broader economic development, the renewed efforts are essential to move towards the achievement of the SDG 16. What has the Ministry done to eliminate these problems?

As entrenched in the SDG 16, Mr. Chairman and Honourable Members, the Ministry, including the Forces, is obligated to promote a peaceful and inclusive society for sustainable development, provide access to justice for all and also build effective, accountable and inclusive institutions at all levels. The Ministry and the two Disciplined Forces are continually progressing and aligning itself with the United Nations Convention on SDG16, has created policies to ensure that the delivery of services is not undermined.

Stringent measures and abidance to institutional policies are tools for ensuring gender equality and the elimination of violence at all levels. Mr. Chairman, policies such as the No Drop Policy, the Use of Force Policy, the Zero Tolerance Policy and the Gender-Based Violence Policy, are put in place as a guideline for transparency and accountability in pursuing justice and strong institution.

For the RFMF, Mr. Chairman, the following initiatives, policies and programmes are being introduced and implemented in realising SDG 16. These are the review of the Military justice which ensures that:

- ☐ service personnel within the RFMF have access to an updated fair and impartial justice and redress system;
- ☐ the women peace and security in Fiji;
- ☐ RFMF and the Ministry are continually progressing the obligations and commitment under the UNSCR 1325;
- ☐ key deliverables are attest to this include the increase in female recruitment and intake;
- ☐ establishment of gender advisory network; and
- ☐ training provided for gender advisors and women holding key positions within the two Forces both, in Fiji and the Missions abroad.
- ☐ Zero Tolerance Against all Forms of Violence Policy with both Forces; and the CEA combat.

Enhancing the institution's capabilities in infrastructure, equipment and manpower are as follows. As for infrastructure, Mr. Chairman, the development of Blackrock Peacekeeping and Humanitarian Assistance and Disaster Relief Camp with the assistance of the Australian Government; the upgrading of the Stanley Brown Wharf at Walu Bay; and the proposed development of the Marine Essential Services Centre for the Fiji Navy, which I had alluded to earlier, which has also accommodated the relocation of the 3DP radio station.

Mr. Chairman, with regards to equipment; the enhanced capacity of the 47 specialised military vehicles and RFNS Kacau and RFNS Volasiga, the Naval Vessels, and the specialised hydrographic equipment.

With regards to the review of the RFMF Act, Cap. 81, these are, again, indications of our compliance with regards to the SDG 16.

With regards to the Fiji Police Force (FPF), they are currently reviewing the Police Act and this will ensure relevance to the evolving security landscape and bolster gender mainstreaming of institutional policies, legislations and programmes at all levels of the organisation.

Moreover, the FPF is currently undergoing restructure and reform which is rolled out for the next five years. This will lead to the increase of human resources, ensuring that all police stations, particularly police posts, are fully manned, providing quality delivery and service to the community. Additionally, the FPF capabilities, infrastructure, mobility and logistics which are also part of the restructure and reform programme will ensure the establishment of 20 new community posts in remote and isolated maritime areas to allow communities to access to justice.

On Question No. 5: Can the Ministry provide specific statistics on sexual harassment and sexual assault complaints from with the FPF and RFMF, and their outcomes? The RFMF has a strict Sexual Harassment Policy with zero tolerance. Any case of sexual harassment will be dealt with by the Military justice system. The RFMF has had no cases of sexual harassment during the reported period. The only serious case of this nature was a rape case in 2018, and the perpetrator was sentenced to 10 years imprisonment by Court Martial.

The FPF also has a stern Sexual Harassment Policy which was endorsed in 2016. This ensures that all sexual harassment-related cases are dealt with internally by the FPF, the Internal Affairs Unit.

Statistics on sexual harassment for the period of 2017 to 2019 are outlined or tabulated before you. In 2017, there were three in total, two are still pending in court, and one was dealt with. In 2018, there were also three cases, two are still pending in court and one has been filed. In 2019, there is one currently pending in court.

Moving on to the next question. What kind of psycho-social support is available for Police and Army personnel, and also their families? The RFMF and the FPF currently access the psycho-social services provided through the Ministry of Health and Medical Services.

In addition, the establishment of the Office of the Force Chaplain for both, the RFMF and FPF provides another avenue for psycho-social support through counselling. The main activities of these Units include:

- ☐ visitations to family members whose spouses are deployed in Mission areas or tour of duty;
- ☐ visitation to members of the organisations who are sick; and
- ☐ visitations to officers who have been interdicted.

The Unit also conducts awareness programmes and fellowship gatherings for the respective organisations.

Apart from counselling and chaplaincy services, the two Disciplined Forces have welfare mechanisms that reach out to service personnel for medical assistance, monetary payouts to spouses in instances where an employee has passed on, and also provide health and wellness infrastructure, such as gymnasiums for physical and mental stress therapy.

The Disciplined Forces also have measures that provide therapeutic atmosphere for relaxation where service personnel can meet after a long day's work.

The Ministry has plans to look into the establishment of a joint psycho-social support services that will specifically be accessible to the two Disciplined Forces. The RFMF is currently in discussion with the New Zealand Defence Force for provision of some of these services and the Fiji Police Force is also pursuing to secure the services of a fulltime physiotherapist and a psychologist to address issues relating to the nature of policy.

That concludes the questions, Honourable Chairman and Honourable Members of the Committee on our responses on the questions that were raised to the Ministry with regards to the 2016/2017 Annual Report that was just recently tabled in Parliament. Thank you, Honourable Chairman.

MR. CHAIRMAN.- Thank you, PS, and your Team for the very concise answers that you have supplied for the substantive questions we have raised. Time is up against us. If we do have any pressing questions, we will certainly get back to your Team, PS, and I wish to say thank you once again.

With those few words, if you have any departing comments the floor is yours, Sir. Thank you.

MR. M. LESUMA.- Thank you. Just a guidance from you, Honourable Chairman, with regards to the Treaties, are we will be touching on the Treaties after this?

MR. CHAIRMAN.- Yes, immediately after this, we will have the other officers come in and we will run through the Treaties.

MR. M. LESUMA.- Thank you, Honourable Chairman.

MR. CHAIRMAN.- Thank you.

MR. M. LESUMA.- We can only ask for the Officers from Immigration to be excused for other next session, Honourable Chairman.

MR. CHAIRMAN.- Honourable Members and submittees, we will take a short break before we get on to the next session. Thank you.

The Committee adjourned at 2.42 p.m.

The Committee resumed at 3.05 p.m.

Ministry of Defence and National Security

1. Mr. Manasa Lesuma – Permanent Secretary
2. Mr. Joji Dumukuro – Manager Police
3. Mr. Eroni Rokisi – Senior Admin Officer – Defence and Police

Republic of Fiji Military Forces

1. Mr. Viliame Naupoto – Commander Viliame Naupoto

2. Captain John Fox – Chief of Staff

Fiji Corrections Service

1. Mr. Apakuki Qura - Deputy Commissioner

2. Ms. Salasia Racaca – Assistant Commissioner Corporate Services

3. Ms. Rada Bainivalu – Legal Officer

4. Mr. Samisoni Naba – Legal Officer

5. Mr. Aisea Vucago – Chief Correction/Legal Officer

MR. CHAIRMAN.- Welcome, Honourable Members, members of the Media and members of the public who are listening in, especially those listening in on the Walesi Platform or through Facebook at this afternoon's live broadcast session.

Welcome Commander Naupoto and the Team. Welcome, again, PS for Ministry of Defence and National Security and also the Fiji Police Force, as well as the Fiji Corrections Service. Without further ado, Sir, we could start off, PS, if you can commence this afternoon's session. Thank you very much.

MR. M. LESUMA.- Mr. Chairman and Honourable Members of the Committee, firstly, I would like to introduce my Team this afternoon.

(Introduction of Team by PS)

Mr. Chairman, with regards to the Three Treaties on the Prohibition of Nuclear Weapons, the ILO Violence And Harassment Convention 2019 and the ILO Protocol of 2002 to the Occupational Safety and Health Convention 1981, the Ministry, including its line agencies - the Republic of Fiji Military Forces (RFMF), the Fiji Police Force (FPF) and also as you are aware that the Fiji Corrections Service (FCS) which apparently is not under the Ministry of Defence but are also seated before you this afternoon. I have prepared submissions on the request of the Standing Committee as per 25th February, 2020 correspondence.

Now, the three proposed Treaties and Conventions have been reviewed from a national security perspective and the scope of our review has been focused on the intention of the proposed Treaties. The Standing Committee may be aware that the Treaty on the Prohibition of Nuclear Weapons is the Ministry's prompt Treaty, as it falls within the purview of the mandate given to the Ministry and its line agencies. So, the provisions of the two ILO International Instruments have a degree of significance to the Ministry and its respective line agencies and its roles. Our joint submission is provided for these two ILO Instruments that will be presented by the respective Heads of the Institutions, limited to its relevancy and implications to their respective roles.

Mr. Chairman, with your indulgence, I would like to request the Manager Police to briefly present to you the first Treaty before we will then ask the Commanding Officer for the RFMF, likewise with the FPF and the FCS to present their submissions this afternoon.

MR. J. DUMUKURO.- Thank you, Mr. Chairman and Honourable Members. My presentation today is on the Treaty on the Prohibition of Nuclear Weapons. Of course, the scope of my presentation covers the United Nation Security Council 1540, the status of the Prohibition of the Nuclear Weapons Treaty and, of course, the Treaty itself. The last slide is why Fiji should ratify this particular Instrument.

Mr. Chairman, I believe you may recall last year, I had presented the UN Security Council 1540 which pretty much is interconnected with the Treaty on the Prohibition of Nuclear Weapons. The UN Security Council 1540 relates to the non-proliferation of weapons of mass destruction and their means of delivery in particular, to prevent the spread of weapons of mass destruction to non-State actors or for terrorist purposes, and this includes chemical and biological counter terrorism and, of course, nuclear weapons.

Fiji's status on the Prohibition of Nuclear Weapons (TPNW); Fiji signed the TPNW in September 2017, and we are now in the process of ratifying the Treaty. So, Fiji was actually active in the final negotiation of the Treaty which came into force in 2017.

After depositing the Instruments of Ratification, Mr. Chairman, we will, of course, scout for model law that would enable us to enforce appropriate obligations and other effective measures to prevent the proliferation of these weapons, including fissile material through transit and transshipment process.

Mr. Chairman, let me present to you Article 1. We have actually listed down most of the significant Articles under the Treaty that is more relevant to Fiji.

Under Article 1, member States are required to put in place mechanisms to prohibit the development, testing, production, manufacture, acquisition, possession, stockpiling, stationing, transfer, receipt, control of, use and threat of use of nuclear weapons and other nuclear explosive devices.

Mr. Chairman, Article 3 relates to those member States who do not possess nuclear weapons, to maintain the existing of International Atomic Energy Agency (IAEA) safeguards. They have already done to include with the IAEA and bring into force a Comprehensive Safeguards Agreement.

Mr. Chairman, Fiji had actually ratified the IAEA Instruments in 2012 and we have been accessing some of the technical assistance through this peaceful use of nuclear materials in the areas of health, agriculture, environment and disaster. We have been very supportive of this peaceful use of nuclear technology and also other applications.

Under Article 6, the Treaty on the Prohibition of Nuclear Weapons, Fiji was instrumental in the inclusion of this particular provision in the final negotiations. There has never been a disarmament treaty which incorporates the compensation provisions for those who are actually affected by the use of nuclear weapons. So, basically, Fiji, apart from other countries, had actually lobbied for these particular provisions, given the fact that we had actually paid out medical assistance to Christmas Island Veterans in 2013. So basically this is where we actually formed the basis of our negotiation.

Mr. Chairman, under Article 17, the Treaty shall not be subjected to reservations. Sometimes some of these disarmament Treaties, we hold reservation on some of the Articles but for this particular Treaty, there is no reservations so that is why we fully support.

Why Fiji should ratify this particular Instrument? We have been consistent with our positions on other related nuclear disarmament Treaties. Let me remind this forum that we are a party to the Treaty on the Non-Proliferation of Nuclear Weapons (TNPW) and we have joined that in 1972.

The TNPW actually provides Member States to prevent the spread of nuclear weapons, add weapons technology and on the flip side to promote cooperation in the peaceful uses of nuclear energy with the view to achieving nuclear disarmament.

The other Instrument is the Comprehensive Nuclear-Test-Ban Treaty. Fiji actually ratified this particular Instrument in 1996. This particular Instrument allows Member States to ban all nuclear explosives for both, civilian and Military purposes, and Honourable Chairman, this refers to nuclear testing.

In terms of our regional obligation, we have actually ratified the Lakatoro Declaration which is an MSG Framework and, of course, the Rarotonga Declaration 1985 which focuses on nuclear free zone in the Pacific. By identifying those Treaties, it would enable us to promote cooperation and strengthen international relations with other State Parties, to ensure a nuclear weapon-free world.

Lastly, Honourable Chairman, given the fact that in order for us to be consistent with our position in terms of supporting some of the nuclear Instruments, we fully support the ratification of the Treaty on the Provision of Nuclear Weapons. That is all, Honourable Chairman. Thank you.

COMMANDER V. NAUPOTO.- Thank you, Honourable Chairman and Honourable Members of the Committee, for allowing the RFMF to make presentations to your Committee. Before I do so, may I take this opportunity to thank you so much for the big work that you do here as Parliament Standing Committee. We watch you from afar and the big work that you do in Parliament. Thank you for the work that you do over here.

We were asked to come in and make submission on the three Instruments. The TPNW, as mentioned by my colleague, and the two ILO Instruments - the Violence and Harassment Convention 2019 and the Protocol of 2002 to the Occupational Safety and Health Convention 1981, I admit that I have not read in detail the three documents. But I have scrutinised the summary that was provided by the Secretariat of your Committee and if I may thank your Secretariat for that summary, as it is a much easier document to read.

The test that we do, Honourable Chairman and Honourable Members, on any Convention or Treaty or any piece of legislation that comes out for review, is that we ask ourselves the question; if this Treaty or Convention or Protocol (which is the case in this deliberation this afternoon) comes into force, whether it will impede the RFMF in performing the role that is designated to us through the Constitution and through the other legal documents? So, if we do

the test and test the three Instruments if they are fully ratified, against whether it will impede the RFMF in performing its role.

The answer to that question, when we look at the TPNW, is 'no'. The TPNW will not impede the RFMF in performing its role. We are a small conventional Force. We see ourselves that way all the time here in Fiji with small arms. Likewise, the other two ILO documents - the ILO Violence and Harassment Convention 2019 and the Protocol of 2002 to the Occupational Safety and Health Convention 1981. The RFMF also finds that the two Instruments will not impede the performance of the RFMF and its roles.

Honourable Chairman and Honourable Members of the Committee, to summarise this very short submission, the RFMF has no objections at all. Also, we do not have any proposed amendments to the Treaty. We fully agree that it should be fully ratified. That, Honourable Chairman and Honourable Members of the Committee, concludes my submission and I certainly will be happy to answer to answer any questions. Thank you.

MR. CHAIRMAN.- Thank you, Commander Naupoto. We will move to the next presenter and reserve questions for immediately after that. Thank you.

MR. A. LUTUNAUGA.- Thank you, Honourable Chairman. The responses of the ratification of the Treaties, the FPF fully supports the proposed Treaties and as custodians of the law, it is mandated to operationalise its functions and as stipulated in the Constitution of Fiji and the Police Act (Cap. 85) and all the other relevant legislations in Fiji.

For the proposed Treaties, Honourable Chairman and Honourable Members, the ILO C190 - Violence and Harassment Convention, the FPF strongly supports the ratification of this Convention.

The Force has, over the years, put in place systems and mechanisms with the support of enabling International Conventions similar to this, such as the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights, the United Nations Convention Against Torture (UNCAT) and national legislations and policies. This is translated into the Constitution of the Republic of Fiji in the form of the Domestic Violence Act, the Juveniles Act, National Mental Health Policy and the Government's National Development Plan.

In operationalising the above, the FPF has policies in place similar to this Treaty. These are:

- ☐ Gender-Based Violence Policy;
- ☐ Sexual Harassment Policy;
- ☐ No-Drop Policy;
- ☐ Zero Tolerance Policy; and
- ☐ Use of Force Policy.

On the second Treaty, Honourable Chairman, ILO-P155 Protocol of 2002 to the Occupational, Safety and Health Convention 1981, the FPF also strongly supports the ratification of this

Convention. As a Department under the Fijian Civil Service, the FPF aligns itself to the whole of Government approach to address OHS procedures.

The OHS Unit, which is a component of our Human Resources Management within the FPF is responsible for all matters pertaining to Industrial Relations, Workmen's Compensation, Injuries and Diseases, Accidents Report and Compliance and Awareness. The ratification of this Protocol will further strengthen our workmen's welfare and safety in the workplace.

On the third Treaty, Treaty on the Prohibition of Nuclear Weapons, Honourable Chairman and Honourable Members, the FPF also strongly supports the ratification of this Convention. With

the mandate to provide safety and security for all Fiji citizens, the FPF fully concurs with the RFMF submission and the Ministry of Defence's submission, particularly in the Treaties that we have discussed.

In concluding, Honourable Chairman and Members of this Committee, the FPF fully supports the Ministry's recommendation that Fiji ratifies the above Treaties without reservations. That is the end of my submission, Honourable Chairman.

MR. CHAIRMAN.- Thank you, SSP Aporosa Lutunauga. I now give the floor to our Official from the Fiji Corrections Service (FCS).

MR. A. VUCAGO.- Thank you, Honourable Chairman and Honourable Members. Before I proceed, I would like to take this opportunity to convey our appreciation for the invitation to be here this afternoon to make submission on the three very important international laws. Although we were given a short period of time to prepare our presentation, nevertheless we are humbled and privileged to be here this afternoon to make a submissions.

With your indulgence, Honourable Chairman and Honourable Members, I would like to introduce our Team from FCS.

(Introduction of Team by Mr. A. Vucago)

Honourable Chairman and Honourable Members, the presentation is on the screen but we will provide a explanation on our position on the ratification with reservations or not on the three international laws.

The impact of nuclear weapons in Fiji and the Pacific and around the world can create irreversible unmatched destruction. It has a devastating effect on vulnerable countries and it also contributes to climate change. As we understand Fiji is at the forefront of the fight against climate change and the use of nuclear weapons has a propensity to alter global climate and gratifying the prohibition on the use of nuclear weapons will strengthen Fiji's position in imposing in the fight against climate change.

While we sit and discuss on the ratification of this Treaty, Fiji has, in the past, been a party to other international laws that oppose the use of nuclear weapons, one of which had been alluded to by our colleague, the Treaty on the Non-Proliferation of Nuclear Weapons 1972, the Comprehensive Nuclear-Test-Ban Treaty 1996 and, of course, the Rarotonga Treaty which bans the manufacture, possession, stationing and testing of any nuclear explosive device in member

territories for which they are internationally responsible. It also bans the dumping of radioactive waste at sea.

In ratifying this international law, Fiji strengthens its position in opposing the use of nuclear weapons in Fiji, in the Pacific region and around the world.

The reasons for the Fiji Corrections Service supporting the ratification of the Treaty is that:

- ☐ It will ensure a safe and secure environment.
- ☐ It will prevent the use of nuclear weapons.
- ☐ It reinforces the Comprehensive Safeguards Agreement.
- ☐ The International Atomic Energy Agency (IAEA), who is tasked with the monitoring and inspecting countries with nuclear materials will ensure that they are not used for other purposes other than for peace.
- ☐ It also allows member countries to ensure that they do not abuse or misuse the nuclear materials in their possession for massive destruction.
- ☐ State Parties can also access international assistance to fulfil its obligation under the Treaty, as has been alluded to earlier. The Veterans of Christmas Island have been compensated for being exposed to what occurred in Christmas Island. So member countries can have access to be compensated for any setbacks that maybe faced through the collaboration of atomic energies.
- ☐ Promotes co-operation and strengthens international relations with other member States. International cooperation between member States towards nuclear security can prevent a non-member State in nuclear materials or purposes of mass destruction or terrorist organisation from using nuclear material or other radioactive material, or the use of nuclear materials against civilians that can be enhanced with the support of IAEA and the United Nations.

International Labour Organisation on Violence and Harassment Convention 2019; for the information of the Committee, we have a little reservation, although we support the ratification of the International Labour Organisation Law on Violence and Harassment. The International Labour Organisation would not have come at a greater time, given the recent past history of Fiji having workers exploited, harassed and workers been often subject to violence at the workplace.

The Fiji Corrections Service submits before the Standing Committee that even though we support the ratification of the Treaty, we have reservations on some parts of the application of the Treaty and that is, the application of the provision of the protocol should not extend to apply to security services.

The environment where Disciplined Services, especially where the Correctional Services personnel work in, demands strenuous physical and mental training which may, from the outset, be regarded as harassment, if the intention and purpose of such training is not well understood. This is, of course, to prepare and equip correctional personnel acquire the necessary mental and physical ability to enable them to be steadfast in the rest of the situation, while in the face of

danger. It also allows personnel to utilise their capabilities and as such, optimise their productivity.

Members of the Discipline Services, if I may speak, let me speak on behalf of our brother Discipline Services, must not, therefore, be held liable and should be immune from any form of liability emanating from the course of facilitating training or course of instruction.

Mr. Chairman, on the Protocol to the Occupation Safety and Health Convention 1981, the International Labour Organisation Protocol 2002 is one of much needed Protocol and we submit that this will further strengthen our national laws with regards to the safety and health of workers.

The Protocol facilitates the publication of national statistics concerning occupational accidents, occupational diseases and as appropriate, dangerous occurrences and accidents as stipulated in Article 6 of the Protocol. We submit that this will have a positive impact on employers, policy makers to provide a healthy and safe environment working conditions to workers.

We agree that we must fully ratify the Protocol, to ensure that workers are protected from sickness, disease and injury arising out of their employment. This is to ensure that workers are well looked after by their employers.

The ratification of the Convention at this time will to demonstrate Fiji's commitment to occupational health and safety in international forums. This will also further indicate Fiji's determination to improve our occupational safety and health in workplaces.

We submit that the annual publication of national statistics concerning occupational accidents, occupational diseases and as appropriate, dangerous occurrences and accidents will also improve the standard of the occupational safety and health of any workplace and will only make us grow better. This will also ensure that employers seek solutions of occupational accidents and occupational diseases.

The periodic review will then highlight the resolutions that have been undertaken with regards to the challenges faced by employers in compliance of the occupational health and safety of any given workplace. It will reflect on the compliance of the employer to our current laws, such as the Health and Safety at Work Act 1996 and Employment Relations Act 2007, to name a few. This Protocol will show the international forum that we are committed and determined to comply with the current laws.

The Fiji Corrections Service agrees that the State should fully ratify the Protocol of 2002 to the Occupational Safety and Health Convention.

Mr. Chairman, to conclude, Fiji Corrections Service recommends ratification without reservation on the:

- ☐ Treaty on the Prohibition of Nuclear Weapons; and
- ☐ International Labour Organisation Protocol of 2002 to the Occupational Safety and Health Convention 1981.

However, the Fiji Corrections Service recommends the ratification with reservation, the application of the International Labour Organisation Violence and Harassment Convention 2019 for reasons that I had mentioned earlier.

Thank you, Mr. Chairman and Honourable Members. That is the presentation from the Fiji Corrections Service.

MR. CHAIRMAN.- Thank you, Mr. Vucago. Permanent Secretary, do you wish to comment, if not I will open the floor to questions. Thank you.

MR. M. LESUMA.- Just to conclude, Mr. Chairman, the Ministry and as we have heard from our line agencies, together with the views highlighted today by the Fiji Corrections Service, they have no reservations to the intent and provisions of these Treaties and recommend for Fiji to ratify these Treaties and Conventions. Thank you, Mr. Chairman.

MR. CHAIRMAN.- Thank you, PS. Honourable Leawere?

HON. M.R. LEAWARE.- Thank you ,Mr. Chairman. I would like to thank the Permanent Secretary for Defence for a middle line up this afternoon. We have the Commander of RFMF, the Commissioner of Police, the Commissioner of Fiji Corrections Centre and these are our officers who will be in the front line in terms of security. Thank you very much for this afternoon.

I have a very simple question in terms of slip off. When warships are berthing at the wharf and in case of some accidents, in terms of security of our people, do they inform that they have some arsenal on board that can probably jeopardise the lives of our people? That is the question that I would like to pose. Thank you, Mr. Chairman.

COMMANDER V. NAUPOTO.- Thank you, it is a very good question. Understanding the way our trade when it comes to ships that berth, before they arrive, I think there is a certain time where they will have to inform in advance the cargo they are carrying, so that information is supposed to be with relevant authorities.

We, in the Military through the Fiji Navy, track very much the movement of vessels that come. The information on the cargo, I think, is with Fiji Ports through their agent. If there is a ship with some mishap at the wharf and it is sinking, the cargo inside should be known already as to what is still in and what is being taken ashore. If it has some toxic material and if there is a request, they certainly do let us know very quickly if we can come in and help.

MR. CHAIRMAN.- Honourable Professor Prasad?

HON. PROF. B.C. PRASAD.- I think it would be kind of follow-up from Honourable Leawere but my question to you, Commander and perhaps to the FPF as well, my understanding is that, if we ratify this Treaty, obviously there are ships with nuclear propulsion systems. If we ratify this, does it mean that ships with any kind of nuclear propulsion system would not be allowed into our ports? Is that your understanding or do you still feel that, for example, if our partners have nuclear propulsion systems and the ships are coming through our ports, would they be allowed under this Treaty?

COMMANDER V. NAUPOTO.- Thanks. My understanding is that, the Treaty is on nuclear weapons. It is really a ban on nuclear weapons, not on nuclear power, generally speaking.

My understanding of the Treaty is that, if there is a vessel that comes in is nuclear-powered, I think it is alright. I think it is a Treaty that we are ratifying to say that we will not have nuclear weapons, to put it simply, I think if I read it correctly. Thanks, Sir.

MR. CHAIRMAN.- Thank you. Honourable Dr. Salik Govind.

HON. DR. S.R. GOVIND.- Thank you, PS and the Team. My question is to the FCS. The Protocol of 2002 to the Occupational Safety and Health Convention 1981, I think you have said that FCS has some reservations about ratification. What is that reservation?

MR. A. VUCAGO.- Thank you, Honourable Member. As I alluded to earlier, the environment that we work in demands a lot. People with potential, personnel with potential, personnel who are assertive, authoritative, the capability to work in such an environment and for them to be able to do so, they would need to undertake trainings - strenuous training, vigorous training, a training that would compel them beyond the limits.

As I had mentioned from the outset, a person who does not understand the purpose and intention of why these trainings ought to be undertaken, would be of the view that what has been done equates harassment. So it should be taken in the intention and the purpose that has been facilitated and that is, to train people to be physical and mentally ready to carry out their work, reflecting on the environment they work in.

As we know, in the corrections environment, we deal with a whole lot of offenders from rapists, murderers and we need to prepare our officers to face people with that calibre and what better way to do it, is to train them in such a way so that they can withstand whatever comes from the calibre of people they face everyday. Thank you, Honourable Member.

MR. CHAIRMAN.- Honourable Professor Biman.

HON. PROF. B.C. PRASAD.- Just a minor point. Are you suggesting that some current laws, for example, Sexual Harassment Policy and others, is hindering that kind of trainings or do you think if this Protocol comes into effect or if we sign, then it is going to, or some of the existing laws or policies already affect what you were saying?

MR. A. VUCAGO.- Thank you, Honourable Member. The reason why we have reservations, we are not for, we do support the ratification but we have reservations on a few provisions that apply under the Convention, that we feel would be an impediment on how we train our officers, impediment on how we prepare our officers in doing the work they will be expected to carry out. Thank you, Honourable Member.

MR. CHAIRMAN.- Thank you, Mr. Vucago. Any further questions from the floor?

HON. M.D. LEAWARE.- Probably, the last question from me. I believe that the FPF is tasked under the Police Act, to maintain law and order. How are they putting their resources together with the Military in terms of training and expertise in case of mishap or threat in terms of the security of the nation?

COMMANDER. V. NAUPOTO.- Thank you, Honourable Member. We work very closely with the FPF. They have their own level of expertise that they train with that they bring. We also have our own level of expertise, that is, with RFMF.

The way we work is this, when they need us, they know that we are available to them 24 hours a day. So, when there is a set of expertise that is not with them that we have, we certainly make it available to them so that we can tackle the situation at hand very quickly. That is a way we co-operate with the Police. We are available to them 24 hours a day and as I said, there are some expertise that we have that they do not have. When they need it, we make it available to them very quickly.

MR. CHAIRMAN.- Honourable Selai Adimaitoga.

HON. S. ADIMAITOGA.- My question is to the FPF, you have 20 percent women component in line with SDG 5. My question is, how can the leadership in the Force ensure there is zero tolerance of violence and harassment in the workplace and amongst families? What are some of the strategies and forward planning initiative in place?

MR. A. LUTUNAUGA.- Thank you, Honourable Member, for that question. Through you, Honourable Chairman, the FPF has its own internal strategies in addressing or preventing the offences that you have just mentioned, the probability of those offences. But just like any other law enforcement organisation, we still have some incidents – incest, et cetera, but we have our Welfare Office. As I have already stated in our submission, we have our Force Chaplaincy and the Welfare Department that looks after those.

In addition to that, we have our Internal Affairs as a proactive team that goes out to the various Divisions and talking only to Police Officers on issues specifically on Violence against Women internally and not only in that instant but then it extends to families where we have our quarterly family day. The Police and families having their team bonding and get together on a quarterly basis and these are the platform where we penetrate our awareness sessions as far as respecting women within the Police Force, specifically Women Police Officers and their various families.

HON. PROF. B.C. PRASAD.- Just to follow up, Commander Naupoto, on the answer that you gave to Honourable Leawere, I am just wondering because last year when the RFMF Officers arrested the 16 year old boy for allegedly writing vulgar language against the Honourable Prime Minister, the Commissioner of Police came out and said very clearly that the RFMF had the powers under Section 131(2) of the Constitution to do that. In relation to what you have just said, how does the Police and the Military determine when to evoke Section 131(2), to deal with what Honourable Leawere was saying, how do you co-operate? What are the basis on which you decide that this is the Military's role to do that when, in fact, it will actually be the FPF?

COMMANDER. V. NAUPOTO.- Thank you, Honourable Member. For that incident, may be the word 'arresting' is not the right word. We really handed those two over to the Police and the Police had to do their role as policemen and do the necessary investigation, et cetera. It was almost just like a citizen arrest. I think there is that term where when you see an offence that is committed, you can take them and hand them over to the police.

For law and order in Fiji, FPF takes the lead, which is their role. We provide a backup service to them. And as I mentioned before, if they need our help in whatever area that they think is lacking, we provide to them that service if we have to, but they are always the lead when it comes to law and order in Fiji and we play a supporting role to them. Thank you.

HON. M.R. LEAWERE.- Mr. Chairman, this is on the Protocol for Occupational Health and Safety Convention. Should Fiji ratify that, how will RFMF, FPF and FCS include this into their policies and programmes, moving forward? Thank you.

COMMANDER V. NAUPOTO.- Thank you. If I can just kick it off and I speak on behalf of RFMF, we already have OHS policies in place. As we speak, we have OHS Committees in our different workplaces, for example, the Navy, the Engineers. They have their meetings and we get officials from the Ministry of Labour who come and do training for our OHS Committees. So, it is very much in practice right now, and it is something that I, as the Commander, am very happy about, knowing that the work spaces for the people that we employ are safe. They come in and do their service and do it in a safe manner and it is an area that we are very keen to improve. We try and work as hard as we can, to make sure that our workplaces are safe.

MR. A. VUCAGO.- Thank you, Mr. Chairman. The FCS has OHS policies in place. In fact, if I may share this with the Committee, the FCS, amongst the Disciplined Services, was the first to have developed the OHS Policy and practically putting it in place. We have a Unit that looks after occupational health. They go around and conduct trainings and, of course, we have provisions that guide us in our occupational and safety matters. Thank you.

MR. A. LUTUNAUGA.- Thank you, Mr. Chairman, I share the same sentiments with the Commander of the Fiji Military Forces.

MR. CHAIRMAN.- Thank you we will take one last question.

HON. S. ADIMAITOGA.- Thank you, Mr. Chairman. I would like to ask this question, how prepared and ready is the Ministry in dealing with aviation disaster in Nadi, in Fiji Waters, and on the fringes of Tongan Waters on the currently disputed Minerva Reef? That is on the Treaty on the Prohibition of Nuclear Weapon.

The Committee understands that vessels and aircrafts that pass through the Fiji Waters and space carrying nuclear material and have nuclear capabilities. My question is; how prepared and ready is the Ministry in dealing with an aviation disaster in Nadi or maritime crisis in Fiji Waters on the fringes of Tongan Waters on the currently disputed Minerva Reef?

COMMANDER V. NAUPOTO.- Thank you. I will give it a go.

If there is an aviation disaster, the lead agency, I think, is CAAF. As usual, the RFMF provides a very quick assistance to them in those aviation crisis and if we can just use that as an example, the planes that crash. We were almost the first ones to the site, try and get things done.

I think one of the beauty about technology now is that when vessels and aircrafts transit the world, there is a lot of advanced knowledge in what they carry and technology allows us to track them right through. So, if an accident happens, the technology allows us to track where they are

and secondly, we have prior knowledge as to what they are carrying and that goes for both, ships and aircrafts.

If there is a mishap, as you have mentioned at the Minerva Reef area, from a maritime perspective when there is a mishap at sea, we do not go around asking questions who that area belongs to? Our first response is to go in and save lives. Again, we should have prior knowledge of what that ship is carrying if a ship goes down in that area, so we would not really worry about the border whether it belongs to what country.

Our first response and priority is to really just save lives and we should find from somewhere information that says, that that ship is sinking at this area, has this cargo on board and then the right responses, I guess, can be tapped into with the other expertise and relevant department, I suppose. That is a very difficult question that I have been asked.

MR. CHAIRMAN.- Thank you, Commander Naupoto. Perhaps, if I just may possibly add, there is the mere fact that the Navy has a fantastic nerve centre at Stanley Brown Naval Base which tracks every aircraft and vessel within our EEZ.

Having said that, I take this opportunity to say 'thank you all' once again to our presenters and PS and his Team. If there are some pressing questions that the Committee may think of before writing up our Reports, we will certainly get back to your goodselves. If you have any departing comments, PS, the floor is yours. Thank you.

MR. M. LESUMA.- Vinaka, Mr. Chairman and Honourable Members of the Committee, on behalf of the Ministry of Defence and our line agencies, the Commanders and the two Forces, likewise with our colleagues from the Fiji Corrections Service, would like to thank the Committee for the opportunity to make submissions today and, again, our reassurance should there be additional information requested or required by the Committee. We will gladly provide this in due course. Thank you once again.

The Committee adjourned at 3.52 p.m.

[VERBATIM REPORT]

STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

TREATY/CONVENTIONS

1. Treaty on the Prohibition of Nuclear Weapons
2. ILO Convention 190 - Violence and Harassment Convention 2019
3. ILO Protocol 155 – Protocol of 2002 to the Occupational Safety and Health Convention 1981

INSTITUTIONS: Ministry of Defence & National Security
Republic of Fiji Military Forces (RFMF)
Fiji Police Force (FPF)
Fiji Corrections Service (FCS)

VENUE: Big Committee Room (East Wing)

DATE: Monday, 2nd March, 2020.

VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE HELD AT THE COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON 3RD MARCH, 2020 AT 1.30 P.M.

Interviewee/Submittees: Ministry of Foreign Affairs

International Labour Organisation (ILO)

In Attendance:

Ministry of Foreign Affairs

1. Mr. Peter Emberson - Director Multilateral Affairs

2. Mrs. Keleni Seruvatu - Manager Multilateral Affairs

3. Ms. Kristy Fong - Foreign Service Officer - Multilateral Affairs

International Labour Organisation

1. Ms. Elena Gerasimova - Decent Work and International Labour

Standards Specialist

2. Ms. Merryn Cavenagh - Secondment - Australian Attorney General's Office - Canberra

MR. CHAIRMAN.- I welcome, Honourable Members, members of the public and the media in today's Committee Meeting and livestream submission. I also those who are watching on the Parliament Channel and Walesi Platform and Facebook on the three Treaties, the:

1. Treaty on the Prohibition of Nuclear Weapons, which sets out a comprehensive set of prohibitions against participating in any nuclear weapon activities. These include; undertakings by member States to the Treaty not to develop, test, produce, acquire, process, use or threaten to use nuclear weapons. The Treaty also prohibits the deployment of nuclear weapons on national territory and provision of assistance to any State in the conduct of prohibited activities.

2. International Labour Organisation Violence and Harassment Convention 2019. The Convention recognises the right of everyone to a world of work free from violence and harassment, including gender-based and harassment. Recognising the importance of a work culture based on mutual respect and dignity of the human being to prevent violence and harassment.

3. International Labour Organisation Protocol of 2002 to the Occupational Safety and Health Convention 1981. The Protocol was formulated in 2002 as a Protocol to the ILO Occupational Safety and Health Convention 1981. The Protocol requires the competent authority of State Parties to the Protocol to establish and periodically review requirements and procedures for the recording and the notification of occupational accidents and diseases, dangerous occurrences, committing accidents and suspected cases of occupational health diseases.

I take this opportunity to welcome the Officials from the Ministry of Foreign Affairs and the International Labour Organisation, who have agreed to appear before this Committee this afternoon.

Please, be advised that this Meeting is open to the public and the media and any sensitive information concerning this inquiry that cannot be disclosed in public, can be provided to the Committee either in private or in writing.

At the outset I wish to remind members of the public and the media present in the room that minimum movement is to be maintained during the duration of the submission.

I wish to introduce the following Members of my Committee.

(Introduction of Committee Members by Mr. Chairman)

May I take this opportunity to invite the witnesses to introduce yourselves and proceed with your presentation.

MR. P. EMBERSON.- Thank you, Mr. Chairman. It is our privilege and honour to present before you and to the Honourable Members of the Standing Committee on Foreign Affairs and Defence. The three Treaties that are before us attest to Fiji's progress in addressing three broad issues of global and national significance and concern.

The first Treaty concerns nuclear prohibition. In the Pacific, Fiji has led the way since the early 1970s in admonishing the dangers of nuclear weapons. Fiji's support of this Treaty is in keeping with this legacy founded on moral principles.

The second Treaty, the ILO Violence and Harassment Agreement 2019, contains essential elements that build on policies to enhance the security and safety of our workplaces in its broadest sense.

The third Treaty under discussion this afternoon, the ILO Protocol of 2002 on Occupational Safety and Health, supports the current Convention of 2002 and builds upon Fiji's Constitutional commitment.

If I may be allowed to speak to the Treaty on the Prohibition of Nuclear Weapons, the Treaty was adopted in July 2017 by the United Nations Conference and its main emphasis is to negotiate a legal binding instrument to prohibit nuclear weapons leading towards their total elimination, as you have mentioned, Mr. Chairman.

In accordance with this Article 13, the Treaty was opened for signature to all States at the UN Headquarters in New York on September, 2017. Fiji signed on as a signatory on 20th September.

On Fiji's position on regional disarmament, we have continued to support regional disarmament platforms, such as the Rarotonga Treaty which bans the use, testing and possession of nuclear weapons within the Pacific.

In 2016, Fiji signed the MSG Lakataro Declaration on Oceania Cooperation regarding denuclearisation in 2016.

We also supported the Association of South East Asian Nations (ASEAN) call for Fiji where it has been made compelling interventions to ensure that State responsibility was captured in the Treaty which is unprecedented. So, in the current Treaty at the moment, Fiji has made great strides to ensure that States take responsibility for the damages that is caused by the use of nuclear elements.

The issue was adopted by the Conference as per Resolution 71/258, ensuring that user States compensate victims of nuclear weapons and the environment to which damage was done as in Article 7, Paragraph 6 of this Treaty, the first of its kind in any disarmament Instrument.

Mr. Chairman, Fiji's position is that, it supports the initiative to ban nuclear weapons and to reduce the risk of its accidental, mistaken, unauthorised or intentional use on this planet, given its catastrophic and humanitarian consequences.

Fiji's strong and clear position is an extension of Fiji's acceptance of the regional and international nuclear disarmament Instruments that seek to rid the planet of any nuclear threats. This includes the Nuclear Prohibition Treaty in 1972 and the Comprehensive Nuclear Test Ban Treaty (CTBT) in 1996.

The ratification process, Fiji will be obliged to never, under any circumstances, assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State-party under the Treaty and to suppress any activity prohibited under the Treaty to Prohibit Nuclear Weapon (TPNW) undertaken by persons or on territory under its jurisdiction or control.

Ratification, Mr. Chairman, also reinforces Fiji's commitment to the Comprehensive Safeguards Agreement (CSA) signed with the International Atomic Energy Agency (IAEA) in 1973. As Fiji is a State Party to the TPNW, Fiji is required to implement the IAEA's CSA of declaring and submitting regular reports on their nuclear material and nuclear facilities, and to accept inspections and other measures by the IAEA to verify these declarations and reports.

Fiji reaffirms its commitment, at all times, to comply with applicable international law, including international humanitarian law including implementing provisions of the Treaty through the enactment of relevant national laws.

Mr. Chairman and Honourable Members of the Committee, it is our recommendation that Fiji ratifies the Treaty on the Prohibition of Nuclear Weapons without any reservations.

HON. PROF. B.C. PRASAD.- Mr. Chairman, it might be better if we ask questions now. Under 2.3.4, you mentioned that Fiji will be required to implement provision to the Treaty through the enactment of relevant national laws. Can you tell us, what are these relevant national laws?

You also further said that you need to develop the legislative framework to ensure the provisions of the Treaty and other related Treaties are properly implemented. Do you have a list of legislations, framework or new relevant laws that you think will need to be enacted? What would be the implication of enacting those laws in terms of resources, in terms of the capacity of the Ministry of Foreign Affairs to actually ensure that once the Treaty is ratified, your Ministry would be in a position to deal with those issues?

MR. P. EMBERSON.- Thank you, Honourable Professor Prasad. The International Atomic Energy Agency (IAEA) and the Treaty bodies, the Secretariat who help us to administer these Instruments also have model template laws that they will be working with us to ensure that we then align some of our domestic situations and context with the model Treaties, model Instruments or model Protocols that they will work with Fiji. The challenge that is before us is to ensure that we work with these institutions to ensure the appropriateness of the various harmonisation of domestic laws without additional burden on our resources.

Working with the IAEA, they have assured that countries who have come on board as State Parties to the Treaty try to ensure that it is not as cumbersome to enforce these laws domestically, but it does not add to resource wastage in our efforts to implement and mainstream into our domestic context. Thank you, Professor Prasad.

HON. DR. S.R. GOVIND.- Thank you for your very comprehensive presentation on the Nuclear Treaties. I would just like to know whether in the health field, what is the extent of nuclear reactive material being used in medical treatment of some of the health condition, such as cancer, et cetera? Whether there was some assessment has been made or what will be the impact of these Treaties on that?

MR. P. EMBERSON.- Thank you, Honourable Dr. Govind. In as far as the handling of nuclear material by the medical and health facilities, Fiji is a member of IAEA and there is a small quantities protocol that we have yet to sign on to. But we are moving to ensure that Fiji adheres to the safe of handling of material that comes through our borders and we are working with the Solicitor General's Office, to ensure that our laws and policies are up to par with international best practice around this.

Once this small quantities protocol is ratified or acceded to by Fiji, then the international community, led by the IAEA Secretariat, can come into Fiji to do objective assessment of the types of small quantities of nuclear active and radioactive material that is within our borders, and to ensure that it is properly regulated and disposed of after its useful lifecycle has come to an end. At the moment, there are few agencies that handle small quantities of radiation and the medical facility through our x-ray facilities are just one of the few that Fiji uses.

(Inaudible)

MR. P. EMBERSON.- Thank you, Mr. Chairman.

On the second Treaty, the ILO Violence and Harassment Convention, Fiji has ratified the following ILO Conventions:

- ☐ 8/8 Core Conventions;
- ☐ 4/4 Governance (priority) Conventions; and
- ☐ 26 of its Supplementary Technical Conventions

These Conventions have been domesticated through the legislative policies administered by the Ministry of Employment, Industrial Relations and Productivity.

At the Multilateral platform, the Convention aligns with the various international principles and the sustainable development agenda.

Why is this Convention important to us, Mr. Chairman? It addresses critical issues which are of global concern, and that is the holistic protection of workers and rights from violence and harassment.

On the implications of this ratification, Mr. Chairman, the Convention aligns with the fundamental Human Rights Conventions that Fiji has ratified, such as the:

1. Universal Declaration of Human Rights;
2. International Covenant on Civil and Political Rights;
3. International Covenant on Economic, Social and Cultural Rights;
4. International Convention on the Elimination of All Forms of Racial Discrimination;
5. Convention on the Elimination of All Forms of Discrimination against Women;
6. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and the
7. Convention on the Rights of Persons with Disabilities

The Convention also aligns with Sustainable Development Goal 8 - Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. The SDG 8 Indicator 8.8: Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants and those in precarious employment.

The Convention offers protection to all workers, taking into account the different contexts of work and specifying the scope of its application. Mr. Chairman, Article 3 expands the context of harassment to include; work related trips, travel, training and work-related communication technologies, et cetera. So it expands the manner in which harassment can be interpreted.

Mr. Chairman, this protection covers overseas workers, labour migrant workers and vice-versa, in any country which ratifies this Convention.

Mr. Chairman, on our recommendation, as the hub of the region, Fiji's ratification of this Convention implies that Fiji affords adequate, holistic protection for all its workers. Fijian workers also have this protection when working overseas.

Based on Fiji's progress of implementation on International Conventions and its significance for Fiji, our ratification of this ILO Treaty is supported.

I am also mindful, Mr. Chairman, that the experts from the ILO is with us and they would be in good stand as well to provide support to our questioning.

MR. CHAIRMAN.- Do carry on with your third one and then we will hand over to the ILO, thank you.

HON. PROF. B.C. PRASAD.- Can I just ask you a question? As you had implied, there is no legal impediment to ratifying this Protocol Convention. The question is; are there other impediments that you think, given the current national legislation which govern some of the policies that will be relevant to this? Do you think that there are impediments still because as Ministry of Foreign Affairs, you deal with the rest of the world? Do you think that you have mechanisms through which you are working with the Ministry of Labour, to ensure that not just the legal impediments but administrative impediments, capacity impediments with the ability of your Ministry and the Ministry of Labour to actually address some of those issues that you have talked about?

MR. P. EMBERSON.- Honourable Professor Prasad, the proof of how well Fiji is able to domesticate this in the test of how States interact with each other to protect the principles of human rights around employment. It is our hope that we will continue to work with ILO, to ensure that Fiji's domestication is fluid and seamless as possible as we try to make it work for our Small Island Developing State context but also putting into place best practice that you have learnt from other similar situations elsewhere to help in the various challenges that may arise in trying to administer and domesticate this in our national context.

MR. CHAIRMAN.- Thank you, Mr. Emberson. You can continue. Thank you.

MR. P. EMBERSON.- The third Treaty, Mr. Chairman, is the ILO Protocol of 2002 to the Occupational Safety and Health Convention 1981. This Protocol outlines implementation of specific issues relating to Articles 4 and 11 of the Occupational Safety and Health Convention 1981.

Fiji ratified the Convention in 2008 with the establishment and application of procedures for the notification of occupational accidents and diseases by employers and when appropriate, insurance institutions and other directly concerned, and the production of annual statistics on occupational accidents and diseases.

The publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course or in connection with this work. This Protocol complements the current policies and process undertaken to facilitate occupational accidents and diseases.

On the implications of this ratification, the Convention aligns SDG 8 on the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all and as in SDG 8.8 – protect labour rights and promote safe and secure working environment for all workers, including migrant workers, in particular women migrants and those in precarious employment. Fiji is seen to comply with its obligations under the Occupational Safety and Health Convention of 1981.

Our third point here for the implications of ratification, it strengthens the existing national framework under the Health and Safety at Work Act and its regulations, including the accident, employment accidents regulations of 2018.

Our recommendations, therefore, Mr. Chairman, as workers of the engine room of Fiji's economic growth and SDGs, their rights are recognised in Fiji's Constitution. So support of this Protocol is in keeping with this commitment and our ratification of this 2002 Protocol is supported. Thank you, Sir.

MR. CHAIRMAN.- Thank you, Mr. Emberson. I now give the floor to Ms. Elena Gerasimova. Is that the right pronunciation?

Thank you, Madam. If you could just do a brief introduction of your good self and your companion. The floor is yours, Madam.

MS. E. GERASIMOVA.- Thank you very much, Honourable Chairman, for inviting the ILO to present this submission. Honourable Members of the Committee, thank you very much for having us here and for giving us an opportunity to present two ILO Instruments.

I represent the ILO Office in Suva, in the Pacific. The ILO Office has been here for 45 years and serves 11 Member States of the ILO in the Pacific Islands Region. I am an International Labour Standards Specialist and my colleague, Ms. Merryn Cavenagh, is also an international Labour lawyer and helping us being here, seconded from the Australian Government.

We are very pleased to have this opportunity to discuss two very important ILO Instruments and please, allow me to start from Convention 190 - Convention on Violence and Harassment in the World of Work. This is a very latest ILO Convention which was adopted in 2019 by the Centenary ILO Conference in June last year.

The adoption of this Convention and accompanying Recommendation 206, recognises the right of everyone to the world of work free from violence and harassment, including gender-based violence and harassment, and for the first time in the history, this right has been articulated at any international Treaty.

Violence and harassment in the world of work remains a widespread phenomenon present in all countries, disregarding sectors, occupations and work arrangements. The adoption of this Convention the global community has made it very clear that violence and harassment will not be tolerated and it must end.

Why is the ratification of this Convention important? Violence and harassment in the world of work:

- ☐ can constitute a human rights violation or abuse;
- ☐ affects a person's psychological, physical, sexual health, dignity, family and social environment;
- ☐ affects the quality of public and private services;
- ☐ may prevent people, especially women, from accessing, remaining and advancing in labour market; and
- ☐ is incompatible with the promotion of sustainable enterprises.

The Convention especially focuses on gender-based violence and harassment and makes a link between domestic violence and violence and harassment in the world of work.

What are the key elements of this Convention? Firstly, the Convention defines what violence is and harassment and the International Labour Conference decided to choose this one concept of violence and harassment and then allow different countries to develop their own concepts regarding violence and harassment.

So violence and harassment is again defined very broadly as a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.

The Convention also defines gender-based violence and harassment as directed at persons because of their sex or gender, or affecting particular groups of people disproportionately based on their sex or gender.

The scope of this Convention is very wide, it protects really older workers and other persons in the world of work, including not only employees, but also those people who are attending trainings, interns, workers whose employment has been terminated, volunteers, jobseekers and many other categories.

The Convention applies to all sectors, both public and private, both to formal and informal economy and in urban and rural areas.

The core principles of the Convention are very broad. The Convention provides that each member shall adopt, in accordance with national law and circumstances and in consultations with workers' and employers' organisations, an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment. This approach should include a number of issues, including prohibiting in law, violence and harassment, including gender-based violence and harassment, ensuring that relevant policies address violence and harassment, and a number of other measures.

Members shall recognise the different and complementary roles and functions, may be implemented by governments, workers, employers and other organisations in the implementation of this Convention.

Members shall also ensure there is a right to equality and non-discrimination in employment and occupation for women and other persons belonging to different groups.

The Convention requires members to adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment at their workplaces.

Members shall also take appropriate measures to:

1. monitor and enforce national laws and regulations;

2. ensure access to appropriate and effective measures, such as remedies, safe, fair and effective reporting and dispute resolution mechanisms;
3. protection of privacy;
4. sanctions for violations; and
5. ensure that labour inspectorates and other relevant State officials are empowered to deal with this violence and harassment.

Also, on the Convention, the Member State has to provide appropriate measures - to provide guidance, training and awareness-raising on the topics of this Convention.

The Convention shall come into force 12 months after the date on which the ratification of two Member States have been registered with the Director-General. Up today ILO did not register any ratifications, so Fiji may become the first country to ratify this Convention.

Actually, one of the ILO Member States – Uruguay, has ratified the Conventions in December but the ratification was not yet registered. So, we really may find that Fiji is the first ratifying country and that will be, of course, serious. It will be an honour for the country, and this is one of the Conventions which is, right now, supported by the international communities more than any other Instruments in the world of work because it is really about human dignity.

I can also make some brief comments, addressing questions raised earlier regarding the situation in Fiji. I can say that Fiji is the only country in the Pacific which has already a Sexual Harassment Policy adopted. Fiji has relevant provisions in the Constitution and in the Employment Relations Bill.

Right now, we are helping Fiji to conduct a legal review of national laws and practices, to see which national policies or regulations are in compliance with the Convention and which regulations should probably be adjusted in case of the ratification of the Convention. And we are planning to have the validation discussion of the review organised later this year in June/July, thus, we will provide our full support to Fiji to adjust the legislation in case this will be required after the ratification.

So, that is about Convention 190 and may be you have some questions, otherwise....

MR. CHAIRMAN.- Honourable Members, any questions?

HON. PROF. B.C. PRASAD.- Thank you for that very succinct presentation and summary of the Convention. You quite rightly say that the core principles of the Convention are very broad and we know that we have some policies - the Sexual Harassment Policy, we ratified CEDAW many years ago and there are national legislations which deal with some of those issues. You also quite rightly pointed out that ILO is going to help Fiji to look at some of the laws.

I mean, ratifying Conventions is one thing but I think it is the implementation. Even when you have national laws, even then there are impediments to actually achieve the objectives of the Convention. My question is, in your view, do you think that we have the infrastructure, we have the will in the capacities that are there, to deal with some of the issues, as you said, which are

quite broad in terms of the principles to implement these Convention effectively and achieve the outcomes that is desired of this Convention?

MS. E. GERASIMOVA.- Thank you very much, Honourable Professor Prasad, for this question. I do think that Fiji has the capacity to implement the Convention in case really well planned and comprehensive measures are developed and implemented well.

Of course, some adjustments will be required and development of additional policies may be required, but I do think that right now, with the condition and with the attitude existing amongst Fijian employers, I know that many employers do have already policies at their workplaces.

They do have a vision to promote and implement principles declared in this Convention. I know that trade unions are very supportive of this Convention and I did not actually mention that there was consultations already organised by the Ministry of Employment - the social partners who supported the ratification of this Convention. I think that intention is here, capacity is present but, of course, some steps will be required further.

HON. M.R. LEAWERE.- Thank you, Mr. Chairman. I thank, Madam, for your submission. The scope of the Convention as you have alluded to is very wide and I note on page 2 of your submission, the sentence goes which I would like more clarification on; "Article 2 protects workers and other persons..." What does that mean, "other persons", are they including gender? If I might add on further, does it also include transgender in that sentence? Can we have some elaboration on that, through you, Mr. Chairman?

MS. E. GERASIMOVA.- Thank you very much, Honourable Member. Under this, we mean that not only workers who have the formal employment relationship with their employers are covered by this Convention, but also those people who are in the labour market, who are workers but may not be employees but workers and those who are just preparing to become part of the labour market and those who have left the labour market recently.

They include persons in training, interns, workers whose employment has been terminated, volunteers, jobseekers, job applicants, individuals exercising the authority, duties and responsibility of an employer. So it will also cover, for example, domestic workers, those who work as maids, guards at home, people not with big companies or employees of the State but also will cover those people who have this domestic work relationship.

HON. DR. S.R. GOVIND.- Thank you for that comprehensive presentation. Is there any particular reason why countries are not forthcoming to ratify the Convention? You said so far, none of the countries. Do you know some of the reasons that result in delaying this? I would have thought that developed countries would be the first ones to just sign it.

MS. E. GERASIMOVA.- Thank you very much for this question, Honourable Dr. Govind.

Actually, I can say that countries are not delaying, to be honest, countries are competing on who would be the first country to ratify this Convention. When the Convention was ratified, the support at the International Labour Conference was very high, just really tremendous and now, many countries (I think) have committed to ratify but the ratification process takes months. For example, I know that the Ministry of Employment here in Fiji, were very much inspired by this

Convention and they suggested ratification of this Convention right after it was adopted in June 2019. But as you see, the processes takes time so really, the same story happens probably to other countries. I know that many countries are considering ratification right now.

HON. DR. S. GOVIND.- A supplementary question; this harassment and violence, especially gender-based, are not reported correctly and what we see is only the tip of the iceberg. So in your opinion after being here for a while, what do you think the extent of the problem is in Fiji - what is being reported and what you think is the actual figures which are unreported? This will be a big challenge, especially gender-based violence. So I am just wondering where we are?

MS. E. GERASIMOVA.- Exactly, thank you very much for that question and concern. I think this is a problem for many countries.

In many countries and also I think in Fiji, the reason for that going very far back to history and to cultural situation, so if people do have particular attitude, you cannot change it, just on the ratification of this Convention or adoption of legislation, you need to organise a lot of knowledge sharing education and awareness-raising, not only among employers or Members of Parliament but also among regular citizens and workers.

I think this Convention is good because it has access to many people through employers. As I had mentioned, employers will have to provide trainings and awareness raising also among their employees and members of their families. So that will be a great channel to communicate people the message of this Convention, which is the elimination of violence and harassment in the world of work but also broader.

As I had mentioned, the Convention recognises that link between domestic violence and the negative impact on the world of work. So I think there are a lot of efforts here in Fiji is to eliminate, for example, violence and harassment and domestic violence. But this regulation cannot only support the work which is happening for a number of years already but also do channel it through target groups.

MR. CHAIRMAN.- Thank you, Ms. Gerasimova, you may continue with your second Protocol.

MS. E. GERASIMOVA.- Thank you very much, Mr. Chairman. Now I will really briefly introduce the second Instrument because it is much more simple and short and just not to spend a lot of your time on this.

Mr. Chairman, Protocol 155 is the supplementary document to the Convention on Occupational Safety and Health. And as was already explained by the representative from the Ministry of Foreign Affairs that that Convention of 1981 on Occupational Health and Safety is ratified by Fiji. Actually, it is ratified by 69 ILO Member States.

The Protocol is a new and supplementary Instrument. Today and uptil now, it is ratified only by 13 countries, I think, but also many countries are considering the ratification of this Instrument and I will explain a little bit later why.

The key message of this Protocol is, it requires Member States to establish and periodically review requirements for recording and notification of the following:

- ☐ occupational accidents;
- ☐ occupational diseases;
- ☐ dangerous occurrences;
- ☐ commuting accidents; and
- ☐ suspected cases of occupational diseases.

The Convention provides specific requirements, details and content that should be included in the recording and notifications. It also requires Member States to publish annual statistic reports, representative of the country as a whole just to see the broad picture of the situation in the country, not at particular enterprises.

Why is the ratification of this Protocol important? It is because this Protocol provides mechanisms through which the reporting and notification of occupational accidents and hazards can be harmonised internationally and following common requirements, this will assist the global project of reducing workplace accidents and diseases which number in hundreds of millions per year.

The ratification of this Instrument will also be effective for recording and notification and could serve as a warning system to prevent accidents and diseases, particularly because the Protocol requires comprehensive reporting.

Also, we should know that under this Protocol, members can determine the criteria for notification and requirements that provide a large amount of flexibility for countries.

I also want to mention one argument why ratification of this Protocol was raised now by the Ministry and why it is important for many countries. Right now, there is a special group created inside of the ILO. It is a Standards Review Mechanism Tripartite Working Group and it developed a list of outdated ILO Conventions. Among these outdated Conventions, there is one Convention ratified by Fiji, which is Convention 45. It is the Convention on Underground Work of Women, and this Convention is proposed for abrogation in 2024.

So the ILO has developed a list of those Conventions which may be considered by Member States for ratification, instead of these outdated Convention which will be abrogated in four years' time. This Protocol is one of those Conventions from this list. So for Fiji, it is not only the ratification of the additional Instrument, it is also the replacement of the outdated mechanism or Instrument which will be abrogated for the whole community in four years' time.

In this situation, I think ratification of this Protocol may be one of the first steps to consider ratification of also other Instruments, instead of the Convention on Underground Work of Women. Thank you very much.

MR. CHAIRMAN.- Thank you, Ms. Elena. Honourable Members, any questions on the second Protocol?

HON. PROFESSOR. B.C. PRASAD.- Thank you for that very good explanation. Just a quick question; one of the things that attracts me out of this Protocol is the requirement for producing

good statistics. We know that many countries, many Governments are notorious for not producing good statistics because unless you have the statistics, you really cannot get good policy and implementation. What in your view, in terms of our other legislations, do you think we have the capacity, we have the legislation and the appropriate mechanisms within our governmental system to collect these statistics once this Protocol is accepted and implemented?

MS. E. GERASIMOVA.- Thank you very much for that question, Honourable Professor Prasad. Yes, I think Fiji is in a very good situation regarding, at least, labour statistics because there are international requirements and there is a special group of International Labour Statisticians and Fiji is a part of this group, which is developing international requirements on reporting and statistics on labour market issues.

I cannot say that there are no problems in Fiji but Fiji is in compliance with a different Convention, Convention 160, on labour statistics which is not being discussed today but I also know that the Government is considering the idea to ratify this Convention. Fiji is one of the two countries in the whole Pacific that is already now compliant with that Convention.

Yes, Fiji has the capacity to organise good statistics on those issues, summed again as the same story as is the previous Instrument, some just may be required but the Ministry of Employment, Productivity and Industrial Relations, I know, had reviewed the legislation and current practices and they considered as Fiji is in a good situation to implement this Protocol.

MR. CHAIRMAN.- Honourable Dr. Govind.

HON. DR. S. GOVIND.- Thank you, Mr. Chairman. My question is on specific occupational diseases, not accidents. Diseases have a very long latent period before they can be diagnosed, such as exposure to asbestos, which takes long. Maybe, the employee has already left his workplace and develops a disease after retirement, et cetera, and then certain other cases.

Currently in the health workforce, this is a very specialised field which needs lot of capacity building for healthcare workers to really diagnose the disease, plus the diagnostics. So, after the ratification of this Convention, will ILO provide resources to strengthen the health services in terms of training and equipping, at least, one specialised clinic in a country? Are there some resources available or funding, how can it be overlaid because ratification is one thing and effective implementation will be a big challenge, especially in terms of occupational diseases? What is your opinion?

MS. E. GERASIMOVA.- Honourable Dr. Govind, many thanks for this question. I just want to focus your attention on the fact that this Protocol really speaks only on recording and notification, not really on identifying occupational accidents and diseases, it is a subject of regulation. But different international Instruments also, but this one is only about recording notification and publishing information about accidents happening.

As for your question regarding the possible support from the ILO, I think on this issue on occupational health and safety, ILO is supporting the work in Fiji on occupational health and safety and I think the question which you have raised may be discussed within the Tripartite

Committee on Occupational Health and Safety. It is an internal tripartite body of Fiji and ILO is attending this body and this may be raised and discussed.

HON. DR. S. GOVIND.- A supplementary question to this; this Convention is more about notification and reporting, but unless the diseases are diagnosed openly, the notification of those diseases will be meaningless. So a doctor has to first diagnose what disease is to be reported. If there is weakness in the system to diagnose the disease, the report will be of no use. I do not know how all these will tie up.

MS. E. GERASIMOVA.- Yes, exactly.

HON. DR. S. GOVIND.- You cannot just implement and ask them from 1st January to start reporting on those diseases. Many, many cases will not be reported. So the capacity building exercise has to happen in the implementation phase, which should take a while.

MS. E. GERASIMOVA.- Thank you very much, I fully support your idea. It is very much about capacity building to really identify and work with those diseases and accidents. This is only to report and understand the picture of what is happening in the country but, of course, you need to work a lot, like with this problem itself, exactly.

MR. CHAIRMAN.- Since there are no further questions, Honourable Members, I take this opportunity to thank Ms. Gerasimova, Mr. Emberson and your Team for availing yourselves for this livestream this afternoon. I also request that you be able to avail yourselves, should we have any further pressing questions on the subject matter.

With those few words, I now close the session.

The Committee adjourned at 2.25 p.m.

S/C on FAD Interview with MEPIR & MWCPA Officials 14.

Tuesday, 3rd March, 2020

The Committee resumed at 2.57 p.m.

Interviewee/Submittees: Ministry of Employment, Productivity and Industrial
Relations

Ministry of Women Children and Poverty Alleviation

In attendance

1. Mr. Osea Cawaru - Permanent Secretary
2. Mr. Tomasi Kama - Director Occupational, Health and Safety
3. Mrs Miriama Raikoti - Director Corporate Services and Policy

4. Mr. Joeli Pulu - Manager Labour Standard Services
5. Ms. Shabana Khan - Senior Labour Officer
6. Mr. Newal Kishore - Manager Field Operations

Ministry of Women, Children and Poverty Alleviation

1. Ms. Jennifer Poole - Permanent Secretary
2. Mr. Rupeni Fatiaki - Director of Social Welfare
3. Ms. Amelia Nairoba - Acting Research Advisor

MR. CHAIRMAN.- I welcome Honourable Members and members of the public and the media to today's Committee meeting and live streams submission and also those watching Parliament channel and Walesi platform and Facebook.

I also take this opportunity to welcome the officials from the Ministry of Women led by Ms. Jennifer Poole, Permanent Secretary and the Ministry of Employment and Productivity Permanent Secretary, Mr. Osea Cawaru.

(Introduction of Honourable Members and secretariat)

With those few words of introduction may I ask the Permanent Secretary for Employment, Productivity and Industrial Relations, Mr. Osea Cawaru to make a brief introduction of your team Sir and the floor is yours, thank you.

MR. O. CAWARU.- Thank you, Mr. Chair and Honourable Members of the Standing Committee on Foreign Affairs and Defence, members of the media, our viewers this afternoon, ladies and gentlemen. Just before I go through my submission may be I just introduce my team.

(Introduction of Team by PS)

Honourable Members, with reference to the call for a Joint Submission on views of the Ministry of Employment, Productivity & Industrial Relations to the Standing Committee on Foreign Affairs and Defence on whether Fiji should fully ratify the following Treaties:

1. Treaty on the Prohibition of Nuclear Weapons;
2. International Labour Organisation Convention 190 on Violence and Harassment Convention 2019; and
3. International Labour Organisation Protocol 155 of 2002 to the Occupational Safety and Health Convention 1981.

The Ministry advises that the Fijian Government considers ratifying the abovementioned Treaties for the following reasons. First, is the brief on the Treaty on the Prohibition of Nuclear

Weapons and how it implicates the work that we conduct at the Ministry of Employment mostly in terms of health and safety and workers' compensation.

Mr. Chairman, the danger posed by nuclear weapons is a fundamental issue of humanity - the right to life, international law, intergenerational justice and sustainability. This danger not only impacted military personnel and civilians but our workers as a whole.

We wish to recognise our history. We acknowledge the test of time that our country withstood, and commemorate those who have endured and withstood nuclear testing, a period in history with ramifications that are still felt by our oceans, land and people. We acknowledge the issues both, past and present, that our nation has faced.

Some of our Fijian families and our communities are still suffering today from the effects of the atmospheric nuclear weapons tests between 1952 and 1958 by the United Kingdom. The operation codenamed, "Operation Grapple", was conducted at the Monte Bello Islands off the coast of Western Australia, at Emu Field and Maralinga in South Australia and at Malden and Christmas Island.

An estimated 300 Fijian Servicemen enlisted in the Fiji Royal Naval Volunteer Reserve for service on Christmas Island, to work alongside the British, Australian and New Zealand Servicemen in monitoring the atmospheric testing of UK's hydrogen bombs.

The consequences of this nuclear activity, are still being felt today by our fellow surviving Fijians - manifesting in, among other impacts, debilitating health and intergenerational maladies. This legacy continues to threaten, not just our people, but the health and wellbeing of generations who depend upon them.

In response to the testimony and incidents reported by veterans, the Fijian Government through Cabinet in 2014, approved a budgetary allocation of \$2.95 million for payout as medical assistance to survivors. This is compensation as medical assistance to survivors and their dependants for the exposure to possible nuclear radiation.

The Ministry of Employment, together with the Ministry of Defence were responsible for the facilitation of compensation of these men, as they continue to seek recognition and redress for the harm and intergenerational impacts on their families. A total of 257 cases was paid \$2.532 million in compensation, and as I have mentioned before, compensation for medical assistance.

As Ministry responsible for the enforcement of the Health & Safety at Work legislations, our fellow Fijians' rights deserve to be protected wherever they work, may it be locally or internationally. The Ministry, therefore, overwhelmingly supports the ratification of this Treaty. By signing the Nuclear-Test-Ban Treaty, we are ensuring that the threat of nuclear poisoning to our people does not happen again.

The second Instrument, Mr. Chairman and Honourable Members, on the International Labour Organisation - Violence and Harassment Convention 190 of 2019 concerns the elimination of violence and harassment in the world of work and was adopted by the International Labour

Conference in Geneva during its Centenary celebration on 10th June, 2019. The Convention is a major step towards giving workers across the world the right to a workplace free of violence and intimidation.

Convention 190 requires every State Party to respect, promote and realise the right of everyone in the world of work free from violence and harassment. Violence and harassment in the workplace is a persistent problem for many workers worldwide.

Government considers sexual harassment in the workplace an important and a priority issue that Fiji has to address in order to ensure quality work environment, free of intimidation and sexual harassment and to enhance productivity.

Government believes that every working person should be able to enjoy a working environment free from all forms of harassment and discrimination, whether on the basis of ethnicity, national or social origin, religion, political affiliation, gender or any other form of personal identity. Therefore, behaviour and attitude respecting the dignity and human rights of a worker should be actively promoted.

Mr. Chairman, with the adoption of this new ILO Convention, workers will get a powerful tool to advocate their own rights in the workplace. The new global standard will promote the position of workers, especially women, as they often have to deal with various forms of violence and harassment in the workplace.

Whilst our existing Instruments may have provisions for violence or harassment, these Instruments may be limited in what is understood by violence or harassment in the workplace, including providing guidance on how to address its various forms and coverage for all workers. There is a need for a specific international legal Instrument focussing on violence and harassment, including gender-based violence in the world of work, considering limitations in existing Instruments.

It has been established that domestic violence has an impact on the workplace and that employers should recognise the effects and help mitigate its impact in the world of work. The Treaty or Convention also give workers in the informal sector, such as domestic workers, the right to protection.

Mr. Chairman, two-thirds of women around the world who are experiencing intimate partner violence are in employment. Some of our women in Fiji are experiencing a similar fate. This means that their path to escape most likely affect their work life. They plan, they find accommodation, they seek police assistance, they attend court dates, they arrange for counselling and medical attention for their children and they do all these, while trying to navigate work.

Lack of economic independence can also keep women trapped in violent relationships. The Convention is essential to end gender-based violence in the world of work, one of the most effective tools of oppression, preventing gender equality.

Besides the human suffering, it causes and impacts on health, violence and harassment, imposes a significant economic burden on society as a whole in the form of healthcare costs, policing and legal costs, loss of productivity and social costs, to name a few. By ratifying the Convention, Fiji

can play an important role in establishing a new set of ILO standards on violence and harassment in the world of work.

By supporting the ratification of this Convention, Fiji will be signalling zero tolerance for violence and harassment, as well as contributing to SDG 5 and SDG 8 of the UN 2030 Agenda on Sustainable Development, on gender equality and decent work respectively.

Rallying support for this Convention is a great opportunity to heighten awareness on gender-based violence, expose its harmful impacts, collectively empower women workers and end tolerance of gender-based violence in the world of work. The economic impacts of violence and harassment are worth millions of dollars. Creating a mechanism to help identify and prevent violence and harassment in the world of work will help reduce the economic impacts on workers and their families, on businesses and on the public purse.

Finally, Honourable Chairperson and Honourable Members, on the third Instrument, the ILO Protocol 155 of 2002 to the Occupational Safety and Health Convention 1981; Fiji ratified the ILO Occupational Health and Safety Convention 1981 on 28th May, 2008 which is in line with the Fijian Government's commitment to ensuring the health and safety of every person in the workplace.

The ILO General Conference adopted Protocol 155 of 2002 to the Occupational Health and Safety Convention 1981 on 20th June, 2002 and came into force on 9th February, 2005. The Protocol was adopted by the ILO to prevent accidents and injury to health arising out of, linked with, or occurring in the course, by minimising so far as reasonably practicable, the causes of hazards inherent in the working environment.

Fiji's legislative framework is already in compliance with the obligations under the Protocol and will complement the Ministry's regulatory role to:

- ☐ strengthen the recording and notification procedures for occupational accidents and diseases;
- ☐ promote the harmonisation of recording and notification systems with the aim of identifying their causes; and
- ☐ establishing preventative measures for all workplaces in Fiji.

Under Section 20 of the Fijian Constitution, every person has the right to fair employment practices, including humane treatment and proper working conditions. The Health and Safety at Work Act 1996 and the Health and Safety at Work (Administration) Regulations 1987, provide the minimum requirements pertaining to the systems of notification and recordings of occupational accidents, occupational diseases, dangerous occurrences and suspected cases of occupational diseases by the employers to the competent authority of Fiji.

The relevant national laws and policies that are already in place indicate that Fiji is already in compliance with the minimum requirements of the Protocol.

Fiji's ratification of up-to-date ILO Conventions and Protocols as such could complement or add value to the existing policies by:

1. Providing for greater protection for workers by means of more stringent minimum requirements, particularly with identified high-risk industries in occupational safety and health.
2. Complementing measures where current policies establish a procedural or coordinating framework.
3. Extending scope and coverage of protections, including formulation of new policies in response to current and emerging labour markets risks.
5. Responding to national objectives of Fiji, such as gender equality, and the demands of the Fijian labour market in current and future economic contexts.

In conclusion, Mr. Chairman, the ratification of the International Labour Conventions is part of Fiji's efforts in promoting the universally agreed Decent Work Agenda. In recent years, Fiji, as well as other countries in the world, have intensified the ratification of ILO Conventions.

To date, Fiji has ratified all 8 ILO core Conventions, with four priority Conventions and 26 Technical Conventions, the fundamental principles and rights of these Conventions have been domesticated within our National Laws and enforced to create a conducive work environment for all Fijians. These are considered as human rights Instruments, a key factor to accompany Fiji's objectives of quality employment, decent work and inclusive growth, and our commitment to the global agenda on SDG 8 - Decent Work and Economic Growth.

I thank you, Mr. Chairman and Honourable Members.

MR. CHAIRMAN.- Thank you, Mr. Cawaru. Honourable Members, do you have any questions for Mr. Cawaru?

HON. PROF. B.C. PRASAD.- Thank you, PS. We actually had your presentation with us before. The Ministry is going to be at the forefront of implementing the requirements of the Convention, and I am particularly interested in the Convention and the Protocol and implementing or adhering to the requirements of the Protocol.

I am kind of disappointed that you have not provided what we would have liked to hear from the Ministry is the kind of things that you have in terms of your capacity, resources, personnel, policies and your ability to implement the requirements of the Convention and adhere to the requirements of the Protocol, because there are issues in relation to OHS, for example. We have had issues about whether you have a list of all the OHSs Committees in places of employment, and these are some of the difficult issues that your Ministry has to deal with on a daily basis.

For us in the Committee, what we would be interested in knowing is, whether your Ministry has the capacity, whether you require changes to certain legislations or the adoption of new legislations, to ensure that you actually are able to implement the requirements of the Convention.

It is all right for us to sign and ratify conventions and protocols, but for us as Members of Parliament when we debate this in Parliament, we need to know if your Ministry has the capacity, and if you have the processes and procedures in place to deal with this. So, you may

want to briefly expound on some of those issues, and we may be able to ask you further questions and your responses later would be helpful as well. Thank you.

MR. CHAIRMAN.- Perhaps, we can do that as supplementary or substantive question to them in due course. Thank you Honourable Member. Thank you Mr. Cawaru.

I now give the floor to Madam, Permanent Secretary, Ms. Poole, for your contribution.

MS. J. POOLE.- Thank you. Mr. Chairman and Honourable Members of the Standing Committee on Foreign Affairs and Defence, allow me to introduce my team today.

(Introduction of Team by PS)

Honourable Members, I wish to thank you for providing the Ministry with the opportunity to make this presentation with our counterpart, the Ministry of Employment, Productivity and Industrial Relations in support of the three Conventions in front of this Committee.

Our presentation today supported the:

- ☐ Treaty on the Prohibition of Nuclear Weapons;
- ☐ Convention 190 – Violence and Harassment Convention 2019; and
- ☐ Protocol 155 – Protocol of 2002 to the Occupational Safety and Health and Convention 1981.

Why our Ministry encourages that the Fijian Government ratifies these Conventions; this is because the Convention falls in line with the mandate of this Ministry and I wish to highlight the role of this Ministry as I continue to justify our position.

The Ministry of Women, Children and Poverty Alleviation is the main Government agency that administers services and programmes aligned to the:

- ☐ Care and protection of children;
- ☐ Community-based correction;
- ☐ Provision of income support to families to address poverty;
- ☐ Provision of policy intervention and services for older persons;
- ☐ Provision of policy intervention and services for persons with disabilities;
- ☐ Promotion of gender equality and the empowerment of all women and girls; and
- ☐ Monitoring, evaluation and reporting on the progress and impact of the Integrated National Poverty Eradication Programme (INPEP).

Honourable Members, promoting gender equality and the empowerment of all women and girls is the basis of our position in relation to these Conventions.

As the National Women's Machinery, our role is to advocate on women and girls' issues and more importantly, coordinate and facilitate policy advice to Government in ensuring gender issues are mainstreamed into policies, programmes and budgets across Government sectors. This

is also in alignment to the Government's commitment as the Ministry administers the implementation of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and Convention on the Rights of the Child (CRC).

Honourable Members, in order to strengthen our work in this area, the Ministry has undertaken various programmes to progress our pledge towards gender equality in Fiji. The National Gender Policy was the first gender mainstreaming tool by the Fijian Government introduced in 2014 and has been discussed in Parliament at length by our Honourable Minister.

And as we continue with the implementation of the Policy, we are now also embarking on a Country Gender Assessment (CGA) with the support of the Government of New Zealand, to inform on the status of women and girls in Fiji and provide a comprehensive overview of gender issues across all sectors.

We are also embarking on a two-year initiative known as the Gender Transformative Institutional Capacity Development, a major step towards achieving gender equality and empowerment of all women and girls in Fiji. Approved by Cabinet in January 2020, this initiative is supported by the Governments of New Zealand and Canada.

Additionally, the Ministry will lead the development of a five-year (2020-2025) National Action Plan to Prevent Violence against Women and Girls from 2020 to 2025. This is in collaboration with the Ministry for Education, Heritage and Arts; the Ministry of Health and Medical Services; Ministry of Employment, Productivity, Industrial Relations; Ministry of Youth and Sports, iTaukei Affairs Board with Women's Organisations, Civil Society and Faith-Based Organisations.

All these initiatives, Honourable Members, are part of a whole of Government approach and we will also be working closely with our counterpart Ministries and the one thing they all have in common is the aim to address the inequality in various spheres between men and women in Fiji and its consequences, and creating an enabling and equitable environment for the betterment of Fijian women.

Fiji in signing the Violence and Harassment Convention 2019 is, hence going to be a move in the same direction. Violence and harassment in the world of work deprives people of their dignity, is incompatible with decent work, and a threat to equal opportunities and to safe, healthy and productive working environments. It remains a widespread phenomenon, present in all countries and disregarding sectors, occupations and work arrangements.

According to the recent findings by the International Finance Corporation (IFC) Study named, "The Business Case for Workplace Responses to Domestic & Sexual Violence in Fiji", which surveyed three private sector companies and a total of 563 staff, the following has been proven:

- 44 percent of women and 22 percent men reported they had experienced some form of domestic or sexual violence in their lifetime, and 21 percent of women compared to nine percent of men had experienced violence in the last 12 months when this survey was done.

□ Hence, high rates of domestic and sexual violence has been translated into loss of staff time and reduced productivity, that is, equivalent to almost 10 days of loss of work per employee each year.

□ 26 percent of women have experienced harassment when at work.

In view of those alarming statistics, this report recommends possible actions and measures or instruments as such to safeguard women employees as they are the ones predominantly victims of violence and harassment in homes and in their workplaces.

Honourable Members, we particularly support the motion in front of the Committee for the Fijian Parliament and the Fijian people to realise the benefits of Convention 190 for the women in Fiji and the possible adoption of this Convention recognises the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment. Research shows that harassment ranks as the second biggest challenge for working women, followed by unequal pay.

As a nation with a fast growing economy and a Government that is committed to leaving no one behind in our growth as an economy, as a nation and as a people, creating an equitable environment for women in the workplace, to be able to actively participate in nation building is very important.

Over the past years, the number of women in the workforce has seen an increase and 39 percent of Fijian women over the age of 15 years are economically active, as per the last census. Also, more women comprising of 57 percent above 43 percent of men, are graduating from universities and are consequently acquiring jobs in the formal sector.

Fijian women are also being encouraged to study and look for work in the fields of Science, Technology, Engineering and Mathematics (STEM) fields. Young girls are being taught about STEM education and careers through summer camps, in order to increase their participation in these fields earlier, and Fiji has shown an increase of 8 percent of female students undertaking STEM subjects in primary schools from 125,683 in 2017 to 137,793 in 2019. This has been the same for secondary school with female students which have also increased by 5 percent from 85,221 in 2017 to 89,108 in 2019. Therefore, there will be a growing generation pursuing careers in this field and noting other fields besides them, which requires essential instruments and mechanisms to put in place to safeguard and protect women and girls in the workplace.

Honourable Members, we have the interest and welfare of working women at heart as the national women's machinery and as we anticipate and support more women into the workforce, their safety, protection and progress will remain a priority agenda for us. Hence, we fully support the motion moved by the Honourable Attorney-General for the Standing Committee on Foreign Affairs and Defence to review the Violence and Harassment Convention 2019.

I would now like to hand over to the Director of Social Welfare, to address the forum in relation to our position on the other two Treaties. Thank you.

MR. R. FATIAKI.- Honourable Members of the Standing Committee on Foreign Affairs and Defence, we also support the Treaty on the Prohibition of Nuclear Weapons because nuclear

weapons are the most inhumane and indiscriminate weapons ever created and its testing in the region and around the world have had catastrophic humanitarian and environmental consequences. Just like any other catastrophe, the most affected are always the most marginalized people and we speak in the interest of the women, children, the elderly, the poor and persons living with disabilities.

The Ministry fully supports the provisions of the Treaty on the Prohibition of Nuclear Weapons as ionizing radiations have a disproportionate impact on women and girls. In addition, the Treaty is committed to supporting and strengthening the effective participation of women in nuclear disarmament, as well as raising awareness of the risks and consequences of nuclear weapons for our future, which is our children.

Honourable Members, the Ministry is in support of Protocol 155 – Protocol of 2002 to the Occupational Safety and Health and Convention 1981, as it is already enshrined in the Fijian Constitution where every person has the right to fair employment practices, including humane treatment and proper working conditions.

With the provisions of the Health and Safety at Work Act 1996 and the Health and Safety at Work Regulations 1997, the Ministry is working towards risk management strategies to minimise mishaps, both for the workers and our clients. Due to the nature of work, women and children, managing the Golden Age Homes, Juvenile Centres, the disabled and disadvantaged, the ratification of the Protocol will enable the maintenance of check and balance with regards to compliance of the health and safety at work.

However, to enable the Ministry to comply with the Act, the necessary policy needs to ensure that the relevant messages are in place. We will be happy to provide technical assistance to the line Ministries that will implement the Treaties in Fiji, should they be ratified, ensuring all that policies and programmes are gender-responsive and inclusive. Thank you very much.

MR. CHAIRMAN.- Honourable Members, do you have any questions for the Ministry of Women, Children and Poverty Alleviation?

HON. PROF. B.C. PRASAD.- Thank you, Mr. Chairman and thank you, Permanent Secretary and your colleague, for your presentation.

One of the things that most countries are preparing to actually achieve in the SDG and in particular when you look at this Convention on SDGs 5 and 8 on Gender Equality and Decent work is that, you will be required to provide statistics to measure whether we are actually achieving these SDGs.

My question to you is; what kind of capacity you have, whether it is there already or whether you are building more capacity or putting frameworks, to ensure that when we implement this Convention or adhere to the Protocol that you will have the necessary data to inform policy, to inform those of us who would want to know whether we are achieving SDG 5 and SDG 8? What sort of processes do you have to link with Ministries which are at the forefront, like the Ministry of Employment, Productivity and Industrial Relations, in dealing with these Conventions and Protocols? Thank you.

MS. J. POOLE.- Thank you, Honourable Member. Of course, our policies and strategies are linked to achieving SDG and the National Development Plan of the Government. We are very much aware and support evidence-based research and evidence-based in forming policy. So currently, we are launching and it is already in progress, where we are actually recruiting the team now to do the National Gender Assessment and that will bring the data that we need as a baseline and also give us a status of women in the country, and that will inform our progress against the SDG.

We have got other sources of data that are showing progress against the SDG path and that was recorded in the Beijing Declaration and Platform for Action + 25 Report and the summary of the Report which was tabled during my last meeting here. I think that is going to be presented to Parliament shortly as well. So the data is being captured, it is going to be strengthened and we will hopefully produce progress reports against SDG 5.

Director, do you have anything to add? Thank you, Sir.

MR. CHAIRMAN.- Honourable Members, are there any more questions?

HON. M.R. LEAWERE.- Through you, Mr. Chairman, I just want to ask the question to the Permanent Secretary for Labour. You mentioned something about creating a mechanism to help prevent violence and harassment in the workplace. Can you elaborate more on how can the Ministry do that in terms of identifying the mechanisms to carry out what he had alluded to in his presentation?

MR. O. CAWARU.- Thank you, Honourable Member for the question. Maybe, very briefly, I will elaborate on the formation of the OHS Committees in the workplaces.

This is a requirement under the legislation where there are 20 or more workers employed, whereby they shall form OHS Committees in their workplaces. This is one forum which we are working towards in enhancing and building capacities in terms of assisting inspectors, in terms of the application on this particular policy. So it is enhancing and strengthening the existing OHS Committees to assist inspectors. That is very briefly, Honourable Chairman.

MR. CHAIRMAN.- Thank you, Honourable Dr. Govind.

HON. DR. S.R. GOVIND.- Thank you, Honourable Chairman, through you, my question is to the Permanent Secretary for Employment. I think the Protocol on Occupational Health and Safety which we are going to ratify, the main focus is on notification and reporting of occupational accidents and diseases, et cetera.

Under the initial ILO Protocol 2002, we already had started reporting on occupational accidents, injuries and diseases. I just wanted to know what sort of capacities do we have currently to diagnose, especially occupational diseases which have very long latent period, for example, exposure to asbestos, exposure to certain kinds of germs, certain chemicals, et cetera?

Sometimes the employee may leave his or her place of work and take retirement, then the exposure of that particular substance is detected. So how closely are you working with the Ministry of Health, to make sure that there is a current capacity of healthcare workers to

diagnose the diseases properly, otherwise reporting accurately will not be possible? Anyway, just elaborate a little bit on what is happening currently in the Ministry.

MR. O. CAWARU.- Thank you for the question, Honourable Member. In terms of the capacities we have, we have been working very closely with the Ministry of Health ever since the Health and Safety at Work was implemented in 1996. We recognise the fact that some occupational diseases have a latency period of 20 or more years, as you have rightly highlighted, on asbestos and mesothelioma as workplace diseases. With close collaboration with the Ministry of Health, we have been working very closely and we have regular training with them in terms of the monitoring of those types of diseases. We have joint meetings and joint trainings conducted or spearheaded by the Ministry in terms of capacity building, our doctors moving towards specific area on occupational medicine, as you would appreciate. Thank you, Mr. Chairman.

HON. DR. S.R. GOVIND.- Honourable Chair, a supplementary question; will you be able to share some statistics or reports which your Ministry may have prepared relating to occupational accidents and diseases, or previous reports so that it helps us see the extent of the problems that currently exist? You can send it to us later in the week.

MR. O. CAWARU.- Thank you, Honourable Member. We will provide statistics, Honourable Chairman. Thank you.

MR. CHAIRMAN.- Honourable Members, any further questions?

HON. M.R. LEAWERE.- A clarification through you, Honourable Chairman, to the Permanent Secretary for Women, correct me, I think you said something about children, primary and secondary, are they also looking at this topic in the schools, can you talk more about that? Is there a collaboration between the Ministry of Women and the Department of Social Welfare in terms of advocating or in terms of introducing this in our schools? Is it already there? I just wanted a confirmation from you. Thank you, Mr. Chairman.

MS. J. POOLE.- Thank you, Honourable Member. I can only speak on behalf of the programmes that we are following within our Ministry. We know that there are Science, Technology, Engineering, Math (STEM) camps. Our Minister actually launched one of the STEM Camps initiatives by a Civil Society Organisation - Graduate Women, trying to encourage young girls access to science, so that programme is rolling at the moment. We can say from statistics that we can see the outcomes in terms of girls going into engineering at university level.

I think for the rest of that question, I need to consult with the Ministry of Education to see how it affects the employment from primary and high school levels. Thank you.

HON. DR. S. GOVIND.- Mr. Chairman, through you, to the Permanent Secretary for Women, will you be able to share some statistics, like I asked the Permanent Secretary for Employment, on the current extent of problems around the harassment and violence against women at workplace or for both gender? Can you share some previous reports for us to have a background to this report?

MS. J. POOLE.- Mr. Chairman and Honourable Member, this is part of coordinating data, so the data for harassment sits with the Ministry of Employment, as well as various programmes, like

the Domestic Violence Helpline and it is bringing that data together to get a really factual picture of the actual incidents.

There is research, I mentioned the IFC study which has looked at a sample of private sector organisations, as well as some public sector, to get an idea of violence in the workplace. I have to say that we are working on making sure that the data collection process is strengthened and it will be included in that. I feel that we work closely with our partner Ministry, so I might hand it over to you Permanent Secretary.

MR. O. CAWARU.- Thank you, Permanent Secretary. We can improve that as part of our reporting figures as well. Thank you, Mr. Chairman.

MR. CHAIRMAN.- Thank you, Honourable Members.

At this juncture I wish to thank both the Permanent Secretaries, Mr.Cawaru and Ms. Poole and your Teams, for availing yourselves this afternoon for this livestreaming submission.

We also take this opportunity to ask that you avail yourselves for any further questions which you have already agreed to. I now close this session.

The Committee adjourned at 3.42 p.m.

[VERBATIM REPORT]

STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

TREATY/CONVENTIONS

1. Treaty on the Prohibition of Nuclear Weapons
2. ILO Convention 190 - Violence and Harassment Convention 2019
3. ILO Protocol 155 – Protocol of 2002 to the Occupational Safety and Health Convention 1981

INSTITUTIONS: Ministry of Foreign Affairs
International Labour Organisation (ILO)
Ministry of Employment, Productivity &
Industrial Relations
Ministry of Women, Children & Poverty
Alleviation

VENUE: Big Committee Room (East Wing)

DATE: Tuesday, 3rd March, 2020.

VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE HELD AT THE COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON 3RD MARCH, 2020 AT 1.30 P.M.

Interviewee/Submittees: Ministry of Foreign Affairs

International Labour Organisation (ILO)

In Attendance:

Ministry of Foreign Affairs

1. Mr. Peter Emberson - Director Multilateral Affairs
2. Mrs. Keleni Seruvatu - Manager Multilateral Affairs
3. Ms. Kristy Fong - Foreign Service Officer - Multilateral Affairs

International Labour Organisation

1. Ms. Elena Gerasimova - Decent Work and International Labour Standards Specialist
2. Ms. Merryn Cavenagh - Secondment - Australian Attorney General's Office - Canberra

MR. CHAIRMAN.- I welcome, Honourable Members, members of the public and the media in today's Committee Meeting and livestream submission. I also those who are watching on the Parliament Channel and Walesi Platform and *Facebook* on the three Treaties, the:

1. Treaty on the Prohibition of Nuclear Weapons, which sets out a comprehensive set of prohibitions against participating in any nuclear weapon activities. These include; undertakings by member States to the Treaty not to develop, test, produce, acquire, process, use or threaten to use nuclear weapons. The Treaty also prohibits the deployment of nuclear weapons on national territory and provision of assistance to any State in the conduct of prohibited activities.
2. International Labour Organisation Violence and Harassment Convention 2019. The Convention recognises the right of everyone to a world of work free from violence and harassment, including gender-based and harassment. Recognising the importance of a work culture based on mutual respect and dignity of the human being to prevent violence and harassment.
3. International Labour Organisation Protocol of 2002 to the Occupational Safety and Health Convention 1981. The Protocol was formulated in 2002 as a Protocol to the ILO Occupational Safety and Health Convention 1981. The Protocol requires the competent authority of State Parties to the Protocol to establish and periodically review requirements and procedures for the

recording and the notification of occupational accidents and diseases, dangerous occurrences, committing accidents and suspected cases of occupational health diseases.

I take this opportunity to welcome the Officials from the Ministry of Foreign Affairs and the International Labour Organisation, who have agreed to appear before this Committee this afternoon.

Please, be advised that this Meeting is open to the public and the media and any sensitive information concerning this inquiry that cannot be disclosed in public, can be provided to the Committee either in private or in writing.

At the outset I wish to remind members of the public and the media present in the room that minimum movement is to be maintained during the duration of the submission.

I wish to introduce the following Members of my Committee.

(Introduction of Committee Members by Mr. Chairman)

May I take this opportunity to invite the witnesses to introduce yourselves and proceed with your presentation.

MR. P. EMBERSON.- Thank you, Mr. Chairman. It is our privilege and honour to present before you and to the Honourable Members of the Standing Committee on Foreign Affairs and Defence. The three Treaties that are before us attest to Fiji's progress in addressing three broad issues of global and national significance and concern.

The first Treaty concerns nuclear prohibition. In the Pacific, Fiji has led the way since the early 1970s in admonishing the dangers of nuclear weapons. Fiji's support of this Treaty is in keeping with this legacy founded on moral principles.

The second Treaty, the ILO Violence and Harassment Agreement 2019, contains essential elements that build on policies to enhance the security and safety of our workplaces in its broadest sense.

The third Treaty under discussion this afternoon, the ILO Protocol of 2002 on Occupational Safety and Health, supports the current Convention of 2002 and builds upon Fiji's Constitutional commitment.

If I may be allowed to speak to the Treaty on the Prohibition of Nuclear Weapons, the Treaty was adopted in July 2017 by the United Nations Conference and its main emphasis is to negotiate a legal binding instrument to prohibit nuclear weapons leading towards their total elimination, as you have mentioned, Mr. Chairman.

In accordance with this Article 13, the Treaty was opened for signature to all States at the UN Headquarters in New York on September, 2017. Fiji signed on as a signatory on 20th September.

On Fiji's position on regional disarmament, we have continued to support regional disarmament platforms, such as the Rarotonga Treaty which bans the use, testing and possession of nuclear weapons within the Pacific.

In 2016, Fiji signed the MSG Lakataro Declaration on Oceania Cooperation regarding denuclearisation in 2016.

We also supported the Association of South East Asian Nations (ASEAN) call for Fiji where it has been made compelling interventions to ensure that State responsibility was captured in the Treaty which is unprecedented. So, in the current Treaty at the moment, Fiji has made great strides to ensure that States take responsibility for the damages that is caused by the use of nuclear elements.

The issue was adopted by the Conference as per Resolution 71/258, ensuring that user States compensate victims of nuclear weapons and the environment to which damage was done as in Article 7, Paragraph 6 of this Treaty, the first of its kind in any disarmament Instrument.

Mr. Chairman, Fiji's position is that, it supports the initiative to ban nuclear weapons and to reduce the risk of its accidental, mistaken, unauthorised or intentional use on this planet, given its catastrophic and humanitarian consequences.

Fiji's strong and clear position is an extension of Fiji's acceptance of the regional and international nuclear disarmament Instruments that seek to rid the planet of any nuclear threats. This includes the Nuclear Prohibition Treaty in 1972 and the Comprehensive Nuclear Test Ban Treaty (CTBT) in 1996.

The ratification process, Fiji will be obliged to never, under any circumstances, assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State-party under the Treaty and to suppress any activity prohibited under the Treaty to Prohibit Nuclear Weapon (TPNW) undertaken by persons or on territory under its jurisdiction or control.

Ratification, Mr. Chairman, also reinforces Fiji's commitment to the Comprehensive Safeguards Agreement (CSA) signed with the International Atomic Energy Agency (IAEA) in 1973. As Fiji is a State Party to the TPNW, Fiji is required to implement the IAEA's CSA of declaring and submitting regular reports on their nuclear material and nuclear facilities, and to accept inspections and other measures by the IAEA to verify these declarations and reports.

Fiji reaffirms its commitment, at all times, to comply with applicable international law, including international humanitarian law including implementing provisions of the Treaty through the enactment of relevant national laws.

Mr. Chairman and Honourable Members of the Committee, it is our recommendation that Fiji ratifies the Treaty on the Prohibition of Nuclear Weapons without any reservations.

HON. PROF. B.C. PRASAD.- Mr. Chairman, it might be better if we ask questions now. Under 2.3.4, you mentioned that Fiji will be required to implement provision to the Treaty through the enactment of relevant national laws. Can you tell us, what are these relevant national laws?

You also further said that you need to develop the legislative framework to ensure the provisions of the Treaty and other related Treaties are properly implemented. Do you have a list of legislations, framework or new relevant laws that you think will need to be enacted? What would be the implication of enacting those laws in terms of resources, in terms of the capacity of the Ministry of Foreign Affairs to actually ensure that once the Treaty is ratified, your Ministry would be in a position to deal with those issues?

MR. P. EMBERSON.- Thank you, Honourable Professor Prasad. The International Atomic Energy Agency (IAEA) and the Treaty bodies, the Secretariat who help us to administer these Instruments also have model template laws that they will be working with us to ensure that we then align some of our domestic situations and context with the model Treaties, model Instruments or model Protocols that they will work with Fiji. The challenge that is before us is to ensure that we work with these institutions to ensure the appropriateness of the various harmonisation of domestic laws without additional burden on our resources.

Working with the IAEA, they have assured that countries who have come on board as State Parties to the Treaty try to ensure that it is not as cumbersome to enforce these laws domestically, but it does not add to resource wastage in our efforts to implement and mainstream into our domestic context. Thank you, Professor Prasad.

HON. DR. S.R. GOVIND.- Thank you for your very comprehensive presentation on the Nuclear Treaties. I would just like to know whether in the health field, what is the extent of nuclear reactive material being used in medical treatment of some of the health condition, such as cancer, et cetera? Whether there was some assessment has been made or what will be the impact of these Treaties on that?

MR. P. EMBERSON.- Thank you, Honourable Dr. Govind. In as far as the handling of nuclear material by the medical and health facilities, Fiji is a member of IAEA and there is a small quantities protocol that we have yet to sign on to. But we are moving to ensure that Fiji adheres to the safe of handling of material that comes through our borders and we are working with the Solicitor General's Office, to ensure that our laws and policies are up to par with international best practice around this.

Once this small quantities protocol is ratified or acceded to by Fiji, then the international community, led by the IAEA Secretariat, can come into Fiji to do objective assessment of the types of small quantities of nuclear active and radioactive material that is within our borders, and to ensure that it is properly regulated and disposed of after its useful lifecycle has come to an end. At the moment, there are few agencies that handle small quantities of radiation and the medical facility through our x-ray facilities are just one of the few that Fiji uses.

(Inaudible)

MR. P. EMBERSON.- Thank you, Mr. Chairman.

On the second Treaty, the ILO Violence and Harassment Convention, Fiji has ratified the following ILO Conventions:

□ 8/8 Core Conventions;

- 4/4 Governance (priority) Conventions; and
- 26 of its Supplementary Technical Conventions

These Conventions have been domesticated through the legislative policies administered by the Ministry of Employment, Industrial Relations and Productivity.

At the Multilateral platform, the Convention aligns with the various international principles and the sustainable development agenda.

Why is this Convention important to us, Mr. Chairman? It addresses critical issues which are of global concern, and that is the holistic protection of workers and rights from violence and harassment.

On the implications of this ratification, Mr. Chairman, the Convention aligns with the fundamental Human Rights Conventions that Fiji has ratified, such as the:

1. Universal Declaration of Human Rights;
2. International Covenant on Civil and Political Rights;
3. International Covenant on Economic, Social and Cultural Rights;
4. International Convention on the Elimination of All Forms of Racial Discrimination;
5. Convention on the Elimination of All Forms of Discrimination against Women;
6. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and the
7. Convention on the Rights of Persons with Disabilities

The Convention also aligns with Sustainable Development Goal 8 - Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. The SDG 8 Indicator 8.8: Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants and those in precarious employment.

The Convention offers protection to all workers, taking into account the different contexts of work and specifying the scope of its application. Mr. Chairman, Article 3 expands the context of harassment to include; work related trips, travel, training and work-related communication technologies, et cetera. So it expands the manner in which harassment can be interpreted.

Mr. Chairman, this protection covers overseas workers, labour migrant workers and vice-versa, in any country which ratifies this Convention.

Mr. Chairman, on our recommendation, as the hub of the region, Fiji's ratification of this Convention implies that Fiji affords adequate, holistic protection for all its workers. Fijian workers also have this protection when working overseas.

Based on Fiji's progress of implementation on International Conventions and its significance for Fiji, our ratification of this ILO Treaty is supported.

I am also mindful, Mr. Chairman, that the experts from the ILO is with us and they would be in good stand as well to provide support to our questioning.

MR. CHAIRMAN.- Do carry on with your third one and then we will hand over to the ILO, thank you.

HON. PROF. B.C. PRASAD.- Can I just ask you a question? As you had implied, there is no legal impediment to ratifying this Protocol Convention. The question is; are there other impediments that you think, given the current national legislation which govern some of the policies that will be relevant to this? Do you think that there are impediments still because as Ministry of Foreign Affairs, you deal with the rest of the world? Do you think that you have mechanisms through which you are working with the Ministry of Labour, to ensure that not just the legal impediments but administrative impediments, capacity impediments with the ability of your Ministry and the Ministry of Labour to actually address some of those issues that you have talked about?

MR. P. EMBERSON.- Honourable Professor Prasad, the proof of how well Fiji is able to domesticate this in the test of how States interact with each other to protect the principles of human rights around employment. It is our hope that we will continue to work with ILO, to ensure that Fiji's domestication is fluid and seamless as possible as we try to make it work for our Small Island Developing State context but also putting into place best practice that you have learnt from other similar situations elsewhere to help in the various challenges that may arise in trying to administer and domesticate this in our national context.

MR. CHAIRMAN.- Thank you, Mr. Emberson. You can continue. Thank you.

MR. P. EMBERSON.- The third Treaty, Mr. Chairman, is the ILO Protocol of 2002 to the Occupational Safety and Health Convention 1981. This Protocol outlines implementation of specific issues relating to Articles 4 and 11 of the Occupational Safety and Health Convention 1981.

Fiji ratified the Convention in 2008 with the establishment and application of procedures for the notification of occupational accidents and diseases by employers and when appropriate, insurance institutions and other directly concerned, and the production of annual statistics on occupational accidents and diseases.

The publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course or in connection with this work. This Protocol complements the current policies and process undertaken to facilitate occupational accidents and diseases.

On the implications of this ratification, the Convention aligns SDG 8 on the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all and as in SDG 8.8 – protect labour rights and promote safe and secure working environment for all workers, including migrant workers, in particular women migrants and those in precarious employment. Fiji is seen to comply with its obligations under the Occupational Safety and Health Convention of 1981.

Our third point here for the implications of ratification, it strengthens the existing national framework under the Health and Safety at Work Act and its regulations, including the accident, employment accidents regulations of 2018.

Our recommendations, therefore, Mr. Chairman, as workers of the engine room of Fiji's economic growth and SDGs, their rights are recognised in Fiji's Constitution. So support of this Protocol is in keeping with this commitment and our ratification of this 2002 Protocol is supported. Thank you, Sir.

MR. CHAIRMAN.- Thank you, Mr. Emberson. I now give the floor to Ms. Elena Gerasimova. Is that the right pronunciation?

Thank you, Madam. If you could just do a brief introduction of your good self and your companion. The floor is yours, Madam.

MS. E. GERASIMOVA.- Thank you very much, Honourable Chairman, for inviting the ILO to present this submission. Honourable Members of the Committee, thank you very much for having us here and for giving us an opportunity to present two ILO Instruments.

I represent the ILO Office in Suva, in the Pacific. The ILO Office has been here for 45 years and serves 11 Member States of the ILO in the Pacific Islands Region. I am an International Labour Standards Specialist and my colleague, Ms. Merryn Cavenagh, is also an international Labour lawyer and helping us being here, seconded from the Australian Government.

We are very pleased to have this opportunity to discuss two very important ILO Instruments and please, allow me to start from Convention 190 - Convention on Violence and Harassment in the World of Work. This is a very latest ILO Convention which was adopted in 2019 by the Centenary ILO Conference in June last year.

The adoption of this Convention and accompanying Recommendation 206, recognises the right of everyone to the world of work free from violence and harassment, including gender-based violence and harassment, and for the first time in the history, this right has been articulated at any international Treaty.

Violence and harassment in the world of work remains a widespread phenomenon present in all countries, disregarding sectors, occupations and work arrangements. The adoption of this Convention the global community has made it very clear that violence and harassment will not be tolerated and it must end.

Why is the ratification of this Convention important? Violence and harassment in the world of work:

- ☐ can constitute a human rights violation or abuse;
- ☐ affects a person's psychological, physical, sexual health, dignity, family and social environment;
- ☐ affects the quality of public and private services;
- ☐ may prevent people, especially women, from accessing, remaining and advancing in labour market; and
- ☐ is incompatible with the promotion of sustainable enterprises.

The Convention especially focuses on gender-based violence and harassment and makes a link between domestic violence and violence and harassment in the world of work.

What are the key elements of this Convention? Firstly, the Convention defines what violence is and harassment and the International Labour Conference decided to choose this one concept of violence and harassment and then allow different countries to develop their own concepts regarding violence and harassment.

So violence and harassment is again defined very broadly as a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.

The Convention also defines gender-based violence and harassment as directed at persons because of their sex or gender, or affecting particular groups of people disproportionately based on their sex or gender.

The scope of this Convention is very wide, it protects really older workers and other persons in the world of work, including not only employees, but also those people who are attending trainings, interns, workers whose employment has been terminated, volunteers, jobseekers and many other categories.

The Convention applies to all sectors, both public and private, both to formal and informal economy and in urban and rural areas.

The core principles of the Convention are very broad. The Convention provides that each member shall adopt, in accordance with national law and circumstances and in consultations with workers' and employers' organisations, an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment. This approach should include a number of issues, including prohibiting in law, violence and harassment, including gender-based violence and harassment, ensuring that relevant policies address violence and harassment, and a number of other measures.

Members shall recognise the different and complementary roles and functions, may be implemented by governments, workers, employers and other organisations in the implementation of this Convention.

Members shall also ensure there is a right to equality and non-discrimination in employment and occupation for women and other persons belonging to different groups.

The Convention requires members to adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment at their workplaces.

Members shall also take appropriate measures to:

1. monitor and enforce national laws and regulations;
2. ensure access to appropriate and effective measures, such as remedies, safe, fair and effective reporting and dispute resolution mechanisms;
3. protection of privacy;
4. sanctions for violations; and
5. ensure that labour inspectorates and other relevant State officials are empowered to deal with this violence and harassment.

Also, on the Convention, the Member State has to provide appropriate measures - to provide guidance, training and awareness-raising on the topics of this Convention.

The Convention shall come into force 12 months after the date on which the ratification of two Member States have been registered with the Director-General. Up today ILO did not register any ratifications, so Fiji may become the first country to ratify this Convention.

Actually, one of the ILO Member States – Uruguay, has ratified the Conventions in December but the ratification was not yet registered. So, we really may find that Fiji is the first ratifying country and that will be, of course, serious. It will be an honour for the country, and this is one of the Conventions which is, right now, supported by the international communities more than any other Instruments in the world of work because it is really about human dignity.

I can also make some brief comments, addressing questions raised earlier regarding the situation in Fiji. I can say that Fiji is the only country in the Pacific which has already a Sexual Harassment Policy adopted. Fiji has relevant provisions in the Constitution and in the Employment Relations Bill.

Right now, we are helping Fiji to conduct a legal review of national laws and practices, to see which national policies or regulations are in compliance with the Convention and which regulations should probably be adjusted in case of the ratification of the Convention. And we are planning to have the validation discussion of the review organised later this year in June/July, thus, we will provide our full support to Fiji to adjust the legislation in case this will be required after the ratification.

So, that is about Convention 190 and may be you have some questions, otherwise....

MR. CHAIRMAN.- Honourable Members, any questions?

HON. PROF. B.C. PRASAD.- Thank you for that very succinct presentation and summary of the Convention. You quite rightly say that the core principles of the Convention are very broad and we know that we have some policies - the Sexual Harassment Policy, we ratified CEDAW many years ago and there are national legislations which deal with some of those issues. You also quite rightly pointed out that ILO is going to help Fiji to look at some of the laws.

I mean, ratifying Conventions is one thing but I think it is the implementation. Even when you have national laws, even then there are impediments to actually achieve the objectives of the Convention. My question is, in your view, do you think that we have the infrastructure, we have the will in the capacities that are there, to deal with some of the issues, as you said, which are quite broad in terms of the principles to implement these Convention effectively and achieve the outcomes that is desired of this Convention?

MS. E. GERASIMOVA.- Thank you very much, Honourable Professor Prasad, for this question. I do think that Fiji has the capacity to implement the Convention in case really well planned and comprehensive measures are developed and implemented well.

Of course, some adjustments will be required and development of additional policies may be required, but I do think that right now, with the condition and with the attitude existing amongst Fijian employers, I know that many employers do have already policies at their workplaces.

They do have a vision to promote and implement principles declared in this Convention. I know that trade unions are very supportive of this Convention and I did not actually mention that there was consultations already organised by the Ministry of Employment - the social partners who supported the ratification of this Convention. I think that intention is here, capacity is present but, of course, some steps will be required further.

HON. M.R. LEAWERE.- Thank you, Mr. Chairman. I thank, Madam, for your submission. The scope of the Convention as you have alluded to is very wide and I note on page 2 of your submission, the sentence goes which I would like more clarification on; "Article 2 protects workers and other persons..." What does that mean, "other persons", are they including gender? If I might add on further, does it also include transgender in that sentence? Can we have some elaboration on that, through you, Mr. Chairman?

MS. E. GERASIMOVA.- Thank you very much, Honourable Member. Under this, we mean that not only workers who have the formal employment relationship with their employers are covered by this Convention, but also those people who are in the labour market, who are workers but may not be employees but workers and those who are just preparing to become part of the labour market and those who have left the labour market recently.

They include persons in training, interns, workers whose employment has been terminated, volunteers, jobseekers, job applicants, individuals exercising the authority, duties and responsibility of an employer. So it will also cover, for example, domestic workers, those who work as maids, guards at home, people not with big companies or employees of the State but also will cover those people who have this domestic work relationship.

HON. DR. S.R. GOVIND.- Thank you for that comprehensive presentation. Is there any particular reason why countries are not forthcoming to ratify the Convention? You said so far, none of the countries. Do you know some of the reasons that result in delaying this? I would have thought that developed countries would be the first ones to just sign it.

MS. E. GERASIMOVA.- Thank you very much for this question, Honourable Dr. Govind.

Actually, I can say that countries are not delaying, to be honest, countries are competing on who would be the first country to ratify this Convention. When the Convention was ratified, the support at the International Labour Conference was very high, just really tremendous and now, many countries (I think) have committed to ratify but the ratification process takes months. For example, I know that the Ministry of Employment here in Fiji, were very much inspired by this Convention and they suggested ratification of this Convention right after it was adopted in June 2019. But as you see, the processes takes time so really, the same story happens probably to other countries. I know that many countries are considering ratification right now.

HON. DR. S. GOVIND.- A supplementary question; this harassment and violence, especially gender-based, are not reported correctly and what we see is only the tip of the iceberg. So in your opinion after being here for a while, what do you think the extent of the problem is in Fiji - what is being reported and what you think is the actual figures which are unreported? This will be a big challenge, especially gender-based violence. So I am just wondering where we are?

MS. E. GERASIMOVA.- Exactly, thank you very much for that question and concern. I think this is a problem for many countries.

In many countries and also I think in Fiji, the reason for that going very far back to history and to cultural situation, so if people do have particular attitude, you cannot change it, just on the ratification of this Convention or adoption of legislation, you need to organise a lot of knowledge sharing education and awareness-raising, not only among employers or Members of Parliament but also among regular citizens and workers.

I think this Convention is good because it has access to many people through employers. As I had mentioned, employers will have to provide trainings and awareness raising also among their employees and members of their families. So that will be a great channel to communicate people the message of this Convention, which is the elimination of violence and harassment in the world of work but also broader.

As I had mentioned, the Convention recognises that link between domestic violence and the negative impact on the world of work. So I think there are a lot of efforts here in Fiji is to eliminate, for example, violence and harassment and domestic violence. But this regulation cannot only support the work which is happening for a number of years already but also do channel it through target groups.

MR. CHAIRMAN.- Thank you, Ms. Gerasimova, you may continue with your second Protocol.

MS. E. GERASIMOVA.- Thank you very much, Mr. Chairman. Now I will really briefly introduce the second Instrument because it is much more simple and short and just not to spend a lot of your time on this.

Mr. Chairman, Protocol 155 is the supplementary document to the Convention on Occupational Safety and Health. And as was already explained by the representative from the Ministry of Foreign Affairs that that Convention of 1981 on Occupational Health and Safety is ratified by Fiji. Actually, it is ratified by 69 ILO Member States.

The Protocol is a new and supplementary Instrument. Today and up to now, it is ratified only by 13 countries, I think, but also many countries are considering the ratification of this Instrument and I will explain a little bit later why.

The key message of this Protocol is, it requires Member States to establish and periodically review requirements for recording and notification of the following:

- ☐ occupational accidents;
- ☐ occupational diseases;
- ☐ dangerous occurrences;
- ☐ commuting accidents; and
- ☐ suspected cases of occupational diseases.

The Convention provides specific requirements, details and content that should be included in the recording and notifications. It also requires Member States to publish annual statistical reports, representative of the country as a whole just to see the broad picture of the situation in the country, not at particular enterprises.

Why is the ratification of this Protocol important? It is because this Protocol provides mechanisms through which the reporting and notification of occupational accidents and hazards can be harmonised internationally and following common requirements, this will assist the global project of reducing workplace accidents and diseases which number in hundreds of millions per year.

The ratification of this Instrument will also be effective for recording and notification and could serve as a warning system to prevent accidents and diseases, particularly because the Protocol requires comprehensive reporting.

Also, we should know that under this Protocol, members can determine the criteria for notification and requirements that provide a large amount of flexibility for countries.

I also want to mention one argument why ratification of this Protocol was raised now by the Ministry and why it is important for many countries. Right now, there is a special group created inside of the ILO. It is a Standards Review Mechanism Tripartite Working Group and it developed a list of outdated ILO Conventions. Among these outdated Conventions, there is one Convention ratified by Fiji, which is Convention 45. It is the Convention on Underground Work of Women, and this Convention is proposed for abrogation in 2024.

So the ILO has developed a list of those Conventions which may be considered by Member States for ratification, instead of these outdated Convention which will be abrogated in four years' time. This Protocol is one of those Conventions from this list. So for Fiji, it is not only the ratification of the additional Instrument, it is also the replacement of the outdated mechanism or Instrument which will be abrogated for the whole community in four years' time.

In this situation, I think ratification of this Protocol may be one of the first steps to consider ratification of also other Instruments, instead of the Convention on Underground Work of Women. Thank you very much.

MR. CHAIRMAN.- Thank you, Ms. Elena. Honourable Members, any questions on the second Protocol?

HON. PROFESSOR. B.C. PRASAD.- Thank you for that very good explanation. Just a quick question; one of the things that attracts me out of this Protocol is the requirement for producing good statistics. We know that many countries, many Governments are notorious for not producing good statistics because unless you have the statistics, you really cannot get good policy and implementation. What in your view, in terms of our other legislations, do you think we have the capacity, we have the legislation and the appropriate mechanisms within our governmental system to collect these statistics once this Protocol is accepted and implemented?

MS. E. GERASIMOVA.- Thank you very much for that question, Honourable Professor Prasad. Yes, I think Fiji is in a very good situation regarding, at least, labour statistics because there are international requirements and there is a special group of International Labour Statisticians and Fiji is a part of this group, which is developing international requirements on reporting and statistics on labour market issues.

I cannot say that there are no problems in Fiji but Fiji is in compliance with a different Convention, Convention 160, on labour statistics which is not being discussed today but I also know that the Government is considering the idea to ratify this Convention. Fiji is one of the two countries in the whole Pacific that is already now compliant with that Convention.

Yes, Fiji has the capacity to organise good statistics on those issues, summed again as the same story as is the previous Instrument, some just may be required but the Ministry of Employment, Productivity and Industrial Relations, I know, had reviewed the legislation and current practices and they considered as Fiji is in a good situation to implement this Protocol.

MR. CHAIRMAN.- Honourable Dr. Govind.

HON. DR. S. GOVIND.- Thank you, Mr. Chairman. My question is on specific occupational diseases, not accidents. Diseases have a very long latent period before they can be diagnosed, such as exposure to asbestos, which takes long. Maybe, the employee has already left his workplace and develops a disease after retirement, et cetera, and then certain other cases.

Currently in the health workforce, this is a very specialised field which needs lot of capacity building for healthcare workers to really diagnose the disease, plus the diagnostics. So, after the ratification of this Convention, will ILO provide resources to strengthen the health services in terms of training and equipping, at least, one specialised clinic in a country? Are there some resources available or funding, how can it be overlaid because ratification is one thing and effective implementation will be a big challenge, especially in terms of occupational diseases? What is your opinion?

MS. E. GERASIMOVA.- Honourable Dr. Govind, many thanks for this question. I just want to focus your attention on the fact that this Protocol really speaks only on recording and notification, not really on identifying occupational accidents and diseases, it is a subject of regulation. But different international Instruments also, but this one is only about recording notification and publishing information about accidents happening.

As for your question regarding the possible support from the ILO, I think on this issue on occupational health and safety, ILO is supporting the work in Fiji on occupational health and safety and I think the question which you have raised may be discussed within the Tripartite Committee on Occupational Health and Safety. It is an internal tripartite body of Fiji and ILO is attending this body and this may be raised and discussed.

HON. DR. S. GOVIND.- A supplementary question to this; this Convention is more about notification and reporting, but unless the diseases are diagnosed openly, the notification of those diseases will be meaningless. So a doctor has to first diagnose what disease is to be reported. If there is weakness in the system to diagnose the disease, the report will be of no use. I do not know how all these will tie up.

MS. E. GERASIMOVA.- Yes, exactly.

HON. DR. S. GOVIND.- You cannot just implement and ask them from 1st January to start reporting on those diseases. Many, many cases will not be reported. So the capacity building exercise has to happen in the implementation phase, which should take a while.

MS. E. GERASIMOVA.- Thank you very much, I fully support your idea. It is very much about capacity building to really identify and work with those diseases and accidents. This is only to report and understand the picture of what is happening in the country but, of course, you need to work a lot, like with this problem itself, exactly.

MR. CHAIRMAN.- Since there are no further questions, Honourable Members, I take this opportunity to thank Ms. Gerasimova, Mr. Emberson and your Team for availing yourselves for this livestream this afternoon. I also request that you be able to avail yourselves, should we have any further pressing questions on the subject matter.

With those few words, I now close the session.

The Committee adjourned at 2.25 p.m.

The Committee resumed at 2.57 p.m.

Interviewee/Submittees: Ministry of Employment, Productivity and Industrial Relations

Ministry of Women Children and Poverty Alleviation

In attendance

1. Mr. Osea Cawaru - Permanent Secretary
2. Mr. Tomasi Kama - Director Occupational, Health and Safety
3. Mrs Miriama Raikoti - Director Corporate Services and Policy
4. Mr. Joeli Pulu - Manager Labour Standard Services
5. Ms. Shabana Khan - Senior Labour Officer
6. Mr. Newal Kishore - Manager Field Operations

Ministry of Women, Children and Poverty Alleviation

1. Ms. Jennifer Poole - Permanent Secretary
2. Mr. Rupeni Fatiaki - Director of Social Welfare
3. Ms. Amelia Nairoba - Acting Research Advisor

MR. CHAIRMAN.- I welcome Honourable Members and members of the public and the media to today's Committee meeting and live streams submission and also those watching Parliament channel and Walesi platform and *Facebook*.

I also take this opportunity to welcome the officials from the Ministry of Women led by Ms. Jennifer Poole, Permanent Secretary and the Ministry of Employment and Productivity Permanent Secretary, Mr. Osea Cawaru.

(Introduction of Honourable Members and secretariat)

With those few words of introduction may I ask the Permanent Secretary for Employment, Productivity and Industrial Relations, Mr. Osea Cawaru to make a brief introduction of your team Sir and the floor is yours, thank you.

MR. O. CAWARU.- Thank you, Mr. Chair and Honourable Members of the Standing Committee on Foreign Affairs and Defence, members of the media, our viewers this afternoon, ladies and gentlemen. Just before I go through my submission may be I just introduce my team.

(Introduction of Team by PS)

Honourable Members, with reference to the call for a Joint Submission on views of the Ministry of Employment, Productivity & Industrial Relations to the Standing Committee on Foreign Affairs and Defence on whether Fiji should fully ratify the following Treaties:

1. Treaty on the Prohibition of Nuclear Weapons;
2. International Labour Organisation Convention 190 on Violence and Harassment Convention 2019; and
3. International Labour Organisation Protocol 155 of 2002 to the Occupational Safety and Health Convention 1981.

The Ministry advises that the Fijian Government considers ratifying the abovementioned Treaties for the following reasons. First, is the brief on the Treaty on the Prohibition of Nuclear Weapons and how it implicates the work that we conduct at the Ministry of Employment mostly in terms of health and safety and workers' compensation.

Mr. Chairman, the danger posed by nuclear weapons is a fundamental issue of humanity - the right to life, international law, intergenerational justice and sustainability. This danger not only impacted military personnel and civilians but our workers as a whole.

We wish to recognise our history. We acknowledge the test of time that our country withstood, and commemorate those who have endured and withstood nuclear testing, a period in history with ramifications that are still felt by our oceans, land and people. We acknowledge the issues both, past and present, that our nation has faced.

Some of our Fijian families and our communities are still suffering today from the effects of the atmospheric nuclear weapons tests between 1952 and 1958 by the United Kingdom. The operation codenamed, "*Operation Grapple*", was conducted at the Monte Bello Islands off the coast of Western Australia, at Emu Field and Maralinga in South Australia and at Malden and Christmas Island.

An estimated 300 Fijian Servicemen enlisted in the Fiji Royal Naval Volunteer Reserve for service on Christmas Island, to work alongside the British, Australian and New Zealand Servicemen in monitoring the atmospheric testing of UK's hydrogen bombs.

The consequences of this nuclear activity, are still being felt today by our fellow surviving Fijians - manifesting in, among other impacts, debilitating health and intergenerational maladies. This legacy continues to threaten, not just our people, but the health and wellbeing of generations who depend upon them.

In response to the testimony and incidents reported by veterans, the Fijian Government through Cabinet in 2014, approved a budgetary allocation of \$2.95 million for payout as medical assistance to survivors. This is compensation as medical assistance to survivors and their dependants for the exposure to possible nuclear radiation.

The Ministry of Employment, together with the Ministry of Defence were responsible for the facilitation of compensation of these men, as they continue to seek recognition and redress for

the harm and intergenerational impacts on their families. A total of 257 cases was paid \$2.532 million in compensation, and as I have mentioned before, compensation for medical assistance.

As Ministry responsible for the enforcement of the Health & Safety at Work legislations, our fellow Fijians' rights deserve to be protected wherever they work, may it be locally or internationally. The Ministry, therefore, overwhelmingly supports the ratification of this Treaty. By signing the Nuclear-Test-Ban Treaty, we are ensuring that the threat of nuclear poisoning to our people does not happen again.

The second Instrument, Mr. Chairman and Honourable Members, on the International Labour Organisation - Violence and Harassment Convention 190 of 2019 concerns the elimination of violence and harassment in the world of work and was adopted by the International Labour Conference in Geneva during its Centenary celebration on 10th June, 2019. The Convention is a major step towards giving workers across the world the right to a workplace free of violence and intimidation.

Convention 190 requires every State Party to respect, promote and realise the right of everyone in the world of work free from violence and harassment. Violence and harassment in the workplace is a persistent problem for many workers worldwide.

Government considers sexual harassment in the workplace an important and a priority issue that Fiji has to address in order to ensure quality work environment, free of intimidation and sexual harassment and to enhance productivity.

Government believes that every working person should be able to enjoy a working environment free from all forms of harassment and discrimination, whether on the basis of ethnicity, national or social origin, religion, political affiliation, gender or any other form of personal identity. Therefore, behaviour and attitude respecting the dignity and human rights of a worker should be actively promoted.

Mr. Chairman, with the adoption of this new ILO Convention, workers will get a powerful tool to advocate their own rights in the workplace. The new global standard will promote the position of workers, especially women, as they often have to deal with various forms of violence and harassment in the workplace.

Whilst our existing Instruments may have provisions for violence or harassment, these Instruments may be limited in what is understood by violence or harassment in the workplace, including providing guidance on how to address its various forms and coverage for all workers. There is a need for a specific international legal Instrument focussing on violence and harassment, including gender-based violence in the world of work, considering limitations in existing Instruments.

It has been established that domestic violence has an impact on the workplace and that employers should recognise the effects and help mitigate its impact in the world of work. The Treaty or Convention also give workers in the informal sector, such as domestic workers, the right to protection.

Mr. Chairman, two-thirds of women around the world who are experiencing intimate partner violence are in employment. Some of our women in Fiji are experiencing a similar fate. This means that their path to escape most likely affect their work life. They plan, they find accommodation, they seek police assistance, they attend court dates, they arrange for counselling and medical attention for their children and they do all these, while trying to navigate work.

Lack of economic independence can also keep women trapped in violent relationships. The Convention is essential to end gender-based violence in the world of work, one of the most effective tools of oppression, preventing gender equality.

Besides the human suffering, it causes and impacts on health, violence and harassment, imposes a significant economic burden on society as a whole in the form of healthcare costs, policing and legal costs, loss of productivity and social costs, to name a few. By ratifying the Convention, Fiji can play an important role in establishing a new set of ILO standards on violence and harassment in the world of work.

By supporting the ratification of this Convention, Fiji will be signalling zero tolerance for violence and harassment, as well as contributing to SDG 5 and SDG 8 of the UN 2030 Agenda on Sustainable Development, on gender equality and decent work respectively.

Rallying support for this Convention is a great opportunity to heighten awareness on gender-based violence, expose its harmful impacts, collectively empower women workers and end tolerance of gender-based violence in the world of work. The economic impacts of violence and harassment are worth millions of dollars. Creating a mechanism to help identify and prevent violence and harassment in the world of work will help reduce the economic impacts on workers and their families, on businesses and on the public purse.

Finally, Honourable Chairperson and Honourable Members, on the third Instrument, the ILO Protocol 155 of 2002 to the Occupational Safety and Health Convention 1981; Fiji ratified the ILO Occupational Health and Safety Convention 1981 on 28th May, 2008 which is in line with the Fijian Government's commitment to ensuring the health and safety of every person in the workplace.

The ILO General Conference adopted Protocol 155 of 2002 to the Occupational Health and Safety Convention 1981 on 20th June, 2002 and came into force on 9th February, 2005. The Protocol was adopted by the ILO to prevent accidents and injury to health arising out of, linked with, or occurring in the course, by minimising so far as reasonably practicable, the causes of hazards inherent in the working environment.

Fiji's legislative framework is already in compliance with the obligations under the Protocol and will complement the Ministry's regulatory role to:

- ☐ strengthen the recording and notification procedures for occupational accidents and diseases;
- ☐ promote the harmonisation of recording and notification systems with the aim of identifying their causes; and

□ establishing preventative measures for all workplaces in Fiji.

Under Section 20 of the Fijian Constitution, every person has the right to fair employment practices, including humane treatment and proper working conditions. The Health and Safety at Work Act 1996 and the Health and Safety at Work (Administration) Regulations 1987, provide the minimum requirements pertaining to the systems of notification and recordings of occupational accidents, occupational diseases, dangerous occurrences and suspected cases of occupational diseases by the employers to the competent authority of Fiji.

The relevant national laws and policies that are already in place indicate that Fiji is already in compliance with the minimum requirements of the Protocol.

Fiji's ratification of up-to-date ILO Conventions and Protocols as such could complement or add value to the existing policies by:

1. Providing for greater protection for workers by means of more stringent minimum requirements, particularly with identified high-risk industries in occupational safety and health.
2. Complementing measures where current policies establish a procedural or coordinating framework.
3. Extending scope and coverage of protections, including formulation of new policies in response to current and emerging labour markets risks.
5. Responding to national objectives of Fiji, such as gender equality, and the demands of the Fijian labour market in current and future economic contexts.

In conclusion, Mr. Chairman, the ratification of the International Labour Conventions is part of Fiji's efforts in promoting the universally agreed Decent Work Agenda. In recent years, Fiji, as well as other countries in the world, have intensified the ratification of ILO Conventions.

To date, Fiji has ratified all 8 ILO core Conventions, with four priority Conventions and 26 Technical Conventions, the fundamental principles and rights of these Conventions have been domesticated within our National Laws and enforced to create a conducive work environment for all Fijians. These are considered as human rights Instruments, a key factor to accompany Fiji's objectives of quality employment, decent work and inclusive growth, and our commitment to the global agenda on SDG 8 - Decent Work and Economic Growth.

I thank you, Mr. Chairman and Honourable Members.

MR. CHAIRMAN.- Thank you, Mr. Cawaru. Honourable Members, do you have any questions for Mr. Cawaru?

HON. PROF. B.C. PRASAD.- Thank you, PS. We actually had your presentation with us before. The Ministry is going to be at the forefront of implementing the requirements of the Convention, and I am particularly interested in the Convention and the Protocol and implementing or adhering to the requirements of the Protocol.

I am kind of disappointed that you have not provided what we would have liked to hear from the Ministry is the kind of things that you have in terms of your capacity, resources, personnel, policies and your ability to implement the requirements of the Convention and adhere to the requirements of the Protocol, because there are issues in relation to OHS, for example. We have had issues about whether you have a list of all the OHSs Committees in places of employment, and these are some of the difficult issues that your Ministry has to deal with on a daily basis.

For us in the Committee, what we would be interested in knowing is, whether your Ministry has the capacity, whether you require changes to certain legislations or the adoption of new legislations, to ensure that you actually are able to implement the requirements of the Convention.

It is all right for us to sign and ratify conventions and protocols, but for us as Members of Parliament when we debate this in Parliament, we need to know if your Ministry has the capacity, and if you have the processes and procedures in place to deal with this. So, you may want to briefly expound on some of those issues, and we may be able to ask you further questions and your responses later would be helpful as well. Thank you.

MR. CHAIRMAN.- Perhaps, we can do that as supplementary or substantive question to them in due course. Thank you Honourable Member. Thank you Mr. Cawaru.

I now give the floor to Madam, Permanent Secretary, Ms. Poole, for your contribution.

MS. J. POOLE.- Thank you. Mr. Chairman and Honourable Members of the Standing Committee on Foreign Affairs and Defence, allow me to introduce my team today.

(Introduction of Team by PS)

Honourable Members, I wish to thank you for providing the Ministry with the opportunity to make this presentation with our counterpart, the Ministry of Employment, Productivity and Industrial Relations in support of the three Conventions in front of this Committee.

Our presentation today supported the:

- ☐ Treaty on the Prohibition of Nuclear Weapons;
- ☐ Convention 190 – Violence and Harassment Convention 2019; and
- ☐ Protocol 155 – Protocol of 2002 to the Occupational Safety and Health and Convention 1981.

Why our Ministry encourages that the Fijian Government ratifies these Conventions; this is because the Convention falls in line with the mandate of this Ministry and I wish to highlight the role of this Ministry as I continue to justify our position.

The Ministry of Women, Children and Poverty Alleviation is the main Government agency that administers services and programmes aligned to the:

- ☐ Care and protection of children;
- ☐ Community-based correction;
- ☐ Provision of income support to families to address poverty;
- ☐ Provision of policy intervention and services for older persons;
- ☐ Provision of policy intervention and services for persons with disabilities;
- ☐ Promotion of gender equality and the empowerment of all women and girls; and
- ☐ Monitoring, evaluation and reporting on the progress and impact of the Integrated National Poverty Eradication Programme (INPEP).

Honourable Members, promoting gender equality and the empowerment of all women and girls is the basis of our position in relation to these Conventions.

As the National Women's Machinery, our role is to advocate on women and girls' issues and more importantly, coordinate and facilitate policy advice to Government in ensuring gender issues are mainstreamed into policies, programmes and budgets across Government sectors. This is also in alignment to the Government's commitment as the Ministry administers the implementation of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and Convention on the Rights of the Child (CRC).

Honourable Members, in order to strengthen our work in this area, the Ministry has undertaken various programmes to progress our pledge towards gender equality in Fiji. The National Gender Policy was the first gender mainstreaming tool by the Fijian Government introduced in 2014 and has been discussed in Parliament at length by our Honourable Minister.

And as we continue with the implementation of the Policy, we are now also embarking on a Country Gender Assessment (CGA) with the support of the Government of New Zealand, to inform on the status of women and girls in Fiji and provide a comprehensive overview of gender issues across all sectors.

We are also embarking on a two-year initiative known as the Gender Transformative Institutional Capacity Development, a major step towards achieving gender equality and empowerment of all women and girls in Fiji. Approved by Cabinet in January 2020, this initiative is supported by the Governments of New Zealand and Canada.

Additionally, the Ministry will lead the development of a five-year (2020-2025) National Action Plan to Prevent Violence against Women and Girls from 2020 to 2025. This is in collaboration with the Ministry for Education, Heritage and Arts; the Ministry of Health and Medical Services;

Ministry of Employment, Productivity, Industrial Relations; Ministry of Youth and Sports, iTaukei Affairs Board with Women's Organisations, Civil Society and Faith-Based Organisations.

All these initiatives, Honourable Members, are part of a whole of Government approach and we will also be working closely with our counterpart Ministries and the one thing they all have in common is the aim to address the inequality in various spheres between men and women in Fiji and its consequences, and creating an enabling and equitable environment for the betterment of Fijian women.

Fiji in signing the Violence and Harassment Convention 2019 is, hence going to be a move in the same direction. Violence and harassment in the world of work deprives people of their dignity, is incompatible with decent work, and a threat to equal opportunities and to safe, healthy and productive working environments. It remains a widespread phenomenon, present in all countries and disregarding sectors, occupations and work arrangements.

According to the recent findings by the International Finance Corporation (IFC) Study named, "The Business Case for Workplace Responses to Domestic & Sexual Violence in Fiji", which surveyed three private sector companies and a total of 563 staff, the following has been proven:

- 44 percent of women and 22 percent men reported they had experienced some form of domestic or sexual violence in their lifetime, and 21 percent of women compared to nine percent of men had experienced violence in the last 12 months when this survey was done.

- Hence, high rates of domestic and sexual violence has been translated into loss of staff time and reduced productivity, that is, equivalent to almost 10 days of loss of work per employee each year.

- 26 percent of women have experienced harassment when at work.

In view of those alarming statistics, this report recommends possible actions and measures or instruments as such to safeguard women employees as they are the ones predominantly victims of violence and harassment in homes and in their workplaces.

Honourable Members, we particularly support the motion in front of the Committee for the Fijian Parliament and the Fijian people to realise the benefits of Convention 190 for the women in Fiji and the possible adoption of this Convention recognises the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment. Research shows that harassment ranks as the second biggest challenge for working women, followed by unequal pay.

As a nation with a fast growing economy and a Government that is committed to leaving no one behind in our growth as an economy, as a nation and as a people, creating an equitable

environment for women in the workplace, to be able to actively participate in nation building is very important.

Over the past years, the number of women in the workforce has seen an increase and 39 percent of Fijian women over the age of 15 years are economically active, as per the last census. Also, more women comprising of 57 percent above 43 percent of men, are graduating from universities and are consequently acquiring jobs in the formal sector.

Fijian women are also being encouraged to study and look for work in the fields of Science, Technology, Engineering and Mathematics (STEM) fields. Young girls are being taught about STEM education and careers through summer camps, in order to increase their participation in these fields earlier, and Fiji has shown an increase of 8 percent of female students undertaking STEM subjects in primary schools from 125,683 in 2017 to 137,793 in 2019. This has been the same for secondary school with female students which have also increased by 5 percent from 85,221 in 2017 to 89,108 in 2019. Therefore, there will be a growing generation pursuing careers in this field and noting other fields besides them, which requires essential instruments and mechanisms to put in place to safeguard and protect women and girls in the workplace.

Honourable Members, we have the interest and welfare of working women at heart as the national women's machinery and as we anticipate and support more women into the workforce, their safety, protection and progress will remain a priority agenda for us. Hence, we fully support the motion moved by the Honourable Attorney-General for the Standing Committee on Foreign Affairs and Defence to review the Violence and Harassment Convention 2019.

I would now like to hand over to the Director of Social Welfare, to address the forum in relation to our position on the other two Treaties. Thank you.

MR. R. FATIAKI.- Honourable Members of the Standing Committee on Foreign Affairs and Defence, we also support the Treaty on the Prohibition of Nuclear Weapons because nuclear weapons are the most inhumane and indiscriminate weapons ever created and its testing in the region and around the world have had catastrophic humanitarian and environmental consequences. Just like any other catastrophe, the most affected are always the most marginalized people and we speak in the interest of the women, children, the elderly, the poor and persons living with disabilities.

The Ministry fully supports the provisions of the Treaty on the Prohibition of Nuclear Weapons as ionizing radiations have a disproportionate impact on women and girls. In addition, the Treaty is committed to supporting and strengthening the effective participation of women in nuclear disarmament, as well as raising awareness of the risks and consequences of nuclear weapons for our future, which is our children.

Honourable Members, the Ministry is in support of Protocol 155 – Protocol of 2002 to the Occupational Safety and Health and Convention 1981, as it is already enshrined in the Fijian Constitution where every person has the right to fair employment practices, including humane treatment and proper working conditions.

With the provisions of the Health and Safety at Work Act 1996 and the Health and Safety at Work Regulations 1997, the Ministry is working towards risk management strategies to minimise mishaps, both for the workers and our clients. Due to the nature of work, women and children, managing the Golden Age Homes, Juvenile Centres, the disabled and disadvantaged, the ratification of the Protocol will enable the maintenance of check and balance with regards to compliance of the health and safety at work.

However, to enable the Ministry to comply with the Act, the necessary policy needs to ensure that the relevant messages are in place. We will be happy to provide technical assistance to the line Ministries that will implement the Treaties in Fiji, should they be ratified, ensuring all that policies and programmes are gender-responsive and inclusive. Thank you very much.

MR. CHAIRMAN.- Honourable Members, do you have any questions for the Ministry of Women, Children and Poverty Alleviation?

HON. PROF. B.C. PRASAD.- Thank you, Mr. Chairman and thank you, Permanent Secretary and your colleague, for your presentation.

One of the things that most countries are preparing to actually achieve in the SDG and in particular when you look at this Convention on SDGs 5 and 8 on Gender Equality and Decent work is that, you will be required to provide statistics to measure whether we are actually achieving these SDGs.

My question to you is; what kind of capacity you have, whether it is there already or whether you are building more capacity or putting frameworks, to ensure that when we implement this Convention or adhere to the Protocol that you will have the necessary data to inform policy, to inform those of us who would want to know whether we are achieving SDG 5 and SDG 8? What sort of processes do you have to link with Ministries which are at the forefront, like the Ministry of Employment, Productivity and Industrial Relations, in dealing with these Conventions and Protocols? Thank you.

MS. J. POOLE.- Thank you, Honourable Member. Of course, our policies and strategies are linked to achieving SDG and the National Development Plan of the Government. We are very much aware and support evidence-based research and evidence-based in forming policy. So currently, we are launching and it is already in progress, where we are actually recruiting the team now to do the National Gender Assessment and that will bring the data that we need as a baseline and also give us a status of women in the country, and that will inform our progress against the SDG.

We have got other sources of data that are showing progress against the SDG path and that was recorded in the Beijing Declaration and Platform for Action + 25 Report and the summary of the Report which was tabled during my last meeting here. I think that is going to be presented to Parliament shortly as well. So the data is being captured, it is going to be strengthened and we will hopefully produce progress reports against SDG 5.

Director, do you have anything to add? Thank you, Sir.

MR. CHAIRMAN.- Honourable Members, are there any more questions?

HON. M.R. LEAWARE.- Through you, Mr. Chairman, I just want to ask the question to the Permanent Secretary for Labour. You mentioned something about creating a mechanism to help prevent violence and harassment in the workplace. Can you elaborate more on how can the Ministry do that in terms of identifying the mechanisms to carry out what he had alluded to in his presentation?

MR. O. CAWARU.- Thank you, Honourable Member for the question. Maybe, very briefly, I will elaborate on the formation of the OHS Committees in the workplaces.

This is a requirement under the legislation where there are 20 or more workers employed, whereby they shall form OHS Committees in their workplaces. This is one forum which we are working towards in enhancing and building capacities in terms of assisting inspectors, in terms of the application on this particular policy. So it is enhancing and strengthening the existing OHS Committees to assist inspectors. That is very briefly, Honourable Chairman.

MR. CHAIRMAN.- Thank you, Honourable Dr. Govind.

HON. DR. S.R. GOVIND.- Thank you, Honourable Chairman, through you, my question is to the Permanent Secretary for Employment. I think the Protocol on Occupational Health and Safety which we are going to ratify, the main focus is on notification and reporting of occupational accidents and diseases, et cetera.

Under the initial ILO Protocol 2002, we already had started reporting on occupational accidents, injuries and diseases. I just wanted to know what sort of capacities do we have currently to diagnose, especially occupational diseases which have very long latent period, for example, exposure to asbestos, exposure to certain kinds of germs, certain chemicals, et cetera?

Sometimes the employee may leave his or her place of work and take retirement, then the exposure of that particular substance is detected. So how closely are you working with the Ministry of Health, to make sure that there is a current capacity of healthcare workers to diagnose the diseases properly, otherwise reporting accurately will not be possible? Anyway, just elaborate a little bit on what is happening currently in the Ministry.

MR. O. CAWARU.- Thank you for the question, Honourable Member. In terms of the capacities we have, we have been working very closely with the Ministry of Health ever since the Health and Safety at Work was implemented in 1996. We recognise the fact that some occupational diseases have a latency period of 20 or more years, as you have rightly highlighted, on asbestos and mesothelioma as workplace diseases. With close collaboration with the Ministry of Health, we have been working very closely and we have regular training with them in terms of the monitoring of those types of diseases. We have joint meetings and joint trainings conducted or spearheaded by the Ministry in terms of capacity building, our doctors moving towards specific area on occupational medicine, as you would appreciate. Thank you, Mr. Chairman.

HON. DR. S.R. GOVIND.- Honourable Chair, a supplementary question; will you be able to share some statistics or reports which your Ministry may have prepared relating to occupational accidents and diseases, or previous reports so that it helps us see the extent of the problems that currently exist? You can send it to us later in the week.

MR. O. CAWARU.- Thank you, Honourable Member. We will provide statistics, Honourable Chairman. Thank you.

MR. CHAIRMAN.- Honourable Members, any further questions?

HON. M.R. LEAWARE.- A clarification through you, Honourable Chairman, to the Permanent Secretary for Women, correct me, I think you said something about children, primary and secondary, are they also looking at this topic in the schools, can you talk more about that? Is there a collaboration between the Ministry of Women and the Department of Social Welfare in terms of advocating or in terms of introducing this in our schools? Is it already there? I just wanted a confirmation from you. Thank you, Mr. Chairman.

MS. J. POOLE.- Thank you, Honourable Member. I can only speak on behalf of the programmes that we are following within our Ministry. We know that there are Science, Technology, Engineering, Math (STEM) camps. Our Minister actually launched one of the STEM Camps initiatives by a Civil Society Organisation - Graduate Women, trying to encourage young girls access to science, so that programme is rolling at the moment. We can say from statistics that we can see the outcomes in terms of girls going into engineering at university level.

I think for the rest of that question, I need to consult with the Ministry of Education to see how it affects the employment from primary and high school levels. Thank you.

HON. DR. S. GOVIND.- Mr. Chairman, through you, to the Permanent Secretary for Women, will you be able to share some statistics, like I asked the Permanent Secretary for Employment, on the current extent of problems around the harassment and violence against women at workplace or for both gender? Can you share some previous reports for us to have a background to this report?

MS. J. POOLE.- Mr. Chairman and Honourable Member, this is part of coordinating data, so the data for harassment sits with the Ministry of Employment, as well as various programmes, like the Domestic Violence Helpline and it is bringing that data together to get a really factual picture of the actual incidents.

There is research, I mentioned the IFC study which has looked at a sample of private sector organisations, as well as some public sector, to get an idea of violence in the workplace. I have to say that we are working on making sure that the data collection process is strengthened and it will be included in that. I feel that we work closely with our partner Ministry, so I might hand it over to you Permanent Secretary.

MR. O. CAWARU.- Thank you, Permanent Secretary. We can improve that as part of our reporting figures as well. Thank you, Mr. Chairman.

MR. CHAIRMAN.- Thank you, Honourable Members.

At this juncture I wish to thank both the Permanent Secretaries, Mr.Cawaru and Ms. Poole and your Teams, for availing yourselves this afternoon for this livestreaming submission.

We also take this opportunity to ask that you avail yourselves for any further questions which you have already agreed to. I now close this session.

The Committee adjourned at 3.42 p.m.

[VERBATIM REPORT]

STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

TREATY/CONVENTIONS

1. Treaty on the Prohibition of Nuclear Weapons
2. ILO Convention 190 - Violence and Harassment Convention 2019
3. ILO Protocol 155 – Protocol of 2002 to the Occupational Safety and Health Convention 1981

SUBMISSION: **Public Hearing**

1. Mr. Samarasam Pillary, Retiree.
2. Dr. Ram Raju, President, Nadi Chamber of Commerce.

VENUE: **Lautoka City Council Chambers**

DATE: **Thursday, 5th March, 2020.**

**VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON
FOREIGN AFFAIRS AND DEFENCE HELD AT THE LAUTOKA CITY COUNCIL
CHAMBERS, LAUTOKA, ON THURSDAY, 5TH MARCH, 2020 AT 9.50 A.M.**

Present

Hon. A.D. O'Connor - Assistant Minister for Health and Medical Services

(Chairman)

Hon. Dr. S.R. Govind - Government Member (Deputy Chairperson)

Hon. S. Adimaitoga - Assistant Minister for iTaukei Affairs & Government

Member

Hon. Professor B.C. Prasad - Opposition Member

Hon. M.R. Leawere - Opposition Member

Submittee: Mr. Samarasam Pillai – Retiree

MR. CHAIRMAN.- Thank you, Honorable Members. We have Mr. Samarasam Pillay, a former British Army, I understand. Welcome, Mr. Pillay, and if I may introduce Honourable Members of the Committee to you.

(Introduction of Committee Members and secretariat by Mr. Chairman)

Welcome, Mr. Pillay, and I understand you wish to make presentation on the three Treaties. The floor is yours, thank you.

MR. PILLAY.- Thank you, Mr. Chairman. I have been making many submissions to Parliamentary Committees and would like to briefly introduce myself and elaborate on what Mr. Chairman has said. I was not only in the British Army, I worked for the Ministry of Agriculture for three years before I joined the Army, the first group that went from Fiji.

I was very proud to serve during that term and also gained a lot of experience when I was at the British Army for six years. I was also promoted to Corporal and would have been promoted earlier but was busted down because of some discipline at one stage, than promoted again.

I was proud to serve this country because my mates were mostly *i taukei*. They were very proud and very helpful to me and with them, I managed to keep up the name of Fiji soldiers there. From that, I think the British Army has taken on and realised how good the Fijian Army was.

I was inspired by the fact about people who were serving in Malaysia, that I had direct contact with some of the people and one of my uncles was a former Attorney-General, Mr. Manikam Vasagam Pillai, who also served in the Fijian Army as a reserve. So, that was my inspiration.

I will just briefly introduce myself so that you know my experience and where I come from. The next thing I did after leaving the Army, I came home because I could not find a job and I thought things had changed in six years but in six years, a very small time in any country or any place to change, particularly in the economic sector.

There were four major companies at that time - Carpenters, Millers, Morris Hedstrom and BPs. The other group that provided employment was the CSR company, so there were not many jobs. The other thing was, Government jobs were also very limited because the income tax that was derived was very small.

Now, what I found after that, I managed to get a job with the Department of Cooperatives. During that time, I changed my mind and thought I would go back and do law but unfortunately, they changed the admission qualification in the UK. So I did not go back because that would have meant an extra year, expenses, et cetera.

I then decided to start teaching as a licensed teacher and I went to university as a student with a Diploma scholarship and there I ended up as the President of the Student Council. I did not want to be, I was very reluctant to be the Student President, but unfortunately when I was put in the position then I had to do that duty. So I did bring about a lot of changes which were good for the Student Council and there was a lot of friction amongst the students because they were all island students, Indians, Fijians, et cetera. There was a lots of animosity between the different groups, especially after a few drinks and then they used to get into groups and start fighting.

The University had started a club for students who were 18 years and for 50 cents, they could become a member. After a few drinks, everything comes out. They were not prepared for the drinks but yet, the university had done that. Apart from that, they had not taken over the sports facilities that was there. The Buckhurst Park was taken over by the Government and then there were no playing fields, apart from the tennis court and swimming pool. Even the swimming pool was going to be destroyed. After that S & R building was going to be built, so I got rid of that and I said, "No, you cannot shift the building. How are you going to get money when your poor country is there? How do you get the money for these things?" So things like that, like food, interaction between students and other things, so I tried to do that. That was one of my contribution to the Student Council. And I also got the student representatives on board from small island countries on the Student Council so they could be represented.

Things like that helped the student body and also the university to reduce the ... and increase the interaction between students, sports, et cetera. That is when Mr. Saulekaleka and others were appointed to this and also the change in the education course was brought in and one of them was to introduce academic course in things, like sports, physical education, et cetera, as part of the course for BA, BE and also for Diploma courses. That was how it was done, so that when teachers go, they also produce students who are mentally and physically who will do well.

One of the things, after teaching for a while, I found that this particular element of physical development was weak amongst the Indian students whereas the other students were all right when it comes to physical education. But one of the things that was missing was spiritual aspect of people. And some schools solved it by having prayers like the Sangam did at that time when I

taught there, they allowed Muslim prayers, Hindu prayers and also Christian prayers early in the morning. So, these are some of the things that I...

MR. CHAIRMAN.- If I may interrupt here, Mr. Pillay. We have had 10 minutes of your background. Perhaps, if you can just enlighten us on what is your submission on the three Treaties which have been explained to your goodself on the:

1. Treaty on the Prohibition of Nuclear Weapons;
2. International Labour Organisation Violence and Harassment Convention; and
3. International Labour Organisation Protocol of 2002 to the Occupational, Safety and Health Convention.

That is the submission that we would like to hear from you Sir. Thank you.

MR. S. PILLAY.- I will go straight into the first one. From what I read in the papers, it appears that what we are trying to do is trying to mediate or prevent a nuclear war. But the problem is, how do you prevent a nuclear war when some people are already armed, like the United States who is very heavily armed, Union of Soviet Socialist Republic (USSR) and China? Why does the war occur? Why did the conflict occur?

The conflict part of it says nothing about how to prevent and every country to go the same way to reduce conflict. With conflict and because of the availability of nuclear knowledge now with *You Tube*, internet, et cetera, it is so easy. Everyone can make nuclear weapon or whoever wants it. It is so widely known and accepted.

Now, my suggestion is that, things that are in conflict we remove that. What are in conflict? The social aspects that are there which causes conflict or the economic aspects, that is what causes conflict? The political aspects are causing conflict or the environment aspects are causing conflict

One of the things that I noticed in these four things is that, environment is not part of any Government's policy or anything. So if you are going to make any impact, we ourselves in Fiji should start. An allocation for environment should be the first and then it should be for others because we live within the environment.

A lot of conflicts are going to be the problem in the future and is also the problem now. What are we going to do about that? Let us start with the environment because that is the most critical one.

If you look at the coronavirus, the nuclear warfare, conflict in belief. The same people who used to live together, belonging to the same religion are in conflict all the time, putting pressure on others. That is going on in Europe and there is already conflict in Africa. So, it only takes one stupid guy to just press the button and you have a nuclear holocaust.

When I studied about nuclear chemical and biological warfare (that was a long time ago), I realised that it is not only going to affect the people who use the bomb, but it is also going to affect you if the wind blowing in the other direction. So, if anyone knows about nuclear warfare, they will realise that it is not worth it. But you cannot talk about the stupid people, stupid people

do anything. They go and commit murder, rape, et cetera. So, how do we prevent these things? How do we start doing it? Can we start with our country or do we go and only just talk about it in conferences because they have never been successful.

The environment problem is this, one is resources. People are running out of resources. So, when you have too many people, the same people who have been living peacefully together, now they want the land, majority wants the same religion, the minority are always affected, so these are things that are going to cause problems and resources are running out, water is running out.

One of the key issues is population. What we are doing about the population? It is going to cause problems in Fiji, for instance, on land issues. That is one of the resources. Water is the other one. What are we going to do about this? So, we need solutions, solutions like the Israelites have carried out on water, et cetera. Reducing population, what action have you taken on it? What action have you taken on resource management because the type of farming we are doing, we are harming the environment and according to some people, if there is genocide on insects, large scale spraying that is damaging all the environment, that is reducing the rainfall, that is harming the soil because we are using artificial fertilizers, no life will be there. According to the people, if all the earthworms and worms are killed through this kind of chemical usage, life on earth will cease from 18 months to three years.

Now, if all the insects die by this large scale spraying from planes, et cetera, and all the chemicals that we use are poisonous, then they kill the plant which is very easy work but they live with their residue that goes into the water, the rivers and we drink that and then we wonder why are we getting cancer and all other diseases? So, our medical bill is going up at the same time. Now, what are we going to do about that?

The environment, population, pollution and deadly chemicals is very important. How are we going to remove those from our farms? Let us start from ourselves in Fiji, forget about the rest of the people. Let us start going back to the old cultural practices and borrow new ideas which are kind to the soil. They bring back the earthworms, the things that we use and we do not rely on fertilizers from overseas that will reduce our cost. So, it is important to start with the environment. Environment is going to cause a lot of problems, so how are you going to tackle all the problems?

We are already dealing with drugs which are also chemicals. We rely our happiness on our chemicals. Why are we relying on beer and drinking? Why can we not teach our children to be better prepared in schools, and that is where I have noticed the difference in spirituality. Spiritually does not mean any religion or anything. It just simply means your availability to learn the truth, honesty and integrity.

The second thing is the purity of the heart and not to be judgmental and be unkind to other people. The third thing is truth, honesty, purity in the heart and compassion that arises from this truth, honesty and integrity and also love for everything on earth. Love does not mean just for people but also love for plants, trees, the earth that we live in so earth is going to take care of us.

Let us start with ourselves, that is all. Find means because otherwise, we are yearning for trouble. Let us protect ourselves first. If we keep lecturing and talking about it, it will not help. When you go and sit there, you say that we have done this, finished, that is how our actions should be.

The other thing that is important is going into the economic side. Now, we must get away from this habit of harvested concept. It is not like our village concept where we exchange, barter system and we used to have a very stable society. In fact, Fiji had a very stable society, until the westerners came here, apparently it was 250,000...

MR. CHAIRMAN.- Mr. Pillay, if I may interrupt you again, I think we are going off track, perhaps you could say something on whether Fiji ratifies the Treaty on the prohibition of nuclear weapons. If you do not mind rounding off there because you still have the two Conventions on International Labour to comment on. Thank you.

MR. S. PILLAY.- Yes, but this is the problem that I faced because if you do not mind, I have been saying about this in Fiji, the sugar industry, for instance. I made a submission one hour, they ask questions for one and half hours and they ignored everything. Today, we are facing the same problem. The sugar industry has not improved very much.

MR. CHAIRMAN.- Thank you, Mr. Pillay. Perhaps, just a suggestion, this Committee has not seen your submission. Perhaps, you may wish to furnish this Committee with those submissions that you have made, if you so wish. I am not saying that we are going to be able to give you answers immediately but it is food for thought for the Committee. Thank you.

MR. S. PILLAY.- I am an old person, with hearing and vision problem. I am a health problem person and do not know why I have to submit something when it is good for you to take. This has been the problem.

I noticed that with our committee. It is not that I have voted for and supported FijiFirst in Rakiraki but I headed the committee there. But what I am saying is, let us not forget what is causing the problem, what is not there. You were supposed to put in what we need to do to prevent this, in other words, nuclear war.

In the same way, it is going to help if you balance the economy rather than talking about it. I am talking through a lot of experience, it is not that I am doing this just for fun or just to make a name for myself or to be known, but what I am saying is, let us get down to the grassroots. We are going to face this problems, unless we do something.

The other problem that you are talking about is women, I do not say, do not ratify. That is the best thing you can do at the moment. Ratifying is no problem but qualify that ratification. You say we need to do this, every country needs to do this. Fiji, a small country, we are saying to you, let us do this because you are only addressing the symptoms, not the disease.

MR. CHAIRMAN.- Thank you, Mr. Pillay, you may now touch on the other two International Labour Organisations, one is the Violence and Harassment if you so wish. Thank you.

MR. S. PILLAY.- The problem that I see there is, again, one of economic issue that is not human-centric. It is just simply following other countries which have been successful. I say,

capitalism has not been successful but capitalism also exploits labour today, and not only exploiting labour but it is also creating very powerful and very much interested in doing what they do best. Just like in India, what they did was, the farmers and big companies that use these things, again, are going back to economics. You will make a lot of money.

Initially, they made a bit of money. After that, they chopped off all the trees, sprayed all the ground and eventually they farm on it again. The same thing happened in the labour side of it. When you look at it properly, you will find that over the years, the Government is slowly taking over whatever the labour has been fighting for, the unions have been fighting for and they are OHS, compensation, FNPF that is superannuation, et cetera. They are all coming in, but even there is a problem. I will not go into it deeply because otherwise, it will take some time.

What I am saying is, we are saying that the people want to make money, they are making money by exploiting the labour, so they do not pay them properly or they cut down their pay, or whatever they can do.

Another problem with the labour is the system that we use, like the apprenticeship system that we use, like in Germany which has been very successful or do we use the other slide like ours with theory, and then practice which does not prepare people well.

I think all learning processes when we are teaching, you are teaching people hands-on, which is more important than teaching people just theoretically. So, what can we do about that?

One of the things that I find which could have been done and I do not know why the Government has not adopted this, that all big companies as they grow above a certain level, why can they not go for sharing of profits? So you do not have to worry about negotiations because the person involved, the person working there can then say, "All right, we get a basic wage but whatever profit we make, we share it." The worker has a stake in it. After all, the Government is doing everything, it has regulated the working hours, regulated other things which the unions used to fight for and this is the only thing that is left, wages. Why are we not doing that?

We could do it by saying, "All right, if the Government gives you tax exemption for that period, you work on it." So, that is the direction we should be taking now rather than the direction which has not solved any of the problems where we have the same problem year after year. So, Government gives some, sort of, incentive to the companies by saying, "I give you exemption in tax, in return you share your profits. After all that tax money will come back to you as bonus."

That would be my suggestion, that we start moving towards that rather than each year fighting each other, wasting our time and energy, et cetera. So, when anyone puts anything to the ILO, they should push this across and say, "share", otherwise unions should be allowed for those companies that are not willing. Leave it open, they pay the tax, they also have the unions present.

MR. CHAIRMAN.- Thank you, Mr. Pillay. Perhaps, if you wish, have you any other departing comments?

MR. S. PILLAY.- There was a brief mention of the history related to women. Now, our country needs to, as I said, spiritual base is missing in Fiji. We need to go for that. The United Nations has to adopt that very, very seriously because UN itself has not got that. For instance, we all talk

about what we call our so-called democratic principles, democratic ideas, democratic user point but what uses democracy without the people being good?

If you look at everything in the world, it is not the law that makes people behave properly, for instances, I do not carry law with me all the time. Law books or law things prevent me from doing this. It is from here (referring to his chest) comes what you do and what you do not do. So democracy can only be good at the sum total of its people, individuals.

The sum total of individuals must be good. If 98 percent of our people are good, the country will be good, democracy will be good but if it is not, that is the fundamental and that is why I have always been emphasizing the idea of spirituality. So religion should not be causing problems. If you look at it, religions have caused problems today too, it is still causing problems, they were once a danger for nuclear warfare.

MR. CHAIRMAN.- Thank you, Mr. Pillay. Time has caught up with us. So, on behalf of the Committee, I thank you for your brief presentation this morning. If you so wish to write to this Committee, please feel free to do so. With those few words I thank you again.

MR. S. PILLAY.- Thank you all gentlemen.

The Committee adjourned at 10.25 a.m.

The Committee resumed at 12.05 p.m.

Submittee: Dr. Ram Raju – President, Nadi Chamber of Commerce

MR. CHAIRMAN.- Thank you, Honourable Members. We have before us Dr. Ram Raju, President of the Nadi Chamber of Commerce.

Welcome Dr. Raju. Thank you for availing yourself to this public hearing on the three Treaties.

(Introduction of Committee Members and secretariat by Mr. Chairman)

With those words of introduction, Dr. Raju, I give you the floor for a brief introduction of your goodself and your deliberation this morning. Thank you.

DR. R. RAJU.- Mr. Chairman and Honourable Members, thank you for inviting me to this forum and to brief you on these Treaties.

I have been the President of the Nadi Chamber of Commerce for the last 11 years and my other portfolio interestingly is that, I am the President of the Fiji College of General Practitioners since last year. I have got a two-year term but this is my third year as President of the Fiji College of General Practitioners (GP). I have served for eight years in the past as President. So, I have had years of experience, knowledge not only on labour laws, but occupational health and safety, and it has been another very important major aspect of my profession as a GP.

I must tell you that once, I was the President of the International Physicians for the Prevention of Nuclear War. I held on to that position for about 10 years until the French nuclear testing ceased in the Pacific way back in 1996, and we actually dissolved our organisation. That organisation existed as a means of protesting against the nuclear testing that was carried out by France in the Pacific, that is, in the Mururoa Atoll near Tahiti.

Once the nuclear testing ceased, then we dissolved our organisation about two years, thinking that there was no further need for that particular organisation. So that was another very interesting field that I happened to be in-charge of, which included the International Physicians for the Prevention of Nuclear War, which was an international body which we were part of. They still exist, as a matter of fact, and International Physicians for the Prevention of Nuclear War (IPPNW) had won the Noble Peace Prize when it was formulated. When the work was carried out and there was an organization that won the Noble Peace Prize.

It was so interesting to see that one of the items on the agenda is on the Nuclear Weapons Treaty. By and large, I have gone through it all and I do not really need to make any submission there, but to endorse what has been put forward. I really have no doubts about it, except perhaps as I do not think I saw that in the Protocols here, the allowing of nuclear warships into our country, the nuclear submarines from particularly super powers like the US. That was one of the other issues that IPPNW Fiji Branch used to take on, and that is why I was in the bad books with the US Embassy. Anyway, I do not really know whether this can be part of the submission here today.

In as far as the labour laws and Occupational Health and Safety Convention, I have very little to make any submission there, except I could not see any area where they talk about Wellness At Workplaces, Wellness Programmes at Workplaces, which I think is a very important component that should be included somewhere along the lines. To give some attention to the wellness of workers, there should be some areas to look at where we can include that wellness programmes are included in any workplace.

I will go back and talk about how Japan recovered from World War II, included that aspect. They always allowed their staff some time, almost everyday in fact, to allow their workers/staff to do or it was mandatory that they engage in some sort of exercise at work. Because of that, plus other reasons, Japan's average lifespan is the highest and the best in the world, which stands at about 84 years whereas for Fiji, the average lifespan is 70 - women about 71 years or 72 years and men about 68 years. On average, it is about 70 years, and that is one of the reasons why Japan has been able to maintain the number one spot by including wellness programmes, exercise programmes at workplaces. That is perhaps something that needs to be looked at.

Every time, we ask our patients as to what form of exercise do they do for their health. They say, "Sorry, Doctor, we cannot find the time," and this excuse is always there. "We leave early in the morning and come back late in the evening and are too tired to do any exercise." So, basically, zero.

This is where Non-Communicable Diseases (NCDs) that we all talk about is such a major issue in this country. More than 80 percent of our people are dying of NCDs and perhaps, this is the area which has been neglected in our labour laws, the Wellness Programmes. That is basically it.

Apart from that, everything else that I have read through is quite clear and I do not wish to raise any further issues about that but to endorse what is already presented. I will be ready to answer any questions.

MR. CHAIRMAN.- Dr. Raju, you have mentioned about the prohibition of nuclear weapons. You have also mentioned about the Occupational Health and Safety and Health Convention. Do you have any comments on the ILO's Violence and Harassment Convention?

DR. R. RAJU.- Well, again, just as the business houses are concerned in Nadi in particular, I did happen to pass this to my members. I have more than 200 in my circulation list as members and most of them kept quiet. Perhaps, they do not have the time to go through that but none of them made any submissions at all.

I attended a meeting last week on Friday, our business forum and I mentioned that silence means that you are endorsing so I will accept that as a means of acceptance. If you are not going to come back to me, then I take it for granted that it is good as gold.

MR. CHAIRMAN.- Thank you, Dr. Raju. Honourable Members, do you have any comments or questions for Dr. Raju?

HON. DR. S.R. GOVIND.- Thank you, Dr. Raj, and welcome again. I have a question with regards to the Nuclear Weapon Treaty in the health field. I remember when we were in the hospital, we were inserting radium for cervical cancer, just wearing an apron and in the x-ray unit, you wear a small...

DR. R. RAJU.- What was your earlier question, I cannot hear you well.

HON. DR. S.R. GOVIND.- In the area of nuclear radioactive material, you were wearing a small badge in the X-Ray Unit. I want to know, in the health field, what practices are currently in existence to monitor those radioactive material? Are you aware? Has there been some changes, whether international atomic energy is helping?

DR. R. RAJU.- You meant to say the monitoring of radiation in the workplaces?

HON. DR. S.R. GOVIND.- In the hospitals.

DR. R. RAJU.- I think that is a very good statement, a very good question. In fact, when I was a Radiologist and I was in the Radiology Department, which was my first profession after graduation, all the staff in the X-Ray Department used to have badges put on their uniforms to measure radiation effects of x-rays. These monitors were then sent overseas for calibration, as well as studying the amount of radiation each member or staff in the X-Ray Department gets into their system.

Now, all of them were reported to be below the threshold of harmful effects so radiation coming from the X-Ray Department for any investigation that we have in those times, are only general radiography or radiology x-rays. Today, we have CT Scan, MRI Scans and there is quite a different field of x-ray radiation from all those medical equipment.

There have been extensive studies and most to all of them are pretty safe, radiation-wise. There has been no adverse reports of any hazard, particularly to the staff. Of course, they are subjected to radiation almost everyday. So, they are considered to be extremely safe, the newer models or newer equipment that are coming out. Obviously, they have got all those amount of radiation emitted from those equipment which, and the word that they use is, infinitesimal - very, very low doses. So, it is not being considered a topic these days to discuss.

You can get hundreds of x-rays, hundreds of MRI scans, of course, patients are always of the view that they may be getting some radiation dangers, but we reassure them, "No, there has never been any reports of any cancers developing." People do have this fear that they may be subjected to getting some form of cancer from such radiation - x-rays, CT scans, MRIs, et cetera, so it is pretty safe.

HON. PROF. B.C. PRASAD.- Thank you, Dr.. I have a comment. In fact, we asked this question in Suva to representatives of the Ministry of Foreign Affairs and also the Ministry of Defence and Security about the prospect of nuclear powered vessels or ships coming into our ports and what are the processes through which they will be notified. They did say that normally, when ships come, they are notified of the contents and what is there and how, so that was their response.

The question I want to ask you is, the Protocol on the Occupational Health and Safety Convention that we are looking at. One of the key features under Article 4 is really about notification, about recording and informing the appropriate authority and there would be a time. I think Honourable Dr. Govind raised that issue in Suva. What about the disease part? Accidents are pretty much easy to report and record.

You being a doctor and also President of the Chamber, do you think there are adequate processes and perhaps, resources that the Ministry of Employment, labour as well as adequate resources and willingness on the part of employers to look at how they are going to report on some of the occupational diseases which is part of the Protocol and whether you think more needs to be done or there has to be another piece of legislation to support that?

DR. R. RAJU.- That is a pretty general term. Every workplace, I mean, different occupations will have different standards to maintain, for example, the construction workers, garment workers, et cetera, they will all have their different sets of standards, equipment, protective gear, et cetera. I think the minimum standards are already in place.

I think what is more important is the regulation checks which is perhaps not happening on a regular basis. If you go to some of those building construction taking place, at times you see them wearing pressure helmets, boots and all the protective equipment, and other times they do not wear them, they do not use them. Recently, I think there was this case in Ba. The employer blamed the employee for not taking precautionary measures that was supposed to be taken but it is the supervisor or the manager, who was supposed to be regulating and policing it, and not the fault of the employee. Employees are not to be blamed. It is the supervisors and managers who should be taken to task for not having checks done. I have not heard much complaints otherwise, but this particular case does expose those weaknesses.

MR. CHAIRMAN.- Thank you, Dr. Raju. You mentioned being a Radiologist and about radiation, people are concerned about having radiation and cancer but there are people already suffering from cancer, having chemotherapy and then the second stage is radiation. How would you distinguish that from when you say, people are concerned about getting cancer from radiation? It is a treatment for cancer. Thank you.

DR. R. RAJU.- Radiotherapy, of course, is a very specialized field and none is available in Fiji, they go to either Australia, New Zealand or India or overseas. They are very specific therapy. The beam which is pointed towards the tumor or cancer growth, they are very controlled and if it does leak out or affects other unaffected organ, it can be damaging. So, there is a high powered radiation which is meant to kill the cancer cells. They use more high radiation doses, of course, but it has got to be very very well controlled, the staff as well as the patient, both have to use very heavily protected gear. Of course, the building itself has to pass stringent laws and regulations, like the walls, windows, doors everything is radiation proof. So, they definitely have pretty well-controlled radiotherapy units.

MR. CHAIRMAN.- Speaking of control, Dr. Raj, the radio therapy, you said it is being minimal now, how does that affect people with pacemakers?

DR. R. RAJU.- A pacemaker does not really emit radiation. In fact, when they pass through metal detectors, have to notify, I mean, most of them do, they can be taken aside and searched, so they do not have to pass through metal detectors.

HON. DR. S.R. GOVIND.- Dr. Raj, I just want to go back to what Honourable Professor Biman was asking you. Most of these occupational diseases have a very long latent period, for example, if you are exposed to asbestos, by the time you develop mesothelioma, the employee may have retired from employment for a long period of time. What we are asking now is the capacity, whether there is enough capacity among doctors, nurses and GPs to diagnose some of these diseases which are occupational health-related? Mesothelioma is one but there may be many, like even skin diseases, et cetera. So, whether there are some training programmes or there is a specialist in Fiji.

When I was there, there was no one in occupational health. We were coming from Otago Medical School as part of public health curriculum but now occupational health is a very specialized field itself. So, whether there is a need for one such specialist to be in the Ministry of Health or somewhere?

DR. R. RAJU.- I happen to have done the Post-Diploma course in Aviation Medicine. Now, Aviation Medicine has to do with a lot of radiation and other aspects because of that extra qualification, I am the only GP in the Western Division who does medical examination for people in high-risk occupational areas, like those who are in Joint User High Installation (JUHI), the distributor of fuel for all the aircrafts, as well at Total, they look after the Vuda and they are in a higher risk category, as well as those who are in the painting-makers industry. They have to have yearly checks to look at development of any occupational-related problems, so we do a very thorough medical examination, x-rays and blood tests, chest x-rays and blood tests.

The blood test is to look at any chemical poisoning, urine analysis for drugs, so these are there already during our checkups and I know some doctors are also doing that in Suva. But so far, I must tell you that we have not picked up any health effects from such occupations.

HON. DR. S.R. GOVIND.- Does the Ministry of Labour has on hand, available this expertise or the Ministry of Health has someone specialized in occupational health?

DR. R. RAJU.- I am not too sure about that.

HON. DR. S.R. GOVIND.-...(Inaudible) Ministry of Labour is there, sourcing this expertise when it comes to workmen's compensation, et cetera.

HON. PROF. B.C. PRASAD.- That is one of the recommendations or questions you can ask, yes.

HON. DR. S.R. GOVIND.- (Inaudible)

MR. CHAIRMAN.- That is probably something we may be able to put in our recommendation, going forward. Any other questions Honourable Members?

Since there are no other questions, Dr. Raju, at this juncture, I wish to thank you once again for availing yourself to this hearing this morning

DR. R. RAJU.- You are welcome.

MR. CHAIRMAN.- And if we have any other pressing questions, we will certainly be in touch with your goodself. With those few words, if you have any departing comments, the floor is yours, Sir.

DR. R. RAJU.- Thank you.

The Committee adjourned at 12.45p.m.

[VERBATIM REPORT]

STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

TREATY/CONVENTIONS

1. Treaty on the Prohibition of Nuclear Weapons
2. ILO Convention 190 - Violence and Harassment Convention 2019
3. ILO Protocol 155 – Protocol of 2002 to the Occupational Safety and Health Convention 1981

INSTITUTIONS: Fiji Human Rights & Anti-Discrimination Commission
Pacific Islands Association of Non-Governmental Organisations (PIANGO)
Pacific Conference of Churches
Fiji Anti-Nuclear Group (FANG)
Nuclear Free & Independent Pacific (NFIP)
Ministry of Industry, Trade & Tourism
University of the South Pacific (USP)
Fijian Teachers Association (FTA)
Professor Shaista Shameem

VENUE: Big Committee Room (East Wing)

DATE: Monday, 9th March, 2020.

VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE HELD AT THE COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON 9TH MARCH, 2020 AT 9.34 A.M.

Interviewee/Submittees: Fiji Human Rights and Anti-Discrimination Commission

Pacific Conference of Churches

Pacific Islands Association of Non-Governmental Organisations (PIANGO)

In Attendance:

Fiji Human Rights and Anti-Discrimination Commission

1. Mr. Ashwin Raj - Director
2. Mr. Parmeshwar Prasad - Manager Corporate

Pacific Conference of Churches (PCC)

1. Reverend James Bhagwan - General Secretary, PCC
2. Ms. Jennifer Philpot Nissen - World Council of Churches
3. Mr. John Cooper - Methodist Church of UK rep

Pacific Islands Association of Non-Governmental Organisations (PIANGO)

1. Ms. Seini Bukalidi - Research and Advocacy Assistant
2. Ms. Emeline Siale Ilolahia - Executive Director, PIANGO
3. Ms. M. Penjueli - Pacific Network on Globalisation (PANG)
4. Ms. Claire Slatter - Nuclear Free and Independent Pacific (NFIP)
5. Professor Vijay Naidu - Fiji Anti-Nuclear Group (FANG)

MR. CHAIRMAN.- I welcome, Honourable Members, members of the public and the media in today's Committee Meeting and livestream submission, as well as those who are watching on the Parliament Channel, the Walesi Platform and *Facebook* on the three Treaties that are before us, the:

1. Treaty on the Prohibition of Nuclear Weapons;
2. International Labour Organisation Violence And Harassment Convention 2019; and
3. International Labour Organisation Protocol of 2002 to the Occupational Safety and Health Convention 1981.

I take this opportunity to welcome the Officials and presenters from the Fiji Human Rights and Anti-Discrimination Commission, Pacific Islands Association of Non-Governmental Organisations (PIANGO) and the Pacific Conference of Churches (PCC), who have agreed to be here with us this morning to present their submission. Please, be advised that this Meeting is open to the public and the media and any sensitive information concerning this inquiry that cannot be disclosed in public, can be provided to the Committee either in private or in writing.

At the outset, I wish to remind members of the public and the media present in the room that minimum movement is to be maintained during the duration of the submission.

I take this opportunity to introduce Honourable Members of the Committee.

(Introduction of Committee Members and Secretariat by Mr. Chairman)

With those few words I take this opportunity to ask that you make your presentation. We will start with the Fiji Human Rights and Anti-Discrimination Commission, then immediately after your presentation, Sir, we will allow the floor for a couple of questions and then we will go immediately on to PIANGO and then finally to the Pacific Council of Churches.

With those few words, the floor is yours, Sir.

MR. A. RAJ.- Good morning, Mr. Chairman and Honourable Members of the Committee. It is an absolute pleasure to be here this morning. Thank you for creating the condition of possibility for this important conversation about the various Conventions that have profound implications for human rights in Fiji.

I would like to present on two Conventions this morning, the:

1. ILO Convention 190 on the Elimination of Violence and Harassment in the World of Work; and
2. Protocol of 2002 to the Occupational Safety and Health Convention 1981.

Before I do that, I just want to make a very preliminary observation about the Convention on Nuclear to say that from the human rights' perspective, we should move towards the world that increasingly pushes through us nuclearisation, and that is absolutely important.

Mr. Chairman, on the ILO Convention, the Convention recognises that violence and harassment in the world of work, and I quote; "can constitute a human rights violation or abuse, is a threat to equal opportunities, is unacceptable and incompatible with decent work."

It defines "violence and harassment" as behaviours and practices, or threats, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm. It reminds Member States that they have a responsibility to promote a general environment of zero tolerance.

The new International Labour Standard aims to protect workers and employees, irrespective of their contractual status, and includes persons in training, interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants. It recognises that

individuals exercising the authority, duties or responsibilities of an employer can also be subject to violence and harassment.

The Constitution of Fiji, the Employment Relations Act, the National Harassment Policy and the National Gender Policy, all provide adequate legal safeguards to nourish this Convention in terms of the domestication of this Convention.

I think also pertinent to this discussion are the recommendations made by the Convention on the Elimination of Discrimination Against Women (CEDAW) to Fiji in its review last year on sexual harassment in the workplace. Let me quickly go through a summary of the Convention in the interest of time.

The Violence and Harassment Convention 2019 is a legally binding Instrument that covers violence and harassment, including on the basis on gender in all sectors of the economy and all work-related activities, and expressly indicates that such violence and harassment may amount to human rights violation. It requires States to implement legislation, training, monitoring and avenues to address and support, in order to prevent and remedy these practices. It calls on States to address the particular needs of vulnerable groups and those inflicted by domestic violence and in particular, I am looking at Article 6 to Article 11.

Issues related to violence and harassment at work disproportionately impact women and girls, and places a responsibility on State Parties to the Convention to pursue a policy of zero tolerance to violence and harassment. And the definition of violence and harassment is described as; “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm.”

If you look at Article 1(b), additionally, the definition of gender-based violence and harassment includes; “all acts previously defined that are directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.”

Some of the core principles in the Convention, I think that is important, guarantee the respect, promotion and realisation of the right of everyone to a world of work, which is free from violent and harassment. Some of these principles include:

- ☐ prohibiting in law violence and harassment;
- ☐ ensuring that relevant policies address violence and harassment;
- ☐ adopting a comprehensive strategy in order to implement measures to prevent and combat violence and harassment;
- ☐ establishing or strengthening enforcement and monitoring mechanisms;
- ☐ ensuring access to remedies and support for victims;
- ☐ providing for sanctions;

- developing tools, guidance, education and training, and raising awareness in accessible formats as appropriate; and
- ensuring effective means of inspection and investigation of cases of violence and harassment, including through labour inspectorates or by the competent bodies.

I am, of course, drawing reference to Article 4(2).

The Convention reaffirms the importance of other labour-related rights that States must be permitted to uphold, which includes the right to equality and non-discrimination, freedom of association, collective bargaining and freedom from compulsory labour. Of course, I am drawing on Article 5 to Article 6.

The Convention calls on States to accord easy access to appropriate and effective remedies and to provide guidance, resources training or other tools in accessible formats on violence and harassment, including gender-based violence and harassment to workers and employers in their jurisdiction.

Of course, the Convention also draws on recommendations that were made in 2019. The Recommendations pertained to No. 206 of 2019, which guides the Convention. The remedies that the Recommendation, in particular, looks to include the right to resign with compensation, reinstatement, appropriate compensation for damages, disorders requiring measures with immediate executory force to be taken to ensure that certain conduct is stopped or that policy use or practices are changed, and that legal fees and costs are according to national law and practice.

It is imperative to note that these Recommendations that accompany the Convention, are intended to assist States but are not expressed in a very prescriptive language. So, I think that is an important distinction.

However, having said that, Fiji voted in favour of both, the Convention and the Recommendations of the International Labour Organisation (ILO) Conference in June 2019.

In terms of our legal safeguards, Fiji has a robust Bill of Rights and of pertinence is Section 11 of the Constitution, which provides for protection for all persons from violence from any source whether it be home, school and work. It is imperative to know that this is a new provision and did not appear in the 1970, 1990 or 1997 Constitution.

Of course, in the application of the Bill of Rights, you have to draw on international law. There is enough precedent in our court to show that even if you have not ratified the Convention, you can still apply the principles of international law, pursuant to Section 3 and Section 7.

It is important to note that in Fiji, the scope of Section 11 extends to violence which is intersectional, and includes intersectional forms of sexual harassment and violence. The Constitution acknowledges that torture is not just physical, that it can be emotional and/or epistemological.

Section 20 of the Constitution on employment relations is absolutely important. I am just going to draw on one provision, Section 20(1), and I quote:

“Every person has the right to fair employment practices, including humane treatment and proper working conditions.”

Of course, Section 20(2) to (5) are pertinent to this discussion but in the interest of time, I am not going to repeat what those provisions are.

The Employment Relations Act 2007 defines discrimination in workplace in very specific terms. In terms of fundamental principles and rights at work, Part 2(6) states, and I quote:

“(1) No person shall be required to perform forced labour.

(2) No person shall discriminate against any worker or prospective worker on the grounds of ethnicity, colour, gender, religion, political opinion, national extraction, sexual orientation, age, social origin, marital status, pregnancy, family responsibilities, state of health including real or perceived HIV status, trade union membership or activity, or disability in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship.”

Then, of course, section 3(2), section 4, section 5, section 6, section 7 are all very important.

It should be noted that when you look at section 6(2) of the Employment Relations Act 2007, it has to be read contrapuntally with Section 26(3) of the Constitution because of its expanded scope or prohibited grounds of discrimination. For instance, section 6(2) of the Employment Relations Act 2007, lists sexual orientation while Section 26(3) of the Constitution goes further and includes gender identity and expression. The Constitution, of course, supersedes all ancillary legislation.

Section 75 of the Employment Relations Act 2017, of course, again talks about prohibited grounds of discrimination which, again, implores on the need to read laws in a contrapuntal manner.

Section 76 of the Act on sexual harassment is just germane to this Convention when we are talking about the domestication of this particular Convention. I just do not have the luxury of time to go through that provision, Mr. Chairman, but I would be very happy to address that in the form of question and answer.

Sexual harassment is defined under the Act under section 4, which means that when a worker is sexually harassed in his or her workplace or places where workers are gathered for work-related purposes, including social activity, when an employer or its representative or a co-worker and the various acts of transgression that constitutes sexual harassment. Under Section 4 of the Act, which I would be happy to expound on should there be a specific question on that.

Then, of course, if you look at the Human Rights and Anti-Discrimination Act 2009, it prescribes under section 19(1), (2) and (3) areas where certain acts constitute an unfair discrimination and it expressly prohibits that.

Importantly, section 26 of the Act deals with the liability of employers and this is, of course, I am alluding to the Employment Relations Act. For a conduct of an employee or agent of the employer, the definition of sexual harassment under Fiji's laws is one of the most progressive in the world, I must add. This is because it encompasses both, the conduct of a sexual nature, if you look at the definition under (a), (b) and (c) and the conduct of a sexiest nature. Basically, what it says is that, sexual harassment is more than simply a sexual act. It is also an act of discrimination and the Convention tries to concatenate the two and so does the domestic legislation in relation to that.

If you look at the Act itself, paragraph (d) also covers conduct which is bullying, hostile or degrading, and conduct which targets persons from vulnerable groups and they are usually Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) community, women or persons with disability. The Commission has received numerous complaints in relation to that.

As I say again, the word 'sexual' is not a reference to the type of harassing act, it is also a form of discrimination against women on the basis of gender.

MR. CHAIRMAN.- Mr. Raj because of time constraints, I would appreciate if you can round that off and start on your next Protocol. Thank you.

MR. A. RAJ.- So, the point of sexual harassment laws is that, they protect vulnerable groups from harassment at work based on gender and discrimination. And it is important that we start looking at the experiences of these people and what are the detrimental consequences of sexual harassment, indecent assault, rape in the workplace and we must look at both (the Employment Relations Act does that) sexual and non-sexual forms of sexual harassment and the kind of redress which is available under the Act. Of course, equally significant is the National Sexual Harassment Policy.

I cannot imagine doing justice to such an important Convention in 10 minutes but there are remedies available under the Act.

Then if you look at the recommendations made by the CEDAW Committee that, again, is important because last year, the CEDAW Committee said that they remain concerned that sexual harassment and other forms of sexual assault in the workplace and severe under reporting of such incidents in Fiji.

The Committee draws on the State Party's attention to the fact that sexual harassment, not only constitutes an attack on the dignity of women, but also as a discriminatory effect affecting the victims in terms of wages, promotion, dismissal and creating a hostile work environment which, in turn, obstructs the victim's fulfilment of his or her professional potential.

One of the recognitions made by the Sub-Committee was that, the Security Forces are actually excluded in the Employment Relations Act, and we need to get clarification as to whether specific existing laws governing the Security Forces provide for adequate safeguards for sexual harassment, including the exclusion from the Employment Relations Act, and this is something that the Sub-Committee talks about.

If you look at the National Gender Policy, there are adequate provisions in that. Of course, the Convention draws on the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), economic-social cultural rights, CEDAW, Convention on the Protection of Migrant and the Rights of all Migrant Workers and their Families and the Convention on the Rights of Persons with Disability. Of course, the Convention has to be thought through in light of the various Conventions that Fiji has already ratified. The various principles that are enunciated are actually consistent with Sections 1 and 11 of the Fijian Constitution.

One of the things that I want to particularly implore on, is in the case of domestic workers and persons employed by the security sector, who might be excluded under the Act. If you look at the Convention or the Constitution, it includes workers who may be excluded from the scope of the Employment Relations Act. And like I said, the Constitution supersedes these ancillary legislations.

Section 11 of the Constitution protects all persons from any form of violence from any source - at home, school or at work, or in any other place which is consistent with Article 2 of the Convention. So the position that the Human Rights and Anti-Discrimination Commission has taken is that, Fiji should adopt an expansive definition of work that includes the:

- ☐ informal sector;
- ☐ domestic helpers and caregivers;
- ☐ market vendors;
- ☐ sectors that are largely non-unionised, such as the garment industry, and;
- ☐ foreign nationals who often have no recourse or remedies.

This expanded notion of work is going to be consistent with Fiji's vision of equality for all, enunciated in our Constitution and it would be inequitable for workers from the formal sector and with the contract of service, written or oral, to be protected from violence while excluding workers in the informal sector.

I am just about done, Mr. Chairman.

MR. CHAIRMAN.- Mr. Raj, can I ask you now to proceed with your next Protocol, please?

MR. A. RAJ.- Sure, sure. One of the benefits of the Convention and I am going to finish here, is the fact that the Convention would enable us to monitor compliance, whether the strong and salutary national legislative framework can actually buy it? And we all know it has teeth. I mean, we have gone through that laborious task.

So the Convention will allow that. It will allow us to build our capacity in this important area in terms of raising violence and harassment in the workplace. Thank you, Mr. Chairman, and I am sorry that this such important legislation that has been rushed.

The second Convention that I wanted to talk about is the Optional Protocol on Occupational Safety and Health. The Protocol of 2002 to the Occupational Health Convention is intended to strengthen and give effect to the Articles of Occupational Health and Safety Convention of 1981. And the summary of an analysis of Fiji's Legislative Framework demonstrates compliance with obligations under the Protocol.

The various legislations that, I think, are pertinent to this discussion, of course, include the:

- ☐ National Code of Practice for Occupational Noise;
- ☐ Health and Safety at Work 1996;
- ☐ Health and Safety at Work (Administrative Regulations) 1997;
- ☐ both - Parts 1 and 2 of the Health and Safety Work (Amendment) Act 2003;
- ☐ Health and Safety at Work (Control of Hazardous Substances) Regulation 2006;
- ☐ Health and Safety at Work (Diving) Regulation 2006;
- ☐ Health and Safety at Work (General Workplace Conditions) Regulation 2003;
- ☐ Health and Safety at Work (Representatives and Committee) Regulation 1997; and
- ☐ Health and Safety at Work Training Regulation 1997.

Mr. Chairman, Article 2 of the Protocol requires that relevant authorities of the State establish and periodically review requirements and procedures for recording and notification of occupational accidents and diseases, dangerous occurrences, commuting accidents and suspected cases of occupational diseases, although we have the legislative framework in place. Section 26(1) of the Health and Safety Work Act, the legislation that came into effect in 1996, particularly outlines the procedure of notification of accidents and other matters.

Mr. Chairman, section 26(2) further imposes civil liabilities for the failure to comply with the provisions under notification of accidents and other matters procedure that includes a maximum fine of \$10,000 for corporations and a fine of \$5,000 in any other case.

Mr. Chairman, Articles 3 and 4 articulates requirements and processes, including the responsibility of the employer in responding and notification of occupational accident in the corresponding national legislation.

Section 28 of the Health and Safety at Work provides that every employer at a workplace, or such other persons as are prescribed, shall maintain and prescribed forms, a record of accidents and other matters.

Section 29 of the Health and Safety at Work Act further requires that all employers who employ more than 20 workers, must register their place of work with the Ministry of Labour and the Industrial Relations within three months of each calendar year. Non-compliance of this provision under the law results in civil penalty not exceeding \$5,000.

Article 5 of the Occupational Protocol requires notification data to include the; employer, injured persons, nature of injury or disease, the workplace, circumstances of the accident and the circumstances of exposure to health hazards.

If you look at our national legislative framework, although the Health and Safety at Work Act does not expressly articulate a template for the notification of accidents, diseases, dangerous occurrences and commuting accidents, Section 23 of the Health and Safety at Work (General Workplace Conditions) Act, being the secondary legislation governing health and safety at work, allows for application of international standards that includes the Australian, New Zealand, British Standards, European Standards and the American Standards.

Articles 6 and 7 of the Convention articulate the publication of annual national statistics on occupational, accidents and diseases, dangerous occurrences, commuting accidents, as well as analysis on notifications.

Currently, statistics on commuting accidents are periodically published by the Fiji Police Force, while the newly established Accident Compensation Commission of Fiji releases statistics on the number of compensations made. More efforts are needed to establish a national mechanism on reporting and publication of statistics.

Now, I am going to close by saying that the Occupational, Safety and Health Convention sets the principles that workers must be protected from occupational injury and diseases, yet for many workers, the reality is very different. The losses in terms of pain and suffering, compensations, loss of productivity, cost of training and healthcare expenditure is immense.

While the national legislation on occupational, safety and health places adopted safeguards for workers as well as employers in Fiji, the adoption of the 2002 Protocol on the Occupational Health and Safety will strengthen the prevention, reporting and inspection practices, rendering many of these strategies avoidable. Thank you.

MR. CHAIRMAN.- Thank you, Mr. Raj. We will take questions from Honourable Members, if any. Thank you, Honourable Members.

HON. LT. COL. P. TIKODUADUA.- Mr. Chairman, if I may ask a question.

Mr. Raj, thank you for your presentation. I take it that you have very strong support for the ratification of all the three Conventions that you have spoken on.

My question is primarily, sort of, centred on the ILO Convention 190 - Violence and Harassment, particularly in the workplace and Parliament is a workplace. Some of the most heinous violence and crime have been committed in the Parliament of Fiji, primarily on this premises, where even the laws recognise that you have mentioned the past Constitutions and how

to relate them to the human rights provision, in which you have highlighted that the 2013 Constitution has the best provisions of that.

Since 1987 and as you have correctly mentioned 2006, human rights of Members of Parliament have been seriously eroded, if not, affected, and there had been recent cases here which has been the subject of a lot of debate. And we have these provisions in the Constitution that cannot seem to protect the very people, enshrined in this legislation and the very institute where it is going to be passed and it is being put to Parliament today and where it is first broken, as has been in the various history of our country and continues to be committed.

So the question arises about the integrity of this very institution and the leadership that leads Fiji, particularly, with regards to these kind of violence and harassment and Parliament is the first place. For your office in particular, because there is always been a lot of discussion because many look up to you. And not only you, I mean, you are the person there right now in the Office of the Fiji Human Rights Commission, particularly when previous laws have not been able to stop these things, even the best laws have not been able to, and even the existing Constitution, the authors of the very Constitution actually commit this violence in the work place for Members of Parliament.

My question is; in the future, because we want to stop this, what your office can do because the laws are known to stop it and it is never going to stop it. From human rights perspective, what can you do better in the future, particularly now that we are going to ratify this? I see a passion that you have, and I am sorry we cannot give you any more time, so just speak freely on this.

MR. A. RAJ.- It is just a very lengthy that paper that I

HON. LT. COL. P. TIKODUADUA.- I am just saying because I think no amount of talking by anyone because now it is a time for action. Parliament needs to act. How can you work with Parliament better, at least, the very rights of the people, who will ratify these Treaties is going to be protected in their own house?

MR. A. RAJ.- Thank you, Honourable Member.

Mr. Chairman, if I may, through you, I think that is a very, very important intervention. It does not suffice the fact that if you look at the Constitutional definition, under Section 11(2) on all work and all persons being free from violence, again, needs to be read contrapuntally against Section 26(3), on the issue of status. So it does not mean whether you are a Member of Parliament, in Parliament or its precinct, or whether you are in an informal sector, you are a caregiver or you are an intern, it does not change the fact that you should work in an environment which is free from violence and harassment. That is the first thing.

The status does not change the fact that you should enjoy a work environment which is decent and free from violence and harassment - whether you are a politician or a domestic caregiver or intern or whatever, or whether you work in Parliament or you work in someone's home.

The second thing is, I think there needs to be a robust discussion about what violence is and what harassment is. I had, in a very cursory manner, alluded to the fact that violence is just not physical, it is emotional, epistemological, it is just not sexual, it pertains discrimination on all

other prohibited grounds of discrimination and there is a need for national conversation around that.

What the human Rights and Anti-Discrimination Commission obviously needs to do, is to have that conversation with Parliament and Members of Parliament to talk about the fact that, “Look, these principles equally apply to you, as much as it applies to anyone else out there.”

The primary concern I have here today is the fact that you have a significant sector of workers who are non-unionised and do not have the conditions or possibility for all of these. So, you have workers who are unionised, et cetera, and are able to reconstitute their rights where there has been an interdiction in relation to all of these.

But there is a vast majority of people who do not have that, but certainly that does not change the fact that we have to look at all of the spheres of work, including the institution of Parliament so that we uphold these principles without discrimination, without any, sort of, due reference or status, that someone can be exonerated from these. These are principles that are binding on everyone.

I would respectfully submit that in our application of Section 11(2), we look at it in terms of the principle of non-discrimination.

MR. CHAIRMAN.- Thank you, Mr. Raj, for your answer. Because of time constraints, we will push on now to our second presenter and Ms. Bukalidi, the floor is yours. Thank you.

MS. S. BUKALIDI.- Mr. Chairman and Honourable Members of the Standing Committee on Foreign Affairs and Defence, before I begin the submission, I would like to acknowledge the input of the CSO actors as this is a joint submission - Ms. Maureen Penjueli from the Pacific Network on Globalisation (PANG); Ms. Emerlyn Siale Ilolahia from the Pacific Islands Association of Non-Governmental Organisations (PIANGO); Ms. Claire Slatter from the Nuclear Free and Independent Pacific (NFIP); and Professor Vijay Naidu from the Fiji Anti-Nuclear Group (FANG) .

On that note, we thank you for this opportunity to speak on Fiji’s ratification of the Treaty on the Prohibition of Nuclear Weapons. We speak on behalf of Fiji-based regional organisations and networks - PANG, PIANGO, Youngsolwara Pacific and in the presence of Fiji Anti-Nuclear Activists from decades earlier, who worked tirelessly for a nuclear free and independent Pacific. NFIP in the Fiji organisations ATOM (Against Testing on Moruroa) and FANG.

We acknowledge the many other organisations in Fiji that worked for a nuclear free and independent Pacific, such as women and student’s organisations, churches and faith groups. Unions and teachers associations and our leaders and friends, including those from abroad, who have worked tirelessly together in Fiji to lead us through this very long path that Fiji and other Pacific Island Countries where we protested often without success to stop the destructive human and environmental damage caused by nuclear weapons testing in the Pacific.

We also recall with pride the many NGO and Government leaders who have gone before us in Fiji and in other Pacific Island Countries, who acted tirelessly against nuclear testing. With sadness, we recall the many Pacific Islanders, our neighbours in the Pacific, who have suffered

illnesses, death, genetic damaged, intergenerational trauma and permanent loss of their homes and places of birth, due to the testing of these particular weapons of mass destruction -nuclear weapons.

In Fiji, a very active centre of the anti-nuclear movement, we were exposed to so much of a start of the anti-nuclear movement more than 40 years ago. We are, therefore, honoured to be here at this moment in 2020, to lend our support to this positive development.

Treaty on the Prohibition of Nuclear Weapons; we, as organisations and individuals, speaking from many who cannot be here strongly support Fiji's full ratification of the Treaty on the Prohibition of Nuclear Weapons. On the Treaty, compared to existing Nuclear Weapons Treaties, we understand that there are other treaties that exist rather, that addresses nuclear weapons. The Treaty on the Non-Proliferation of Nuclear Weapons 1968 which Fiji acceded to in 1972 and the Comprehensive Nuclear Test Ban Treaty 1966 which Fiji ratified in 1996.

We also know that Fiji played a leading role in developing regional nuclear disarmament platforms, working with all the Pacific countries in preparing and signing the South Pacific Nuclear Free Zone Treaty - the Rarotonga Treaty of 1985, which was a regional commitment to having the South Pacific nuclear free in terms of the manufacture, acquisition, possession or control of nuclear devices in the Pacific Region.

We supported that Treaty for the region, but it had many limitations, nor the least, in the lack of control of nuclear weapons in vessels in our oceans.

The difference with this Treaty; the Treaty of the Prohibition of Nuclear Weapons which was adopted on 7th July, 2017, goes much further than these existing Treaties and represents a shift in international thinking and action by majority of States and the United Nations, coming together with civil society to recognise and address the catastrophic impacts of any use of nuclear weapons.

The Treaty recognises that the planet and its people cannot survive any nuclear weapons conflict, limited or otherwise, and also no country can survive any use of a nuclear weapon or nuclear accidents.

Guided by the expert from humanitarian organisations, particularly the Red Cross and Red Crescent in 2010, a new analysis was presented, that there is no humanitarian response possible to any nuclear weapon detonation.

Facts - Nuclear Weapons now; the world has approximately 14,000 nuclear weapons held by just nine countries, the nuclear-armed States. After careful consideration over many years, many States hearing evidence and reports from scientists, philosophers, the medical profession, civil society and the experienced reports of key humanitarian organisations, particularly the International Red Cross and Red Crescent Society concluded that no nation can survive the impacts of nuclear weapons.

After also hearing the testimonies of Hibakusha, the survivors of the atomic bombs dropped on Hiroshima and Nagasaki in 1945 and evidence from nuclear testing victims, including from the Pacific, the majority of the world States have concluded that there is no response. I reiterate, no

response possible that can handle any use of nuclear weapons in conflict or accidentally, and these weapons need to be banned.

Humanitarian organisations and other partners, including scientists and NGOs, such as International Physicians for the Prevention of Nuclear War, have shifted the nuclear weapons debate. Now, majority of the world States have worked towards the elimination of nuclear weapons.

Deterrence; the idea that States can hold nuclear weapons and threaten to use them and that nuclear weapons protect the world is no longer acceptable, because it is clear that nuclear weapons can destroy the planet and all humanity on it.

Medical assistance, healthcare, road transport and infrastructure cannot provide adequate assistance, if a nuclear weapon is detonated. Even the most developed countries cannot provide humanitarian assistance to adequately respond to help their people.

Studies show that no State or City in Europe, for example, can handle a nuclear detonation. Nuclear weapons fall out, if large enough, can also cause a nuclear winter or blackout circle the earth and covering the sun, ending agriculture and food production and causing many deaths from famine.

Many Fijians have suffered directly as a result of nuclear testing. Between 1957 and 1958, 276 Fijian soldiers and sailors participated in the 9th British Nuclear Test conducted at Melbourne and Kiritimati or Christmas Island, now part of the Republic of Kiribati. The health of test veterans and civilian survivors and that of their descendants was adversely affected from exposure to ionizing radiation, independent medical researches supports this conclusion. All these considerations have led the majority of States to support the humanitarian initiative and through many steps, a majority step for this Treaty on the prohibition of nuclear weapons.

The Treaty on the Prohibition of Nuclear Weapons represents a breakthrough Treaty. In that, on humanitarian grounds, a 122 countries voted on 7th July, 2017 for the adoption of this Treaty.

Fiji ratifications are needed to bring the Treaty into force, and 12 to 13 more ratifications are needed. We hope Fiji will be one of those in 2020.

With that, I will allow my learned colleague, Professor Vijay Naidu, to continue with the second part of our submission.

MR. CHAIRMAN.- Thank you, Ma'am. Sir, the floor is yours.

PROFESSOR V. NAIDU.- Thank you, Mr. Chairman and Honourable Members of the Standing Committee on Foreign Affairs and Defence of the Parliament of the Republic of Fiji.

We applaud Fiji's role in supporting and helping bring this historic Treaty into existence. We urge Fiji to speedily ratify the Treaty.

Fiji voted for the adoption of this Treaty on 7th July, 2017, one of the nine Pacific States present, making this historic Treaty a reality. Mr. Chairman, 122 countries voted for adoption of the Treaty, Fiji signed the Treaty on 20th September, 2017, one of the first countries to do so. Now,

Fiji must ratify this Treaty, and we support Fiji's ratification in this submission today as speedily as possible.

Why we support the Treaty on the Prohibition of Nuclear Weapons? The strengths of the Treaty are:

1. Under International and Humanitarian Law, nuclear weapons, the most destructive weapons of mass destruction ever invented by human beings are banned on humanitarian grounds.
2. The Treaty protects the security of the planet in human life.
3. Majority of the world countries working with civil society organisations have brought about a shift in international thinking and law on nuclear weapons. Nuclear weapons are now seen for their annihilating impacts on human beings and the planet, and not as defence weapons where nine nuclear-armed States can hold the fate of humanity and the planet in their hands.

The list of prohibitions in the Treaty is comprehensive, and it is illegal to process, develop, produce, acquire and process stockpile, use or threaten to use nuclear weapons.

MR. CHAIRMAN.- Sir, because of time constraints, I would like you now to proceed with the two Protocols on International Labour Organisation. Thank you.

PROFESSOR V. NAIDU.- Mr. Chairman, we do not have a submission on the two Protocols.

MR. CHAIRMAN.- Perhaps, because of the time constraint, if you do not mind, I can ask you to leave hard copies of your submission behind for the Committee.

At this juncture, I will ask Honourable Members, if you have any questions for PANG?

Since there are no questions, we will go straight on to Reverend James Bhagwan. Thank you, Sir.

REV. J. BHAGWAN.- Mr. Chairman and Honourable Members of the Standing Committee on Foreign Affairs and Defence of the Parliament of the Republic of Fiji, I bring you warm greetings from our Moderator and Deputy Moderator of the Pacific Conference of Churches (PCC), fellowship of over 30 Churches and nine National Councils of Churches from 15 Pacific Island Countries and Territories which represent approximately 80 percent of the Pacific population.

I am joined this morning by Ms. Jennifer Philpot Nissen from the World Council of Churches Commission of Churches on International Affairs and Mr. John Cooper from the Methodist Church in the United Kingdom (UK).

Mr. Chairman, may I begin by expressing *Vinaka vakalevu* to the Fijian Government and the Parliament of the Republic of Fiji for the intention to ratify the Treaty for the Prohibition of Nuclear Weapons. We acknowledge that Fiji has been consistent in its commitment to nuclear disarmament and has already signed the TPMW.

Our further thanks for allowing the PCC and our colleague from the World Council of Churches to address this Committee and we also acknowledge the pioneers of the Nuclear-Free Pacific and Fiji and its nuclear group, who we have already heard their voices this morning.

Mr. Chairman, PCC has been calling for a total ban on nuclear weapons since 1975 and has consistently advocated for this, most recently at its 11th General Assembly in 2018.

The spectre of nuclear weapons brought a shadow to our Region since the first atomic bombs were dropped on Hiroshima and Nagasaki during the Pacific War or the Pacific Campaign of the Second World War. Since then, the people and environment of the Pacific have suffered as guinea pigs for the proliferation of nuclear weapons.

These experiments, designed to secure world domination, were undertaken by the United States of America (USA), which held 109 tests in the Marshall Islands, Kiribati, Johnson Atoll and Alaska and in the open ocean; the United Kingdom (UK) of Great Britain which held 21 tests in Australia and Kiribati; and France which held 340 tests in Maohi Nui in French Polynesia.

To put the impact of these tests in scale, the uranium fuel atom bomb dropped on Hiroshima had the blast equal to 12,000 tonnes to 15,000 tonnes of TNT, destroying five square miles of the city. Subsequent tests in the Pacific in the 50 years following the end of World War II from 1946 to 1996 by the US, UK and France, is the equivalent to 9,010 Hiroshima bombs, or between 108 to 135 kilotonnes. That is 108,000 tonnes to 135,000 tonnes of TNT.

According to 2017 Nobel Peace Prize Recipient, International Campaign to Abolish Nuclear Weapons (ICAN), which has made a written submission to this Standing Committee, nine countries together possess around 15,000 nuclear weapons. Most are many times more powerful than the atomic bombs dropped in 1945, and a single nuclear warhead detonated on a large city can kill millions with the impact persisting for decades.

Their impact on a fragile economy of our region and the health and mental well-being of its people have been profound and long lasting. Pacific Islanders continue to experience epidemics of cancers, chronic diseases and congenital abnormalities as a result of the radioactive fallout that blanketed their homes and the vast Pacific Ocean upon which they depend for their livelihoods.

Despite being the most destructive inhumane weapons ever invented, the nuclear weapons are the only mass weapons of destruction that are not banned, yet under international law; chemical and biological weapons are both banned internationally. Who controls nuclear weapons is of no consequence. They are no good for the Pacific and they are no good for the world.

Today, portions of the Pacific stretching from Enewetak in the North to Kiritimati in the Central Region and Moruroa in the East, remain not only uninhabitable, but gradually leak toxic effluent into an ocean which is the food source of this Region and the fishing ground of the world.

Today, three quarters of a century after the Bikini Atoll test by the United States, the people of that once beautiful coral paradise, remain displaced or physically scarred. Servicemen from Fiji, New Zealand and the UK and their descendants, battle the illnesses caused by exposure to radiation from hydrogen bomb tests from 1957 to 1958.

In Maohi Nui, French Polynesia, a quarter of a century after France terminated its nuclear testing programme, the people continue to cry for justice, for compensation and medical treatment, as waste slowly but surely leeches into the sea. Currently, Mr. Chairman, there are strong indications of an imminent collapse of the Morurua Atoll, which will cause the remaining radioactive substances from the tests undertaken by France to spill into our Pacific Ocean.

Mr. Chairman and Honourable Members, I urge this Committee to hear the cries of our communities, who struggle to sing the Lord's song as songs of freedom and justice in their own land. These cries in the Pacific are not only for the people, but for the land and sea of which we, the Pacific people, are a part.

The Pacific Conference of Churches notes with sadness and indignation that:

- there has been, as yet, no just reparation or compensation for the loss of land, life and for severe illnesses and deformities caused by the nuclear tests in Maohi Nui.

- the untold physical harm and sickness and the displacement, in some cases, for 50 years of the people and atolls of the Northern Pacific by the USA without any consultation, explanation or reparation; and

- failure of UK to act justly towards the soldiers and sailors of its former Pacific colonies, who took part in nuclear and hydrogen bomb testing in the waters of present-day Kiribati in 1957 and 1958. Many of those men and their descendants have been diseased or debilitated due to the effects of testing.

Mr. Chairman, we firmly believe that God created the world in which we live as a means to sustain humankind and to provide life through water, air, food and shelter and today, we renew that call. The world must end any possibility of a nuclear war, and there must be no chance of even one weapon being ever detonated again. The Pacific must have justice and reparation for its forced role in nuclear testing, and that justice must take place now.

As we have heard, Mr. Chairman and Honourable Members of the Standing Committee, only 50 States are required to make the Treaty on the Prohibition of Nuclear Weapons legally binding. I understand 35 countries have ratified this Treaty so far. So in the name of peace, justice and abundant life, please take this small step for Fiji and a giant step closer to a world without nuclear weapons.

I give the rest of my time to my colleague from the World Council of Churches. God Bless you all.

MS. J. PHILPT-NISCEN.- Honourable Chairperson and Honourable Members of the Standing Committee on Foreign Affairs and Defence and the Parliament of Fiji, I thank you for the

invitation to address this distinguished body, and I bring you warm ecumenical greetings from the World Council of Churches.

We are a global organisation established at the end of the Second World War which brings together churches, denominations and church fellowships in more than 110 countries and territories throughout the world, now representing over half a billion Christians.

Our Commission of the Churches on International Affairs which met last month in Brisbane advises the Council and advocates on a wide range of issues of international concern. We support the engagement of Churches around the world with mechanisms of the UN, particularly the human rights system, and we encourage Churches and their partners to ensure that the full range of voices of their constituents are heard, right down to the smallest child.

We have advocated for a ban on the development, production, testing and use of nuclear weapons since the first weapons were used over Hiroshima and Nagasaki in 1945. We are working with civil society partners, particularly through ICAN and with Government to move nuclear weapons from being used simply as a military and security issue, to a cross-cutting issue that engages commitments to environmental protection, health and human rights.

We continue to support the voices of our partners in the Pacific, as we call for justice for violation of these commitments, as outlined by Reverend Bhagwan in his presentation.

As I speak, I should have been nearing the end of a weeklong visit to Christmas Island with a small Ecumenical Delegation, including Church leaders and partners from the UK. The disruption caused by the *coronavirus* regrettably meant that this was not possible at this time.

Our ambitions which we hope to fulfil at a later date, were to meet survivors of nuclear testing and their descendants, and to visit the test sites and to have a better understanding of the realities that the Island continues to face as a consequence of nuclear weapons test carried out in their territory by the UK.

While the Hibakusha of Japan, the survivors of Hiroshima and Nagasaki, are often at the centre of moral discourse about nuclear weapons, the victims of nuclear testing in the Pacific are often marginalised and the consequences of the testing in the Region have largely remained visible and unaddressed by the wider world.

As Reverend Bhagwan has outlined victims and their descendants continue to suffer from the impacts upon their health, the degradation of the environment and pollution of their waters. Very few people have received compensation or adequate assistance for the consequences they have suffered.

The purpose of our visit was, and we hope will still be, to raise awareness, particularly in the UK, of the ongoing impacts of the nuclear testing, coupled with the effects of climate change and to demonstrate solidarity with the citizens of Kiribati. We hope to lift up related situations in the region, particularly the Marshall Islands and Maohi Nui through similar visits later on.

We have seen the strong leadership which Fiji has demonstrated in the Region and at the international level regarding the climate emergency. We look to Fiji to also provide leadership in the Region and at the global level for the Treaty on the Prohibition of Nuclear Weapons.

Five States in this Region have now ratified the Treaty, including Kiribati, and we very much welcome the stated intention of the Government of Fiji and the Parliament of Fiji to ratify the Treaty. It was also bringing the Treaty one step closer to the 50 ratifications needed for it to enter into force, the ratification by Fiji would send a strong message of encouragement to the other States in the region, some of which have also signed but not yet ratified, the importance of taking this critical step.

At the international level, working through ICAN we have, since 2017, ensured that for every State coming before the UN Human Rights Council's Universal Periodic Review (UPR) mechanism, a short stakeholder report is submitted, encouraging that State to sign and ratify the Treaty. This strategy has resulted in 16 States receiving such a recommendation from the Solomon-friendly States in the Human Rights Council.

Even where the recommendation has been rejected by the States under review, this rejection has sometimes been questioned by some of their own Parliament. In Switzerland, for example, the Parliament continues to call upon its Government to ratify the Treaty, despite rejecting the recommendation in the UPR.

We would, therefore, in addition to playing a regional leadership role, invite Fiji to use its voice in the United Nations system, to call upon other States to take the necessary measures towards a total global ban on nuclear weapons and to make the world a safer place for all of us. *Vinaka vakalevu.*

MR. CHAIRMAN.- Thank you Madam Jennifer for your contribution. Honourable Members do you have any questions?

HON. M.R. LEAWARE.- Through you, Mr. Chairman, I thank Reverend Bhagwan for his presentation this morning. You mentioned something about compensation in terms of the nuclear tests that had been conducted by the British Government and the US Government.

What do you think, will this Treaty accommodate those victims who had gone through the testing, especially our Pacific people? Does this Treaty (TPNW) also accommodate those victims who had been subjected to those testings before?

REV. J. BHAGWAN.- Mr. Chairman, through you, may I respond to the question. I think you will see in the written submission from ICAN that has been submitted, that that would be the case. This is one of the strongest opportunities we have.

There have been, as you know, not only in Fiji but also with the case of Maohi Niu in the testing at Mururoa, many unsuccessful cases for reparations, the process is also often slowed down and dragged out, so by the time that things are even approved, those people who have asked for reparations or even for medical services have died. This is a very important step in that process. *Vinaka* Mr. Chairman.

HON. LT. COL. P. TIKODUADUA.- Sorry, Mr. Chairman, this is a very quick one. Maybe generally to everyone, this is similar to the question that Honourable Leawere has raised.

We thank the Government previously that has compensated to a certain end, however, small our soldiers who went there and to witness the test. Is there something perhaps, your Societies could do, in relation with Parliament on how to better what has already been given to the soldiers who went there to witness these tests in addition to what Government has already given?

Rightfully as you have said, many of them have died and these are really slow and it is not adequate. I, for one, was very active to get this compensation and that is quite small, and this can only be pushed really by civil society through Parliament, maybe that is something that we could do together.

REV. J. BHAGWAN.- Thank you Mr. Chairman, again, through you, I will respond. I think this will be a very important stage once Fiji has ratified, that civil society can discuss and look to see how we can make representation to Parliament on that. And I think that is another area for the civil society to work together on and I will leave it to my colleagues to add to that.

But beyond, as we say, the test victims, those who were either taken to witness something that they really did not know, they were following orders, and those in the region that have been in areas where the tests were held. It is not only about those people, it is about their descendants as well because there is documented evidence of the nuclear or radiation going through into the genetics and into first, second generation after that. Even if the people or victims have passed on, their families continue to be affected by this tests. *Vinaka*.

HON. S. ADIMAITOGA.- Thank you Mr. Chairman, through you, Reverend Bhagwan, we are all talking about banning nuclear weapons to be active on our shores. Why do we not have our voices heard in the world for them if they want to test nuclear weapons, why do they not test it in their own areas, because I believe that Fiji is suffering, all the Pacific Islanders are suffering. Why do we not make our voices heard to the world that they test the nuclear weapons in their own areas instead of our area. Thank you.

REV. J. BHAGWAN.- Thank you, Mr. Chairman, if I respond through you; our elders who are here have chanted since the 1960s and 1970s if it is safe to test, tested in Paris, tested in London and tested in the United States of America (USA). I remember growing up and hearing that chant that was shared from them, so this is something that Fiji and the Pacific has consistently called for, but this ban would make tests obsolete because it is a total ban on nuclear weapons.

We also remember that at this stage, there is a digital warfare going on. The weapons are not even being used and there are other things that can cause much more danger to our societies in terms of what is being used at the moment, the hacking and things like that. So not even a purpose for these weapons anymore but they are a serious threat to our world and to our planet, humans and creation. *Vinaka*.

MR. CHAIRMAN.- Professor Naidu?

PROFESSOR V. NAIDU.- Mr. Chairman, through you, I wanted to make a couple of interventions. Firstly, I would like to support the commentary by the Director of the Human Rights and Anti-Discrimination Commission regarding the two Treaties and Protocol.

Secondly, with respect to the question put by Honourable Pio Tikoduadua, I absolutely agree with him about the need to look at the cases of those who were exposed to the nuclear radiation at the time of the British testing, as well as everyone else who were implicated. But for our country, it was a tremendous symbolic gesture for the Government to actually compensate, honestly, the people who suffered.

While that gesture was widely publicised, unfortunately, it did not embarrass the British Government to come to the party and make the necessary compensation, so that is an unfinished business that we need to take up. But I want to make the point that a number of people who were involved have died, have diminished to a point where there are probably only a handful left and, therefore, this is a matter that requires compassion and something that, as Reverend Bhagwan said, “we can all work together to actually remedy”. Thank you, Mr. Chairman.

MR. CHAIRMAN.- Thank you, Professor Naidu. Honourable Members and delegation, time is against us.

I take this opportunity to thank you once again for your individual contributions. Should there be any other questions, we ask that you will avail yourself to provide us with those answers. Thank you once again and I now close this session.

The Committee interview adjourned at 10.38 a.m.

The Committee resumed at 10.55 a.m.

Interviewee/Submittee: Ministry for Industry, Trade, and Tourism

University of the South Pacific (USP)

Professor Shaista Shameem

Fijian Teachers Association

In Attendance:

Ministry of Industry, Trade and Tourism

1. Mr. Shaheen Ali - Permanent Secretary
2. Mr. Faizal - Director Trade and Micro Small and Medium Enterprises

University of the South Pacific

1. Professor Jito Vanualailai - Acting Deputy Vice-Chancellor

2. Professor Anand Chand
3. Dr. Sandra Tarte - Associate Professor
4. Dr. Roman Chute

Professor Shaista Shameem

Fijian Teachers Association

1. Mr. Paula Manumanunitoga - General Secretary
2. Mr. Netani Cavu
3. Mrs. Susana Tuisawau

MR. CHAIRMAN.- I welcome the members of the public and the media to today's Committee Meeting and the livestream submission, and also those who are watching via the Parliament Channel, the Walesi platform and Facebook on the three Treaties before this Committee. I take this opportunity to also welcome the Officials and delegations this morning from the University of the South Pacific, the Fijian Teachers Association, Professor Shaista Shameem, and the Ministry of Industry, Trade and Tourism.

Please, be advised that this Meeting is open to the public and media and any sensitive information concerning the inquiry that cannot be disclosed in public, can be provided to the Committee either in private or in writing.

At the outset, I just wish to quickly introduce the Honourable Members of the Committee.

(Introduction of Committee Members and Secretariat)

With those few words, I now invite the Permanent Secretary for the Ministry of Industry, Trade and Tourism to start on his submission. Thank you.

MR. S. ALI.- Thank you, Mr. Chairman and Honourable Committee Members, for giving me this opportunity.

As you rightly said, I represent the Ministry of Industry, Trade and Tourism. With me today is the Director Trade and Director Micro Small and Medium Enterprises, Faizal. I would like to wish all the Committee Members a happy belated International Women's Day.

Your Committee, I understand, has received a number of submissions from line Ministries and Civil Society Organisations, very eloquent and articulate ones, some of which I will say would be repeated information, so I will keep my presentation very brief also.

On ILO Protocol of 2002, Mr. Chairman, this is important as far as industry and trade and private sector development is concerned, because ILO estimates that approximately 2.3 million people around the world die from work-related accidents or diseases each year. This means that everyday, there are thousands of deaths and millions of occupational accidents and work-related illnesses reported annually.

Fiji would be one of the 69th countries that would have ratified the 1981 Convention. We showed our commitment to this ILO Convention to improve occupational health and safety, to ensure that we all are singularly geared towards a brighter future for all Fijians, whether they are workers, employers or members of the public.

Hence, we very strongly concur with the aim of the Protocol, which is to prevent accidents, injury to health arising out of and link to, or occurring in the cause of work. This can be only achieved by minimising practicable causes of hazards inherent to the working environment.

Mr. Chairman, health and safety of all workers is of primary importance to us. It also gives investor confidence, both domestic and foreign. It demonstrates that the country is committed to its people's well-being and it also alludes to the fact that Fiji is focused on targeting responsible investors, who are mindful of their workers' needs and welfare.

As per our Ministry's mandate, we work towards establishing policy initiatives of the Fijian Government that encourages private sector development, and these initiatives continue to strengthen our position as a vibrant, dynamic and internationally competitive economy which serves as a hub for the region.

We acknowledge that the human resource is very important for economic development, and it is at the core of businesses and organisations. And this ILO Protocol will impact all the businesses, whether they are large, medium or small.

Once implemented, the benefits of the Protocol are many. It promotes safer working environment, it enhances productivity which is very important, and it presents a safe working environment which will boost staff morale.

This will not only benefit workers, it will benefit businesses, it will lead to cost savings, reduction of sick leaves taken and workers will report to work more regularly. This will lead to higher productivity, as I mentioned, at a lower cost.

In terms of organisational level, the Convention is also applicable to all workplaces, including my Ministry, and we are working towards creating an environment and situation that is improved, to ensure a safer and healthier work environment, thus positively impacting in the efficient delivery of our Government services to all Fijians.

The Protocol will require a State Party to formulate, implement and review coherent national policy on OHS and working environment. So, the basis for this is already there, Mr. Chairman, the Fijian Occupational Health and Safety Act provides for relevant procedures, notifications of occupational accidents and disease. We know that there are additional requirements here, requirements for national urgency for OHS. The Ministry of Employment to produce annual statistics on occupational accidents, diseases and produce reports thereof.

Mr. Chairman and Honourable Members of the Committee, we support the ratification of this Protocol as it will compliment and strengthen our national legislation and regulations on OHS.

Moving on to the ILO Convention on Violence and Harassment of 2019, this is another important subject matter, not directly related to my Ministry, however, we are a very concerned party. This Treaty sets, Mr. Chairman, as you would have heard, international standards that did not exist before, specifically addressing violence and harassment in the world of work.

The new ILO Convention, of course, attends the right to freedom from violence and harassment in the workplace. It provides for an integrated, inclusive and gender responsive approach for the prevention and elimination of violence and harassment in the world of work.

The Convention defines violence and harassment very broadly as a range of unacceptable behaviours, practices that result in physical, psychological, sexual or economic harm, and this includes, gender-based violence and harassment. Of course, these principles are enshrined in the Fijian Constitution with regards to principles of equality and non-violence, and also non-discrimination.

These principles are further taken into the policies and initiatives of the Fijian Government to create a robust resilient economy and, Mr. Chairman, this is mentioned in the 5 Year and 20 Year National Development Plan (NDP), which specifically provides for inclusion of women in the development and growth of regional and maritime areas, and supporting the grassroots communities.

Mr. Chairman, the NDP is further taken forward, as you would have heard, the National Gender Policy which was developed in 2014 and there are various different legislations that provide for the protection of women's rights and gives them equal rights in society and the workplace. Some of these are the Family Law Act 2003, Employee Relations Act 2007, Crimes Act, Criminal Procedure Act, Domestic Violence Act and its Amendment in 2012.

We have taken a number of programmes in my own Ministry, Mr. Chairman, to economically empower women through various programmes and initiatives, including the Micro Small Business Grant (MSBG) and through Cooperatives and other grassroots programmes.

Even the tourism industry, Mr. Chairman, there are more women than men employees, so by ratifying this ILO Convention, Fiji is reaffirming its commitment to eliminating violence and harassment of all forms whether at home or at work. In our own Ministry, Mr. Chairman, some of the initiatives that we have implemented, like the Family Care Leave, Paternity Leave, extended Maternity Leave and the Ministry is part of the pilot programme through the Ministry of Economy on Gender Responsive Budgeting, currently undertaken with the help of the Asian Development Bank (ADB).

We acknowledge, Mr. Chairman, that there may be resource constraints that may impede implementation. Implementation is very important, however, there is commitment to allocate resources through various budgets as we have seen through the Ministry of Economy, to combat violence and harassment.

Through the ratification of the Treaty, the aim is to further strengthen our laws and policies, address gaps where there are gaps to prevent and protect people from violence and harassment, and to provide enforcement mechanisms and remedies for victims, including compensation.

Employers also have a responsibility, Mr. Chairman. They need to have workplace policies addressing violence and harassment, appropriate risk assessments also, prevention measures and training.

Employers should also responsibly address violence and harassment in their Occupational Health and Safety Management. For this, Mr. Chairman, we are willing to partner with Ministry of Employment and private sector organisations, for example, the Fiji Council of Employers Federation (FCEF), to create awareness and dialogue on this topic.

Mr. Chairman, Honourable Members of the Standing Committee, by ratifying this ILO Convention on Violence and Harassment 2019, we are giving strong signals to our international investors that Fiji is committed to gender equality, is committed to eliminating all forms of violence and harassment.

Mr. Chairman, the third Treaty - the Prohibition of Nuclear Weapons, a lot has been said by much more qualified individuals than I am. As far as the Ministry of Industry, Trade and Tourism is concerned, this is also welcomed. The ratification of this Treaty will add to the various Treaties that we have ratified, and this has been listed.

Of course, this Treaty was adopted in 2017. State Parties will be obliged to prevent and suppress any activity prohibited under the Treaty undertaken by persons or territory under its jurisdiction or control regarding nuclear weapons. Of course, we can play our part, as far as stopping trade is concerned, and when there are no buyers, there will be less incentives to produce this.

To date, 81 States have signed and 35 members of the UN have ratified the Treaty on the Prohibition of Nuclear Weapons. Of course, the Treaty will come into effect after the 50th ratification and we encourage all Pacific Island Countries that have not ratified, to ratify this.

Nuclear weapons have serious human consequences, Mr. Chairman. This Treaty is an important step in our collective endeavour towards a complete nuclear disarmament.

The Treaty also obliges State Parties to provide adequate assistance to individuals affected by the use of nuclear weapons testing, as well as take necessary and appropriate measures of environmental remedies in areas under jurisdiction of control that was contaminated as a result of activities relating to the testing or the use of nuclear weapons. And, Mr. Chairman, this is very relevant to our region.

The Committee would note, post-World War II, the Pacific Region has been subjected to more than 315 nuclear tests across the Region between 1946 and 1996 and countries like USA, UK and France have been responsible for these. This Treaty may not do much but it may offer some avenues for redress to the very complex issues of compensation to the affected people of the Pacific and rehabilitating the affected areas.

Mr. Chairman, the Pacific Island Countries, also in 1985, resolved to keep Pacific free of nuclear weapons under the Rarotonga Treaty, nothing less than a complete prohibition of nuclear weapons. And the trade of such weapons and concrete steps to provide effective redress for those who suffer the effects the nuclear testing is acceptable.

By ratifying the Treaty, Fiji will show leadership in eliminating and prohibiting the use of trade of nuclear weapons. We do not want to witness again the catastrophic long-lasting consequences that nuclear weapon can have on human health, on the environment, on climate, on food production and on socio-economic development, and parts of our Region have already witnessed detrimental effects first-hand.

Mr. Chairman, through this Treaty, we must move towards complete nuclear disarmament and prohibit all use and development of test of nuclear weapons.

Mr. Chairman and Honourable Members of the Standing Committee, I thank you for allowing me this opportunity to present on behalf of the Ministry. We, of course, fully support the ratification of the Treaty on the Prohibition of Nuclear Weapons. Thank you, Mr. Chairman.

MR. CHAIRMAN.- Thank you, Permanent Secretary for your contribution. Honourable Members, do you have any questions for the Permanent Secretary?

HON. M.R. LEAWERE.- Thank you. Through you, Mr. Chairman, just a question in terms of Convention 190 where it articulated the workplace, pays for the workers and also in terms of defining whatever is covered in the Convention, such as physical abuse, verbal abuse and bullying.

In respect of bullying in schools because it is a place of work and when bullying is conducted in the school premises, in your view will that also be included in Convention 190?

MR. S. ALI.- Thank you, Mr. Chairman. I think that is a very topical point that was raised by the Honourable Member. The first step is to ratify the International Convention on Violence and Harassment because wherever there is a conflict between domestic law and international treaty, international treaty prevails. So this is a very strong signal that we are taking on violence and harassment in our workplace.

Workplace is defined very, very broadly and it is more tied to the welfare of individuals, of workers, and with my non-expert opinion, bullying is very much tied to this type of harassment and violence. And not just limited to physical space but also to online cyber bullying.

There are other laws and legislations that can look at this matter holistically, Mr. Chairman, but I feel that the ratification of this Convention is a strong signal towards combating these types of behaviour, whether it is in the workplace or in our schools.

MR. CHAIRMAN.- Thank you, Permanent Secretary. We will now give the floor to Professor Jito Vanualailai. The floor is yours, Sir.

PROFESSOR J. VANUALAILAI.- Mr. Chairman and Honourable Members of the Committee, on behalf of the Vice-Chancellor of the University of the South Pacific, Professor Pal Ahluwalia,

who unfortunately, cannot attend today's meeting as he has to go to the United States of America to attend his sick brother, has given his sincere apology.

Mr. Chairman, I, Jito Vanualailai, the Acting Deputy Vice-Chancellor would like to sincerely thank you and the Committee for providing us this opportunity to talk about these three Treaties. I am proud to say that I have with me three of my best Researches at the University of the South Pacific - Associate Professor Sandra Tarte, who will talk on the Treaty on the Prohibition of Nuclear Weapons; followed by Professor Anand Chand, who will talk on the International Labour Organisation Violence and Harassment Convention 2019; and Dr. Roman Chute, who will talk on the International Labour Organisation Protocol of 2002 to the Occupational Safety and Health Convention 1981.

Without further ado, I call upon my colleague to provide the University's perspective.

MR. CHAIRMAN.- Sir, you can take the microphone that is on your left and they can just interchange there. Thank you.

PROFESSOR J. VANUALAILAI.- In general, the University supports the ratification of the three Treaties and my colleague will provide the rationale behind those. Thank you.

MR. CHAIRMAN.- Just to the essence of time, we would just like to have your overview on the three subject matters. Thank you, Madam, the floor is yours.

PROFESSOR S. TARTE.- Thank you, Mr. Chairman and Honourable Members of the Standing Committee. I will be speaking on the Treaty on the Prohibition of Nuclear Weapons and I would like to highlight four key reasons why Fiji should ratify this Treaty.

The first reason, as contribution to global nuclear disarmament. This reason relates to the ongoing paralysis of the Nuclear Non-Proliferation Treaty regime. Nuclear Weapons States are not meeting their obligations under Article 6 of the NPT to make meaningful moves towards nuclear disarmament. On the contrary, Nuclear Weapons States are modernising their nuclear arsenals.

Also, there are a number of States in the Asia-Pacific that are starting to contemplate developing nuclear weapons, given there are uncertainties in the global order. There were currently no global disarmament negotiations being conducted by Nuclear Weapons States.

This Treaty sends a strong message reminding Nuclear Weapons States of their obligations. Once it is entered into force, the Treaty can be used to pressure Nuclear Weapons States, highlighting that they are in breach of international law. It would give pause to those considering acquiring nuclear weapons.

This Treaty does not undercut or clash with the NPT, as some opponents have suggested. Indeed, it is needed to give some impetus to the NPT.

The second reason relates to assistance clauses for nuclear survivors. The Treaty on the Prohibition of Nuclear Weapons is unprecedented in its inclusion of the obligations on Member States to assist nuclear survivors. This is something the Pacific, including civil society, has not been in the favour of. It obligates State Parties to assist nuclear survivors. Fiji, like other Pacific

Island States, has nuclear survivors, so this is a domestic constituency here that is directly affected.

The Fiji Government has already taken steps to compensate surviving veterans of the Fijian soldiers who were sent to Christmas Island as part of the British Nuclear Test Programme. Fiji can work with other State Parties to step up international support and assistance for all these veterans.

There is perhaps, no need to remind ourselves that the Pacific has endured more than 300 nuclear tests. This nuclear legacy remains a high priority for a number of countries in the Region, and as a key security concern, as evident in the Pacific Islands Forum Communiqués of 2018 and 2019.

The third reason relates to Fiji's role as a good international citizen. It could be argued that Fiji, as an influential Pacific Island State, that is playing a leading role in the Region and at the UN, has a responsibility to ratify this Treaty, and to join other countries, large and small, who have already ratified.

The New Zealand Government, under Prime Minister Arden, has come up strongly and supported this Treaty, as have a number of our Pacific neighbours. It is time to join the regional consensus.

As mentioned earlier, this will send a strong message to those who remain opposed to the Treaty. It should be remembered that Fiji has a proud history of advancing the cause of nuclear disarmament, it was at the forefront of regional diplomacy in developing the Treaty of Rarotonga and it was the first State to ratify the comprehensive Test-Ban Treaty.

The Treaty on the Prohibition of Nuclear Weapons clearly aligns with the Fiji Government's earned position, as the Prime Minister declared in 2015, and I quote:

“The spread of nuclear weapons is a form of madness. That is why Fiji will always be on the side of those nations pressing for the dismantling of the world's nuclear arsenals.”

Ratifying this Treaty has another opportunity for Fiji and the Region to advance an influence to the global nuclear non-proliferation agenda.

The fourth and final reason, Mr. Chairman, are the humanitarian objectives. As organisations, like the Internal Committee of the Red Cross have argued, there is a humanitarian imperative to eradicate nuclear weapons. The long term health effects and environmental impacts of nuclear tests have been well documented, including the impact of nuclear reactive disasters, such as Chernobyl and Fukushima. As one of the experts has argued, “The suffering caused by nuclear explosions worldwide demands justice for the survivors, and demands that nuclear weapons claim no more victims.”

Nuclear weapons continue to pose an existential threat to all humanity. There are about 15,000 nuclear weapons still in the world today. A nuclear war of any sort would be a humanitarian catastrophe. This is another reason the Treaty on the Prohibition of Nuclear Weapons is needed and why Fiji should ratify it. Thank you.

MR. CHAIRMAN.- Thank you Doctor Tarte. May we have your next presenter, please. Thank you.

PROFESSOR A. CHAND.- Mr. Chairman and Honourable Members, I will present on the ILO Convention 190 on Violence and Harassment. Our position is that, it needs to be ratified and it is important, and I will just underline some of the reasons for doing this.

The ILO Convention on Violence and Harassment was adopted in 2019 and it will come in force on 1st June, 2020, in other words, three months' time.

We have a number of labour legislations or Employment Relations Legislation. Our existing one is the Employment Relations Act 2007 and it already provides some of the provisions for the protection against violence and harassment. For example, Part 9 of the Employment Relations Act provides for Equal Employment Opportunities (EEO) and it is Part 9 - section 75 and it talks about prohibition of discrimination clause and deals with sexual harassment and section 77 protects workers from discrimination in employment matters. The legislation largely protects people at the workplace, not outside, just for your information.

Part 10 of the Employment Relations Act 2007- section 91 deals with Prohibition of All Forms of Child Labour and the Employment Relations Act is very strong on that. So, it actually has some clauses already there, so ratification of Convention 190 will go hand in hand in support or complement each other.

Part 11 of our Employment Relations Act deals with Rights of Women on Maternity Leave and there are employers in Fiji who are not paying maternity leave or they terminate workers. So it is important that this particular right is accorded to them.

We also have a National Policy on Sexual Harassment and other policies for violence, et cetera, and this legislation brings it altogether, consolidates it. So, therefore, it is important that we should go ahead.

Mr. Chairman, for our own information, Fiji has ratified eight ILO Conventions, starting from Convention No. 78, et cetera. So, each member country that will ratify should respect and promote the rights of everyone, including women, free from violence and harassments, workers must have a right at the workplace to raise their concerns on employment-related issues and other issues at workplace, and there should internal committees within organisations that are doing this. So, this Convention will protect and further supplement the existing legislation.

We are suggesting that Fiji should be one of the leaders and one of the first countries to ratify and show the other parts of world that we are willing to accept this, especially the developed countries, who may not sign this Convention. So, it is important that we do ratify.

Mr. Chairman, I strongly recommend that this legislation will make us much better, perform at the workplace, guards the rights of the workers, the employees' rights, HR issues, et cetera. However, there may be some implications that if we adopt this Convention, we may have to harmonise it with our existing labour legislation and that should not be a difficulty. It is fairly easy because we have the Employment Relations Act, which is a very progressive legislation, compared to the legislation of our neighbouring countries, Australia and New Zealand, who are

more conservative. Ours is much better and I think we should take this opportunity, the Government, to ratify the ILO Convention 190. Thank you.

MR. CHAIRMAN.- Thank you, Professor Chand. Now, I call on the third speaker.

PROFESSOR J. VANUALAILAI.- The third speaker is Dr. Roman Chute.

MR. DR. R.CHUTE.- *Bula Sia*, and a very good morning, Mr. Chairman, and Honourable Members of the Committee. I rise to share a few words on the ILO Protocol of 2002 - Occupation Health and Safety Convention 1981. From the onset, the University of the South Pacific supports Fiji's ratification of the ILO Protocol of 2002 to the Occupational Safety and Health Convention 1981. The ratification of this Protocol will further strengthen and complement Fiji's existing national laws and policies. Some of which are the:

- ☐ Health and Safety at Work Act 1996;
- ☐ Employment Relations Act 2007;
- ☐ Health and Safety at Work Act (Control of Hazardous Substances) Regulations 2006;
- ☐ Health and Safety at Work Diving Regulations 2006;
- ☐ Health and Safety at Work Administration Regulations 1997; and finally the recent one
- ☐ Accident Compensation Employment Accident Regulation 2018.

I have said a mouthful there, Mr. Chairman, but there are definitely a lot of costs and positive impacts of ratification to the Fiji Government.

The Republic of Fiji Government has made considerable investment in implementing these OHS laws and policies over the past decades since 1996. We reckon that additional costs as a result of ratification should be minimal. There are many positive benefits of ratification to the Fijian economy, in addition to what the Permanent Secretary had mentioned.

The positive implications, the compliance requirements that the public and private sectors of Fiji now need to meet in terms of these legislations and regulations has led to creation of OHS-related employment and industries within the Fijian economy. In the past decade, we have seen an exponential increase in this sector and it is the OHS sources of employment that it gives to our youth, gives them another alternative source of employment for them. From the training institution side of FNU and USP, we have also benefitted in terms of the delivery of OHS trainings and certification to both, not only Fiji students but regional students as well.

Mr. Chairman, I am talking from a practitioner's point of view. Basically on institutionalising OHS for us at the University, in 1999, we enacted the USP OHS Policy just years after Fiji enacted the Health and Safety at Work Act 1996. We have an OHS Unit that is based at our Laucala Campus that oversees OHS in all the 12 Campuses.

Our strategic plan 2019-2021, we have five priority areas and each of those priority areas have health safety well-being provisions to guarantee that this is maintained, preserved and protected for all our staff and all our students and researches, who conduct business, studies and research in our institutions.

In terms of international best practices, we encourage our other stakeholders within the public and private sectors to get international best standards. I used to like what a former Ministry of Employment used to say about OHS that the honeymoon period is over, and it is now that we need to take the next step up, and the next step up is for us to leverages ourselves with the international best standards that are out there. For us at the university or the educational sector, we have the Australasian University Safety Association. They are a very positive organisation which we can work with in the future.

Mr. Chairman, just to round off, in terms of the challenges in the 21st century as we move forward, we have seen the effects of COVID-19 that is affecting global economies and that would come right down to the global workforce. So as a country and as various institution, we need to always put the protection of our workers who are at the frontline of these COVID-19 responses in terms of our public services, airport workers, hospitality, health, education, emergency services, transport, manufacturing, agriculture. Mr. Chairman, we ask that the Committee will bear in mind that these workers also need to be protected in terms of any further legislation that will be created, that we remember these workers' safety as paramount at all times. *Vinaka*.

MR. CHAIRMAN.- Thank you, Dr. Chute.

Honourable Members, do you have any questions for the University of the South Pacific?

Since there are no questions and time is of essence again, ladies and gentlemen, I now give the floor to Professor Shaista Shameem.

PROFESSOR S. SHAMEEM.- Thank you very much, Mr. Chairman, for inviting me and also to the extinguished Members of the Committee. A lot of what I had to say has already been addressed by my colleagues around the table, so I am just going to highlight the main points that I think that might add value to all three Conventions with your indulgence, Mr. Chairman.

Mr. Chairman, first of all, in terms of the Treaty on the Prohibition of Nuclear Weapons, I really only want to make two points. The first is humanitarian consequences of not ratifying a Treaty as important as this.

It must be stressed at the outset that the Treaty is about humanitarian consequences of the use of nuclear weapons and for Fiji in ratifying, this must be the bottom line. We are considering the inevitable consequences, not only of deliberate but also of any accidental or miscalculated nuclear weapon detonation. Fiji must stand together with all States, to prevent any use of nuclear weapons as a public good and collective security focus.

The specific attention that the Treaty pays to indigenous peoples, the principle of humanity and dictates a human conscious is a 21st Century philosophical advancement of the issues that concern us in Fiji in the 1970s.

The responsibility given to States by the provisions of the Treaty is simple, compassionate and obligatory. Fiji cannot avoid it and should never have any problems with the modern sentiments that it expresses. We have to totally eliminate nuclear weapons, which is a legal and political commitment Fiji has, not only to the international community but moreso to its own people. All States need to implement national measures in the facilitation of ratification, for Fiji as a non-nuclear nation, this should not pose a problem.

Mr. Chairman, the second important point in terms of the Treaty on the Prohibition of Nuclear Weapons is the right to life and the environment. The Constitution of the Republic of Fiji, under its Bills of Right provisions, states that every person has the right to life, health and the environment. The environment is specifically protected in Section 40 of the Constitution, and there are other similar rights.

That means that the State has already taken responsibility to protect its people from harm, and should reiterate that this includes harm that can be caused by detonation of nuclear weapons. If Fiji has already taken responsibility for protecting those rights, then ratification merely represents a signal to the international community of that protection of its people.

Mr. Chairman, so that is my view on the Treaty and why Fiji should ratify.

The second is on the Protocol of 2002 to the Occupational Safety and Health Convention 1981. Mr. Chairman, a number of important points have been raised by my colleagues from USP and also from the Permanent Secretary of Ministry of Industry Trade and Tourism. But the most important thing I think the difference between other Conventions and this one is that, the Protocol like the Convention, protects the worker not only at work but also during commuting to and from work, and this is a value-added protection that is not at present covered in our Section 20 Constitutional protection of the worker.

The Protocol also protects workers from being penalised as a retaliatory measure, if they have reported any incidence regarding health and safety matters, and also personal data, such as workers' medical record which is similarly protected by the Convention as well as Protocol 155. And in a small place like Fiji, the right to personal privacy and personal data protection is extremely important.

Workplace health and safety are matters for national data collection and the Protocol establishes that such statistics must be compiled in the national interest, and the categories are available through the ILO templates. We do not actually have to do any extra work, the burden on the Government is thus, reduced to data collection.

Fiji's statutory regime, in fact, is already in compliance with the Protocol, and all is needed is international ratification which will showcase Fiji's own national advancements in the area of workplace health and safety regulation.

Ultimately what the Protocol does is, ensure that employees and companies operating in Fiji have appropriate protections and monitoring of those protections for their workers, namely the Fijian workers, who in reality produce the labour surplus, also called profit, not only for the

employers but also for the nation. And I want to just look at the Employment Relations Act briefly, Mr. Chairman.

The preamble which sets out in detail our basic principles, including to create minimum labour standards, fair to workers and employers alike, and to build productive employment relations, as well as to comply with international obligations and give effect to the Constitution. So, in fact, ratifying this particular Protocol will enhance what is already available in the domestic legislation, not only the Constitution but also the Employment Relations Act 2008.

The final one, Convention 190 - Violence and Harassment Convention, I have a slightly different take on this one. Fiji's ratification of this Convention will mean that some adjustments will need to be made to the current statutory regime on worker's right to be free from violence and harassment at work. Since this is an ILO General Conference Resolution, the rights to be protected by this Convention are broader, than what is provided in our own Employment Relations Act 2008, the National Sexual Harassments Policy, National Gender Policy and other policies, such as on child labour and by Fiji's ratification of International Conventions, such as CEDAW.

Fiji's Employment Relations Act covers a comprehensive set of rights of workers, and its preamble broadens that to cover the general sentiments expressed in the Constitution of Fiji.

However, it appears that protection against violence and harassment at work is merely, at the moment, confined in the law to sexual harassment and violence, but not to violence and harassment unrelated to that of a sexual nature or to the discrimination provisions expressed in the Constitution and the Human Rights Commission Act. Thus, for example, workplace bullying is not specifically protected in Fiji's laws but this Convention, if ratified, should allow Fiji to prohibit such other objectionable practices.

I strongly support this Convention and urge Parliament to ratify it and I am speaking here as an employment lawyer and this is my experience over the past four years in Fiji. I have represented individuals, as well as a union in the high education sector and witnessed workplace bullying been afflicted on Fijian citizens by expatriates supervisors. I have noted collegial bullying as well of Fijian citizens. This has included, not just verbal bullying but also other types of serious harassment, such as interference with employment contracts, demotion without cause, defamation and harm cause to reputation, again, without cause and breach of Fijian labour laws.

In one organisation where I represented the workers, the pattern was established over a series of expatriate appointments, creating a culture of workplace harassment of Fijian citizens, and this brings me to the issue of the localisation.

I have heard that the Government favours localisation in the executive job , and I would support that specifically for higher education, not only for higher education institutions but also for statutory bodies that monitor higher education in Fiji.

I cannot be more explicit due to the fact that several of these cases of workplace harassment inflicted on Fijian citizens are before the judicial mechanisms of dispute resolution. However, it is an issue that requires Government attention immediately.

As workplace harassment of the broader variety than sexual or gender-based harassment is a hidden problem that ratification of Convention 190 will help to alleviate.

At the same time, Mr. Chairman, ratification will only be effective, as long as it is accompanied by other policy and statutory changes nationally. Specifically, we need a broad critique and investigation of the kind of employment from which our top managers and executives are being recruited. In education, this is particularly critical at this juncture of our development as a nation.

Fiji had a localisation policy immediately after Independence but probably due to the skills flight from the 1980s until 10 years ago, we seem to have relaxed that policy. It is time to revisit it because the health and safety of workers in Fiji is demanding a review of our employment policies on recruitment. Thus, I see the two ILO Conventions currently before Parliament for ratification, namely health and safety and violence and harassment as being inevitably related.

For ratification of Convention 190, the statutory amendments required would be to the definition of harassment in the Employment Relations Act, currently confined mainly to sexual harassment but should include now, and I quote:

“...unacceptable behaviours and practices or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.”

This inclusive definition would cover the growing pattern of non-sexual and non-gender-based harassment at work that I have witnessed, and formally protected Fijian workers against, in an important employment sector in Fiji.

Fiji should ratify this Convention but consistency between the Convention and Fiji's statutory regime should now also be reviewed for the purposes of reporting on our compliance.

My conclusion, Sir, is that the Treaty on the Prohibition of Nuclear Weapons and the two ILO Conventions ought to be ratified by Fiji. Thank you.

MR. CHAIRMAN.- Thank you, Professor Shameem. Honourable Members do you have any questions?

Since there are no questions, we will go straight into the contribution from the Fijian Teachers Association. Thank you.

MR. P. MANUMANUNITOGA.- Mr. Chairman, Honourable Members of this Parliamentary Standing Committee, the Fijian Teachers Association wishes to show our sincere appreciation on this opportunity to express our stand on the issues of the ratification of the Treaty and the Conventions.

Firstly, I am Mr. Paula Manumanunitoga and I am the General Secretary of the Fijian Teachers Association. This morning, we have decided to give the honour to Mrs. Susana Tuisawau, since we have just celebrated the International Women's Day yesterday, to present on our behalf. Thank you, Mr. Chairman.

MR. CHAIRMAN.- Thank you and welcome Mrs. Tuisawau.

MS. S. TUISAWAU.- Thank you, Mr. Chairman and Honourable Members of the Standing Committee on Foreign Affairs and Defence. The Fijian Teachers Association is restricting the reasons of its rationalisation for the support of the ratification of the three Instruments that we are looking at today, to what it had experienced and how it feels that the ratification of these Instruments could benefit members of the organisation.

Firstly, on the Treaty on the Prohibition of Nuclear Weapons, we have three reasons why we feel Fiji should ratify the Treaty. Firstly, Fiji has always been against the proliferation of nuclear weapons starting with the signing of the Rarotonga Protocol/Treaty by the Pacific Islands Forum Leaders during the 1980s, and it stands to reason that since this is going to strengthen the banning of the testing of nuclear weapons, that we should ratify the Treaty.

Secondly, after seeing the devastating results of nuclear tests and the accompanying nuclear fallout in the Northern Pacific Islands of Micronesia, as well as at Christmas Island where some of our own Fiji citizens had been victims, and after seeing how the widespread ramifications of the testing at Mururoa Atoll affected the seafood chain from Tahiti to Rarotonga to Fiji, our organisation, national civil society organisations and Fiji citizens, have continuously supported the objects of the Non-Proliferation of Nuclear Weapons (NPT) and the Comprehensive Nuclear Test-Ban Treaty (CTBT).

Thirdly, with the support of the general public, the civil society organisations and the Fijian Teachers Association, as well as the Fiji Trades Union Congress since the 1990s, had been actively doing advocacy work against nuclear weapons and testing. This was not only because of their destructive fallout, but also out of our concerns for the Pacific Ocean where nuclear waste had been dumped and where nuclear warships and nuclear carrying vessels continually sail, placing the ocean and its people at great risk.

Further, the Fiji Government had been a great supporter of the current call to protect our ocean and is actively promoting a Blue Economy agenda. We, therefore, note that the provisions of the Treaty will help address the challenge to our Pacific Ocean and to the Blue Economy agenda.

On the ILO Convention 190 on Violence and Harassment, we strongly recommend that the Government of Fiji ratifies this Convention for the following reasons:

1. Fiji had already ratified the major ILO Core Conventions, the eight core Conventions on decent work and workers' rights, which ILO Convention 190 now fully complements.

2. As a trade union, FTA is fully conversant with the contents of the ILO Conventions which Fiji had ratified. To this end, it had noted that there had been no specific provisions in these earlier Conventions to address the issue of violence at work and harassment, especially physical and emotional harassment which would bring economic harm or which would be a threat to equal opportunities and a threat to the workers' social environment.

3. Fiji has already legislated against sexual harassment at the workplace in international laws. The Convention, thus, would strengthen what Fiji already has in place.

4. Harassment at the workplace is rife in Fiji and had never been satisfactorily addressed. One of the groups of workers currently subjected to severe harassment at the workplace, especially of the psychological nature, had been the teachers of Fiji.

The Convention is, thus, perceived to be a relevant measuring instrument against which the said Fiji's standards regarding the way it addresses the issue of violence and harassment at the workplace.

If you would allow us, we have got a few examples, just to illustrate the nature of harassment currently experienced by teachers at the workplace, which may be addressed by this Convention.

1. Harassment through the violation of workers and trade union rights of teachers which brought great trauma to teachers. This was experienced when the long standing collective agreement, stipulating working conditions for teachers of Fiji that had been duly negotiated and agreed to and signed by the employer - the Government and workers representatives - the Teachers Confederation of FTU and FTA as General Orders, was illegally removed by Government. This right of workers to collectively bargain with the employer and put in place a collective agreement determining their working conditions with the employer, is stipulated in ILO Convention 1987 and ILO Conventions 1998, both of which Fiji had ratified.

The impact of this violation was psychological harassment faced by teachers, who were forced into a contract system which frequently saw many teachers not being paid on time, or being underpaid, or being not paid, or being threatened with losing their contract if they did not meet certain demands. The resulting feeling of insecurity of teachers had negatively affected their classroom work. This is psychological harassment.

2. Another example is the unilateral imposition of the Open Merit Recruitment System (OMRS). It was discerned as a clear case of harassment when teachers who had met the agreed to (MQR) Minimum Qualification Requirement under the Standing Collective Agreement and appointed to posts of leadership are being forced to vacate their long held and earned positions to people of less or even no relevant educational leadership experience. The harassment had been psychological, as these post holders had perceived this as a severe case of injustice and sabotaging of their worker's rights.

3. Another violence and harassment that we face at the workplace which is highly prevalent because of the current rise in substance abuse by students, bullying and the breakdown in discipline because of the unilaterally imposed changes in teachers' working conditions. These things cannot be addressed. So this Convention may guide Fiji towards addressing these issues.

Lastly, our stand on the ILO Protocol of 202 to the Occupational Safety and Health Convention 1981, we would like to support the ratification of this Protocol because the Protocol strengthens and complements the 1981 Convention which Fiji had already ratified. The Protocol also fortifies Fiji's national laws on health and safety at work.

Mr. Chairman, may we say that Fiji's history of implementing health and safety regulations at the workplace had been well implemented in various work sectors, but requiring more work and greater attention in other areas, especially within the education sector. Some examples from the teachers' workplace had been the:

1. Great risks to life which teachers in the outlying islands face, as they travel by sea because of work, or to get to where they can pick up their pay check, or to return to schools after a holiday break, many teachers had lost their lives at sea or had been injured and are not covered by insurance when doing school work.
2. The absence of a legislated safety, health, sanitation and building standards for teachers' accommodation, who are always forced to live in insecure homes with poor sanitation and are prone to be damaged by cyclones.
3. The teachers, being not covered by the same health immunisation services or system provided by the Ministry of Health to students. Given the nature of the teachers' work, they stand to catch every communicable disease which is brought in by students. It is an occupational hazard.

Hence, given the provisions of the Protocol, FTA feels that this will guide the Fiji Government towards a closer scrutiny of all work sectors so as to address what has been currently missing in Fiji's laws relating to occupational safety and health at the workplace. Thank you.

MR. CHAIRMAN.- Thank you, Ms. Tuisawau. Honourable Members, are there any questions for anyone in the panel list this morning? Thank you.

HON. LT. COL. P. TIKODUADUA.- Mr. Chairman, a brief one for Fiji Teachers Association. To all the Presenters, thank you for the most valuable contribution to all the Conventions that are before the Committee today. I am sure we, the Committee, share your views in total with regards to the ratification of these Treaties.

Mrs. Tuisawau, thank you for your observation, particularly on those last aspect on your OHS experiences for teachers. You have alluded to earlier that one of our challenges in Fiji is the line of thinking that we accede to these Treaties or Conventions but we kind of slow to keep up with it, or we just pretty much turn a blind eye to fulfilling the obligations under this Treaty, and ILO Convention is one of the major areas of contention, particularly between our Government and other stakeholders.

Mr. Chairman, just coming this morning from home, I was listening to all the measures in Europe now in regards to the Coronavirus and one measure that is consistent throughout all these nations is the closure of universities and schools. Now, as you have said, this Convention, I mean, hopefully it is going to be ratified next week, Mr. Chairman, is supposed to strengthen this. The question right now is looking forward, how prepared from mere perspective, are the schools?

In Fiji, we have USP, as well I know Professor Shameem is here in her personal capacity but University of Fiji as well, are we ready? For teachers, can you tell this Committee because it will be very important for us and there are just a few days for us to take this to Parliament but it needs to be addressed right now, we do not want a sick nation and when you are already finding risks from students and then being transmitted to teachers and it is the same everywhere. So are we ready in your own places? Because Parliament needs to know and we need to tell the people and hopefully, I mean, because there is a thinking that we say we are ready but no one is ever ready.

MR. CHAIRMAN.- Because of the time, we have another livestream coming in at 12 o'clock and we are only minutes away, perhaps if I could ask you to take that question, it is a vital question and I thank the Honourable Member, and then you can email back to the Secretariat. Is that a fair comment?

MS. S. TUISAWAU.- Yes.

MR. CHAIRMAN.- Thank you, Honourable Members.

I wish to say thank you once again on behalf of the Committee for availing your time this morning and if we do have any other pressing questions that you will avail your good selves and reply to them by email.

With those few words, I thank you once again and I now close this session. Thank you.

The Committee Interview adjourned at 11.57 a.m.

[VERBATIM REPORT]

STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

TREATY/CONVENTIONS

1. Treaty on the Prohibition of Nuclear Weapons
2. ILO Convention 190 - Violence and Harassment Convention 2019
3. ILO Protocol 155 – Protocol of 2002 to the Occupational Safety and Health Convention 1981

INSTITUTIONS: Fiji Women's Rights Movement (FWRM)
Office of the Solicitor-General

VENUE: Big Committee Room (East Wing)

DATE: Tuesday, 10th March, 2020.

VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE HELD AT THE COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON 10TH MARCH, 2020 AT 9.40 A.M.

Interviewee/Submittees: Fiji Women Rights Movement (FWRM)

In Attendance:

1. Ms. Artika Singh - Team and Leader – Gender and Transition
2. Ms. Benice Lata - Legal Rights Officer
3. Mr. Kris Prasad - Legal Rights Officer

Ministry of Defence and National Security

1. Mr. George Washington - Security Advisor

Office of the Solicitor General

1. Ms. Seema Chand - Principal Legal Officer
2. Mr. David Solvalu - Principal Legal Officer

MR. CHAIRMAN.- I welcome, Honourable Members, members of the public and the media and a very warm welcome to our presenters this morning. I wish to introduce the following Members of my Committee.

(Introduction of Committee Members by Mr. Chairman)

With those words of introduction, I welcome the Fiji Women Rights Movement (FWRM) and the Office of the Solicitor-General. And I now give you the floor to Ms. Artika Singh of the FWRM. Thank you.

MS. A. SINGH.- Thank you, Sir. I am Artika Singh from FWRM. I am here with my colleagues, Kris Prasad and Bernice Lata. We will be making our submission on the ratification of ILO Convention 190 - Violence and Harassment Convention 2019.

The FWRM which was established in 1986, is a multi-ethnic and multicultural Non-Government Organisation (NGO), committed to remove all forms of discrimination against women through institutional reform and attitudinal change through targeted research and advocacy.

FWRM is the only domestic NGO dedicated to undertaking research in areas affecting women, including sexual harassment at the workplace.

FWRM notes that at the end of preparing this submission, there have been nil ratifications by any country, to the Violence and Harassment Convention 2019. This gives Fiji a unique opportunity to be the first country in the world to ratify this Convention, thereby, cementing its position as

being a champion of women's rights to be free from violence and harassment in the workplace. FWRM will also address some concerns raised.

Additionally, as per the concluding observations of the Committee on the Elimination of Discrimination against Women on the 5th Periodic Report of Fiji, it calls the State Party's attention to the fact that sexual harassment does not only constitute an attack on the dignity of a woman, but additionally has a discriminatory impact as it will often affect the victim in terms of wages, promotion and/or dismissal, as well as create a hostile work environment which obstructs the victim's fulfilment of her professional potential.

FWRM takes this opportunity to submit herein our recommendations to the Committee on the ratification of the Violence and Harassment Convention 2019.

In terms of the prevalence of sexual harassment in the workplace in Fiji, FWRM's work in the area of employment reform, as it relates to advancing women's rights, began in the late 1990s under its Women's Employment and Economic Rights Project. The goal was to redress the social and economic disadvantaged women in the wake of labour reforms occurring in Fiji at the time.

We recognise that sexual harassment is more than a problem of safety and health and unacceptable working conditions, but it is also a form of violence, primarily against women.

In 2002, FWRM commissioned Tebbutt Research to conduct a ground-breaking research on the incidence and nature of sexual harassment of women in the workplace. This was the first ever research on the prevalence of sexual harassment in Fiji. Results of that study were widely utilised and assisted FWRM to lobby and advocate against sexual harassment in the workplace, and to provide input into a decision to adopt a broader definition of sexual harassment for Employment Relations Act being developed at that time.

In June 2016, FWRM again commissioned Tebbutt Research to update the findings by conducting a follow-up study. The core research objective was to replicate and update the key elements of the 2002 study, while incorporating some changes to make the project relevant to the 2016 workplace.

A quantitative study with 1,000 women currently in paid employment was conducted in the urban centres of Suva, Nadi, Lautoka and Labasa. This study asked the question, has the prevalence of sexual harassment in the workplace changed with the increasing number of women in the workforce and/or with the increasing number of women in decision-making roles?

Whilst the incidence of sexual harassment in the workplace in 2016 as compared to 2002 has decreased, the findings of the research point out interesting relations to Fiji's economic development in past decade.

The Food, Beverage and Hospitality sector has the highest incidence of sexual harassment which is 35 percent, followed by Public Service which is 25 percent, Health at 24 percent, Retail at 23 percent and Education at 8 percent, the sector being the lowest.

In the study, Nadi which has 35 percent, was identified as the hotspot for incidences, followed by Suva with 19 percent, Labasa 18 percent and Lautoka 11 percent. In 2002, Lautoka was reported

to be the hotspot for sexual harassment. Two hypothesis can be formed on the improvement in the situation on Lautoka:

1. the tourism infrastructure or restructure has contributed to this; and
2. the expiry of the Multi Fibre Agreement in 2005, which was the demise of many garment establishments in the city.

Younger women (25 percent of under 30 year-olds) and those women from iTaukei which stood at 29 percent, are most likely to be harassed, as are casual 43 percent and part-time 30 percent employees. Incidences are higher for women with these job requirements:

- ☐ serving members of the public;
- ☐ working on weekends;
- ☐ working at night;
- ☐ shift work;
- ☐ changing in and out of uniforms at the workplace;
- ☐ working on own in isolation; and
- ☐ attending office parties.

The most common types of sexual harassment that women face is verbal which is 12 percent, gestural - 10 percent and physical - 9 percent.

Most types of harassment are happening at the usual place of work and have occurred in the last 12 months. Most types have been experiences in the current organisation rather than previous organisation, indicating that majority of women remain in workplaces where they experience sexual harassment. The study confirms that majority of the offenders are male, with a small proportion being females. Most of these offenders were between the ages of 20 years to 39 years of age. Therefore, young males are most likely to offend.

For the 20 percent of women who have experienced sexual harassment in the workplace, half have experienced more than one type of sexual harassment. Those working in the Food, Beverage and Hospitality Sector are most likely to report multiplicity, which means 10 percent or more than four types of offences.

In the 2016 survey, the idea of sexual harassment was instigated through communal or family ties, that is, tavuvu, tavale, et cetera, was explored. Almost one in eight women claimed to have experienced sexual harassment in the workplace or during the course of doing a job, that was the result of traditional, cultural or kinship relationship.

The decrease in the incidence of sexual harassment in workplaces is encouraging, however, more work needs to be done for the workplaces to adopt and implement sexual harassment policies that are consistent with the national standards as stated in the Employment Relations Act. With strong patterns indicating high prevalence in the Food, Beverage and Hospitality Sector,

advocacy and knowledge based on sexual harassment needs to be strengthened across this industry.

Most young people being victims and offenders of sexual harassment in the workplace indicates a long term issue since these people will remain in the workforce for a very long time.

Issues with the current legislative framework; the National Sexual Harassment Policy which is a guiding policy document, unfortunately, has not been able to contribute to the eradication of sexual harassment in the workplace faced by women, as our research shows. As per our research, despite 20 percent of all working women interviewed stated that they experienced sexual harassment at their workplaces, only 18 percent reported it. These incidences occurred whilst the national legislation and policy framework was in place to date. FWRM is deeply concerned about these figures.

This is due to multiple reasons, such as the current National Sexual Harassment Policy has not been reviewed since 2008, the non-inclusion of social media as a means of perpetuating sexual harassment and the outdated references to the Penal Code which is now repealed by the Crimes Act.

The current laws and policies which are the Employment Relations Act, the National Gender Policy and the National Sexual Harassment Policy, lack uniformity and relevancy in addressing the issue of sexual harassment in the workplace. For example, we noted the submissions by the Disciplined Forces to the Standing Committee last week in support of ratification. However, it is worth highlighting that the Employment Relations Act does not apply to the members of the Fiji Corrections Service (FCS), the Fiji Police Force (FPF) and the Republic of Fiji Military Forces (RFMF) as per section 3(2). They may have their own internal processes for dealing with sexual harassment and violence cases but we are not privy to this information.

Furthermore, the CEDAW Committee had put forward the following recommendations related to sexual harassment, to:

1. examine the organisational culture in workplaces;
2. address the factors that may facilitate sexual harassment and/or assault; and
3. widely disseminate information on reporting procedures, ensuring that the complaints are investigated and perpetrators are brought to justice, conducting regular labour inspections to verify the Sexual Harassment Policy being in place, and amending the Employment Relations Act to ensure that it applies to all employers, including the RFMF, the FPF and the FCS.

In terms of our recommendations, FWRM strongly recommends that the State ratify the Convention, as it would bring the timely review of all the relevant national laws and policies which need updating.

We also recommend that all sectors be included under the one regulation for easier recording, monitoring and evaluation purposes, as well as ensure greater and exemplary transparency and accountability.

When we have uniform and transparent reporting processes and an assurance of fair and just outcome, this in turn, results in more victims and survivors speaking up and coming out to report their cases as they would have faith in the system. This would also ensure that Fiji is meeting all its international obligations under the Sustainable Development Goals (SDGs) with violence-free workplaces and decent work for all. Thank you.

MR. CHAIRMAN.- Thank you, Mrs. Artika Singh, for your very informative submission on the subject matter. Honourable Members, do you have any questions for FWRM?

I just have one Ms. Singh, if you do not mind, I just want you to enlighten us on the Multi-Fibre Agreement and what does that entail?

MS. A. SINGH.- Yes, we had made reference to Multi-Fibre Agreement and Ms. Bernice Lata will respond to that.

MS. B. LATA.- Thank you, Mr. Chairman. I believe that reference in our submissions as to the reason of the collapse of that Agreement was because it was directly reflected in our research.

When we did a previous research in 2002, we saw that Lautoka had the highest numbers in terms of sexual harassment at the workplace, which was a direct result of more women who were working in the garment industry.

When there were less women in Lautoka working in the garment industry, as a result of this Agreement falling through, there were less women working in the garment industry in Lautoka, that was when we saw the number shifting away from Lautoka and going into hotspots, like Nadi. That is the reference that we made, it was a result of that in our research that we saw the shift in numbers from the 2002 research and when we compared it to the 2016 research, but the prevalence was still high in our research in 2016.

MR. CHAIRMAN.- Thank you Ms. Lata. Having said that, which authority developed the Agreement.

MS. A. SINGH.- Mr. Chairman, we do have to apologise, if we can get some time to respond to your question. We will get that information across to your office.

MR. CHAIRMAN.- Thank you, Madam, that is appreciated. Honourable Pio Tikoduadua?

HON. LT. COL. P. TIKODUADUA.- Just a quick one, Mr. Chairman. Thank you ladies for a very informative presentation and we recognise your support for the ratification of this particular Treaty. I am just curious at the content of some of the data that you have, but in particular two things. The survey on the sexual harassment, I am referring to the 4th paragraph on Page 2 of your Report from the top, noting that the majority of women reporting sexual harassment were i Taukei. Am I thinking correctly here, or most likely to be harassed?

MS. B. LATA.- They are most likely to be harassed.

HON. LT. COL. P. TIKODUADUA.- Is there a certain reason behind that?

MS. B. LATA.- Yes, Sir.

HON. LT. COL. P. TIKODUADUA.- Can you just tell us why?

Maybe also, whilst you are thinking of that, it said there; "...therefore young males are most likely to offend", would it be correct to assume that majority of your findings in that regards are iTaukei male also? Would you have that data?

MS. B. LATA.- We would not have the data on the second part of your question, Sir.

HON. LT. COL. P. TIKODUADUA.- What about the first part?

MS. B. LATA.- Yes, for the first part, we have said that the younger women who are 25 percent under 30 year old women are iTaukei, so 29 percent are most likely to be harassed. And we have listed down places where they are most like to be harassed, but if there is any particular reason as to why they are been harassed, we are not aware of that.

When we did a prevalence study in relation to this, we had asked different people in all diversities, and the research found that iTaukei women said that they are most likely to be sexually harassed.

HON. M.R. LEAWERE.- A simple question; is that an assumption?

MS. B. LATA.- No, Sir, this is not an assumption, this is what the research found.

MR. CHAIRMAN.- Honourable Members, if you have no further questions, I will now give the floor to the Office of the Solicitor-General. Thank you.

MS. S. CHAND.- Mr. Chairman and Honourable Members, good morning. My name is Seema Chand and I am here with my colleague, David Solvalu. We are from the Office of the Solicitor-General.

This morning we will be presenting on the three Treaties, the:

1. ILO Convention 190 on Violence and Harassment;
2. ILO Protocol 2002 to the Occupational Safety and Health Convention of 198; and
3. Treaty on the Prohibition of Nuclear Weapons.

Mr. Chairman, I seek your indulgence whether you would like us to present first on the LO Convention 190 on Violence and Harassment and then go ahead with the Treaty on the Prohibition of Nuclear Weapons, or would you like us to submit on the Nuclear Treaty first?

MR. CHAIRMAN.- However, the floor is yours. Thank you.

MR. D. SOLVALU.- Thank you, Mr. Chairman and Honourable Members. As Ms. Chand has already introduced me, again, for the record, my name is David Solvalu and I am with the Office of the Solicitor-General. I will be presenting on the Treaty on the Prohibition of Nuclear Weapons.

I also have with me, Mr. George Washington, who is with the Ministry of Defence. He has accompanied me to assist if the Committee has any questions that relate to enforcement or the

Ministry's capacity or history of this document during the negotiation or any part, before it was made. So, he would be in a better position to assist. I shall now begin.

The Treaty on the Prohibition of Nuclear Weapons, basically sets out a set of prohibitions against participating in any nuclear weapon activity. These include; undertakings by Member States not to develop, test, produce, acquire, process, stockpile use or threaten to use nuclear weapons. It also prohibits deployment of nuclear weapons on national territory and the provision of assistance to any State in the conduct of prohibited activities.

State Parties are obliged to prevent and suppress any activity prohibited under the Treaty, undertaken by persons or on territories under its jurisdiction or control.

The Treaty also obliges State Parties to provide adequate assistance to individuals affected by the use or testing of nuclear weapons, as well as to take necessary and appropriate measures of environmental remediation in areas under its jurisdiction or control, contaminated as result to activities related to the testing or use of nuclear weapons. So, that is basically the Treaty in a nutshell.

Fiji signed this Treaty at the signing ceremony on 20th September, 2017. There are currently 81 signatories to the Treaty and only 35 ratifications. In order for this Treaty to come into force, there needs to be 50 ratifications. So, currently this Treaty is not in force. It will enter into force 90 days after the 50th instrumental ratification.

As I have already stated, it tries to create a framework for clear prohibition of nuclear weapon activities and it needs the support of the international community. It needs as many ratifications as it can get, in order to get it over the line. By ratifying this Treaty, Fiji will be adding its support to an international effort to stop these nuclear weapons.

The Treaty also complements the existing nuclear disarmament Instruments which are the two most important and I was mentioning the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the Comprehensive Nuclear-Test-Ban Treaty (CTBT).

Fiji has ratified both, however, it is important to note that the CTBT is also currently not in force, as it also does not have the necessary ratifications. So, I will now go through each Article of the Convention and just speaking briefly on them.

It contains 20 Articles and under Article 16, Parties to the Treaty are not able to make reservations. So the ratification of this Treaty would mean, ratification of it in its entirety.

Article 1 prohibits the activities I had already mentioned in my introduction.

Article 2 requires each Party to, within 30 days from the date the Treaty enters into force, declare whether it has previously owned, possessed or controlled nuclear weapons, which in this case, we have not.

Article 3 requires Parties that do not possess nuclear weapons to maintain their existing International Atomic Energy Agency (IAEA) safeguards, and if they have not already done so, to conclude with the IAEA safeguards and bring into force a Comprehensive Safeguard Agreement (CSA).

Fiji currently has a CSA, which has been in place since 1973. A CSA is actually where it is established under the IAEA statute and also under the Non-Proliferation of Nuclear Weapons Treaty.

It is an agreement where a State undertakes to accept IAEA Safeguards in accordance to the terms of the safeguards, on source or a special material and in relation to nuclear activities within the territory of the State.

The CSI requires States basically to declare and submit regular reports on their nuclear material and their nuclear facilities, and to accept inspections and other measures by the IAEA to verify these declarations and reports.

So, in 1973, Fiji entered into a CSA Agreement. Fiji also has a Small Quantity Protocol in force which essentially reduces the burden of implementation of the provisions of our CSA.

The SQP is a process that was initiated because quite a few countries that were Parties to the Non-Proliferation Treaty actually had little or no nuclear weapons or nuclear material. So the reporting requirements under the then CSA was quite comprehensive, so in order to cater for countries with little unknown nuclear material, a SQP was brought into place which Fiji has and this Protocol has been in place for a while now and it basically softens the CSA but because we have little to no nuclear material, it does not detrimentally affect the international framework.

Article 4 sets out general procedures for negotiations with an individual nuclear-armed State becoming party to the Treaty, including time limits and responsibilities. If that State has eliminated its nuclear weapons before becoming a party to the Treaty, a competent international authority will verify that elimination and the State must also conclude a safeguards agreement with the IAEA, to provide credible assurance that it has not diverted nuclear material and has no undeclared nuclear material or activities.

If that State has not yet destroyed its nuclear arsenal, it must negotiate with that competent international authority a time-bound plan for the verified and irreversible elimination of its nuclear weapons programme, which it will submit at the next meeting of signing States, or to the next review conference, whichever comes first.

At this point, it is probably important to note the difference between this Treaty - the Prohibition of Nuclear Weapons Treaty and the Non-Proliferation Treaty. It is that the Non-Proliferation Treaty (NPT) was more focused on disarmament and it, sort of, secured the monopoly that existing nuclear weapons-armed countries had and prohibited the proliferation of those weapons further. But this Treaty is, sort of, a response to Article 6 of the NPT, which envisioned a time when all nuclear weapons would be prohibited in their entirety. This Treaty seeks to bring that into effect, and seeks to create a world where all nuclear weapons are prohibited in their entirety. So, again, the NPT was about phasing out but the Prohibition Treaty is about completely eliminating.

Article 5 of the Treaty requires States Parties to undertake appropriate legal administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under the Treaty. So, as was provided in the implementation part of

the written analysis, moving forward, it might be prudent to review our National Legislation in order to see ways in which we can give better effects to this Treaty.

So, currently under the Public Order Act, we do have a set of prohibitions. These prohibitions deal with the threat of use, transfer, receipt and transport of nuclear weapons material. However, given the comprehensive and quite detailed list of prohibitions in the Treaty, it might be prudent moving forward to see ways to better enforce these prohibitions.

Article 6 requires States Parties to adequately provide age and gender-sensitive assistance, without discrimination, including medical care, rehabilitation and psychological support to individuals under the State Party's jurisdiction, who are affected by the use or testing of nuclear weapons, as well as provide for their social and economic inclusion.

So, Article 6 is to do with reparation, it is to do with ensuring that people who have been negatively affected within a State Party's jurisdiction, receive some form of assistance. This is a State obligation, so by Fiji ratifying this Treaty and becoming a party to it, Fiji will then have a new binding obligation to ensure that Fijians who are detrimentally or adversely affected by nuclear activities have financial support and also psychological support and various forms of assistance.

This State obligation is further supported by the international community under Article 7 because Article 7 contains three parts. Obviously, Honourable Members would look at Article 7, it actually can be broken down into three parts.

The first is in the second paragraph which allows for States to seek assistance from other State Parties, so a country could utilise this mechanism to seek assistance from other States Parties in order to fulfil its obligations under the Treaty. If our obligations under Article 6 is to ensure that our victims of nuclear weapons or nuclear activities are taken care of, then Article 7(2) allows us to seek assistance from other States in order to fulfil this obligation.

On Paragraph 4, it refers to voluntary assistance so that is the other part of the framework. It allows for States to voluntarily provide assistance, regardless of whether those States are nuclear-armed States or not, and paragraph 6 which is the third part of Article 7 of relevance, it creates a binding obligation on States Parties to the Treaty who have been nuclear-armed to have partake in any nuclear weapons activities, to ensure that those people who have been harmed by those activities receive some form of assistance. Very interestingly, it also ensures that these States seek environmental remediation, which means that the harm that they have done to the environment, they also seek to address that harm.

Article 7 is actually an achievement. Mr. Washington would probably tell you more, but Article 7 was a huge achievement for the negotiators because it is part of a Treaty that, for the first time in relation to nuclear weapons, creates an assistance and a State responsibility notion in which States that have nuclear weapons activities, now have a legal obligation to ensure that they provide assistance and environmental remediation. So this is something that Fiji also pushed during the negotiations behind this Treaty because the concept of States taking responsibility for their actions was something that we found was very important, particularly in relation to this situation. So that is the end of Article 7.

Article 8 provides for meetings of States Parties to consider and take decisions in relation to the application and implementation of the Treaty. The first meeting will occur one year after the Treaty enters into force.

Articles 10 to 12 provide the processes for amendments to the Treaty, voluntary settlement of disputes through a negotiated mechanism between two or more State Parties, and the promotion of the goal of universal adherence of all States to the Treaty.

Basically, the goal of universal adherence; promoting the goal means, States Parties to the Treaty try to get other States to also come on board this international framework.

Articles 13 to 15 set out the processes for the Treaty to be open for signature, which it was on 20th September, 2017, and it sets out when the Treaty enters into force.

Article 16, as I have already said, states that the Treaty shall not be subject to reservations.

Article 17 provides that the Treaty shall be of unlimited duration, although each State Party shall have the sovereign right to withdraw from the Treaty, if such State Party is of the view that the subject matter of the Treaty jeopardises the supreme interest of the country.

Article 18 provides that the Treaty shall not prejudice the obligations of States Parties under other agreements where such obligations are consistent with the Treaty.

Article 19 states that depository is the UN Secretary-General.

Article 20 requires the text of the Treaty to be in the six United Nations languages which is the British....UN Conventions. So for implementation, in the process of going through the Articles, I have already talked about the implementation bits but basically, we will have to ensure that we would have binding obligation to ensure that none of the prohibited activities, Fiji takes part in or are taken part in our jurisdiction.

That basically is the Treaty. It supports our international commitments that we have made so far. Apart from the two Treaties I had mentioned, the NPT and the Nuclear-Test-Ban Treaty, we also have the South Pacific Nuclear Free Zone Treaty which was really a consorted regional effort to ensure that our end of the South Pacific is safe from nuclear weapons, and Fiji has been a vocal support of this Treaty.

That is basically the Treaty, it will promote cooperation and strengthen international relations with other State Parties, who have acceded to ratify the Convention and further Fiji's goal, ensuring a nuclear weapon free world.

Our recommendation, of course, is that Fiji ratifies the Treaty without reservations.

MR. CHAIRMAN.- Thank you, Mr. Solvalu, for your analysis of the Treaty before us.

Honourable Members, do you have questions on that Treaty? Thank you, Honourable Pio Tikoduadua.

HON. LT. COL. P. TIKODUADUA.- Thank you ,Mr. Chairman. My question is on Article 7. Is there any room for retrospective application for victims of nuclear test, even in the future will there be any room for that?

MR. D. SOLVALU.- It is not a time-bound provision. It is just an existing obligation so it will apply.

HON. LT. COL. P. TIKODUADUA.- So you can apply this respectively for all the tests in Morurua and everywhere else?

MR. D. SOLVALU.- Yes.

HON. LT. COL. P. TIKODUADUA.- Excellent, thank you.

MR. CHAIRMAN.- Are there any further questions, Honourable Members?

Since there are no other questions, I now pass the floor to Ms. Seema Chand. Thank you.

MS. S. CHAND.- Thank you, Mr. Chairman. Honourable Members, I will be presenting on two Convention this morning; the first being the ILO Convention 190 on Violence and Harassment and the second being Protocol 155 of 2002 to the Occupational Safety and Heath Convention 1981.

Honourable Members, I understand you would have already, in front of you, the summary of the Convention which is provided beforehand are the requirements for implementation and the impact of the Convention. So in the interest of time, I will not take you through each and every Article, but what I will do this morning is essentially talk about the legislative framework that we have in place already, and do a pure legal analysis of this Convention vis-à-vis our national laws.

The first piece of legislation that I would like to draw your attention to this morning is the Fijian Constitution. Section 11, in particular, of the Fijian Constitution provides as follows:

“Freedom from cruel and degrading treatment

(1) Every person has the right to freedom from torture of any kind, whether physical, mental or emotional, and from cruel, inhumane, degrading or disproportionately severe treatment or punishment.

(2) Every person has the right to security of the person, which includes the right to be free from any form of violence from any source, at home, school, work or in any other place.

(3) Every person has the right to freedom from scientific or medical treatment or procedures without an order of the court or without his or her informed consent, or if he or she is incapable of giving informed consent, without the informed consent of a lawful guardian.”

Honourable Members, at this point, I would like to highlight that with respect to Fiji and in the scope of Section 11, this extends to violence which is intersectional and also includes intersectional forms of sexual harassment and violence. It also confirms that torture is not just about physical torture, it can be mental and it can be emotional. So you have got very salient and salutary provision in Section 11 already in our Constitution.

I will now briefly talk about our Employment Relations Act. Sexual harassment is actually defined under section 4 of the Employment Relations Act, states, and I quote:

“ Sexual harassment means when a worker is sexually harassed in his or her workplace, or places where workers are gathered for work-related purposes including social activity, when an employer or its representatives or a co-worker -

(a) makes a request of a worker for sexual intercourse, sexual contact or any other form of sexual contact or any other form of sexual activity which contains an implied or overt -

(i) promise of preferential treatment in that worker’s employment;

(ii) threat of detrimental treatment in that worker’s employment; and

(iii) threat about the present or future employment status of that worker.

(b) by the use of a word (whether written or spoken) of sexual nature or materials of a sexual nature;

(c) by physical behaviour or gestures of a sexual nature; or

(d) creates an intimidating, hostile or humiliating work environment by conduct, word or both on the basis of gender, that subjects the worker to behaviour which is unwelcome or offensive to that worker (whether or not that is conveyed to the employer, its representative or the perpetrator) and which is either repeated or of such a nature that it has a detrimental effect on the worker’s employment, job performance or job satisfaction; in this context, detrimental effect includes the creation of an environment which affects a worker’s physical, emotional or mental health and well-being.”

Therefore the definition of sexual harassment under Fijis Law is one that is progressive because it encompasses both, the conduct of the sexual nature as defined under (a), (b) and (c), and conduct of sexist nature under (d).

Paragraph (d) covers conduct which is bullying, hostile or degrading conduct which target persons from vulnerable groups, including those persons from the LGBTI Group and with respect to persons with disabilities.

The definition acknowledges that the harassment of the workplaces is a form of discrimination against groups identified which are vulnerable and that the word ‘sexual’ is not just a reference to the type of the harassing act, it is also a form of discrimination against women on the basis of gender.

Honourable Members, we also have a National Policy on Sexual Harassment at the Workplace. This is the 2008 Policy. I have the Policy with me, it is annexed to the Employment Relations Act. So there are various sections to the policy with respect to the operating principles, definition of sexual harassment, employees’ responsibilities, workers responsibilities, complaints mechanism and statutory rights, et cetera. So, I will just talk a little bit about the National Sexual Harassment Policy at the Workplace that we currently have.

Sexual harassment under the Policy is actually described as a form of discrimination and a gross violation of the person human rights and dignity, and can occur to :

1. relationships of unequal power or authority as in staff/student or supervisor/subordinate relationships; and
2. between peers or co-workers, that is, worker to worker or colleagues.

The Sexual Harassment Policy outlines various responsibilities by employers and these are:

- ☐ That every employer must have an internal written policy and grievance procedure on sexual harassment at the workplace; and
- ☐ It is pivotal that both, staff and managers, collaborate in developing such a policy so that both parties are committed to the process and its outcome. This approach ensures that a policy is reflective of employer and worker safety needs.

So, it is more about the collaborative approach. You cannot do this in isolation. As an employer you also must consult your employees.

Furthermore, it is important that such a policy is devised by the employer and workers that reflects the basic principles that both, the complainant and the harasser, have rights that will be adequately protected by such a policy. The policy statement should articulate the fact and that sexual harassment can be verbal, gestural, visual or physical in nature.

More importantly, an employer must have clear, prompt and informal and formal procedures for counteracting sexual harassment in the workplace. An employer may wish to consider utilising the existing health and safety committees within an organisation or workplace, if there is one.

An officer of the Health and Safety Committee of a workplace could function as a Sexual Harassment Grievance Officer. This officer should be experienced and have skills in mediation, negotiation and conflict resolution, in order to resolve complaints of this nature.

They must be gender-sensitised and fully conversant with workers' rights and responsibilities to enable them to arrive at a proper and informed decision regarding the manner in which the complainant may get his or her grievance addressed.

Measures that may be adopted in re-enforcing the prevention and ratification of sexual harassment in the workplace are, the:

1. Use of pamphlets and posters to reinforce the message that sexual harassment in the workplace will not be tolerated;
2. Orientation programmes that will include the dissemination of information on sexual harassment;
3. Ongoing training for staff members on their responsibility for maintaining a workplace free of harassment; and

4. Information about employer liability and the monetary costs related of workplace harassment and materials, such as case studies dealing with incidents of harassment.

The Policy also sets out the remedies available to the complainant and requires a process of monitoring in the following terms:

1. Every workplace must have a sexual harassment monitoring and evaluation system in place to maintain and enhance the work culture of mutual respect and understanding. In this regard, all complaints or grievances should be documented thoroughly and be handled with strict confidentiality by all concerned, so that action taken to address complaints and grievances is effectively addressed.

2. These records could then be used as a tool in evaluating the success of internal strategies, as well as the national policy, and ensuring that a harassment claim is handled properly and promptly. Should there be questions later as to whether a harassment claim was properly handled, the records would provide the required information. Records also enable reoccurring patterns of behaviour, or ongoing problems in a particular work area to be detected and corrective action to be taken.

Honourable Members, with respect to Fijian laws, our Constitution and the Employment Relations Act, under the Employment Relations Act we have got a section on sexual harassment, how it is defined, the responsibilities of employers under those various sections. And then we have got the National Policy on Sexual Harassment at the Workplace, which is an old Policy. It was established in 2008.

But having said that, there really is no legal impediment as to why Fiji should not ratify this Convention. If anything, it supports the legal framework that we have in place at the moment, and in our submission this morning really is that, we recommend that Fiji ratify the Convention. Thank you.

MR. CHAIRMAN.- Honourable Members, do you have any questions on the first Protocol?

HON. M.R. LEAWERE.- Mr. Chairman, it is very interesting, Ms. Chand, in terms of your presentation. You mentioned something about the legal requirements that are already in place in the Fijian Constitution, the Employment Relations Act, and with this Convention coming into force, when it has been ratified, do you think this will come under one umbrella or are they going to be like that in terms of this Convention and that we have the laws, the legal requirements that are already in existence in Fiji? What are your views on that? Thank you.

MS. S. CHAND.- Thank you, Honourable Member, for the question. The Convention is the international standard and it is international customary law. So you have got the Convention, and then once you ratify the Convention you have an obligation as a State Party to then look at your domestic legislations, your national laws, and to make sure that your national laws are in compliance with the Convention. So, if you are falling short anywhere, you may wish to review or you may wish to amend. If it is a policy document, you may wish to revise the policy document. So that is essentially your benchmark to meet the obligations.

I also want to just reiterate to the Committee this morning, this Convention is a fairly new Convention and it was adopted on 21st June, 2019. So, because it is a new Convention, currently to date there are no countries or States that have ratified this Convention. So, if Fiji wants to ratify it, it could realistically be the first in the world to actually ratify this Convention.

HON. LT. COL. P. TIKODUADUA.- Thank you, Mr. Chairman. Ms. Chand, I thank you for your presentation, it is quite interesting.

As you have said, this deserves all our support, particularly because most of the vulnerable fall into this category - women, children, LGBTI as you have mentioned and a vast of our community that really needs our attention. I am just curious because you said that our existing laws pretty much fulfil much of the requirements of the Convention, now that is just coming in lately and we are going to support it.

Curiously, I have no problems with that but my observations yesterday for the speakers who came is that, we seem to have inadequate laws, but it appears that the commission of these acts continue to grow. I am not sure whether it is society or it is the law that is the problem. I do not think it is the law, but it is how we follow the law. I say this because even the sexual violence against women, in the recent past, is this being done by people who live in this house, where this Convention is now going to be put for ratification.

I would just like to particularly say that most of our laws and policies from government are driven through the legal framework by your Office that some capacity is put into how these laws can be, I do not know, do not have the answer to it but not really critique on your job but I am stating to you because, I mean, the sanction of the legal framework comes from you and we have the FWRM who keep saying that these figures keep going up. Maybe, there needs to be some check and balance now, some creation of innovative ideas about how to make this legal framework work because surely, it is not working. Maybe, it is just the way that the laws have to be written or some smarter guys in drafting needs to look at that.

This is just an observation I am giving here because like yesterday, when others came to talk, I said, "Parliament keeps hearing everyday about these rises of sexual harassment and violence and our society is getting tired of it."

I do not know whether the law is the answer. I really hope because the law is being drafted and created by your Office. You offer legal assistance to the House in that matter that maybe, we need to look at it on the other side, the practical side of making the policy work or making the law work without becoming too draconian about this matter.

I know some countries do it but maybe we should start looking at it because right now, I think, we are all concerned that it looks like our country is becoming unsafe for our own children, our own mothers and our daughters and those who are vulnerable in societies. So, I really hope and I share that with you now because there is not many frameworks where we do. Maybe, you can look at, sort of, a more practical way because otherwise, then the law just become fast because we see this done right here in this House. Thank you.

MS. S. CHAND.- Thank you, Honourable Member, for your comments. I do share your comments that you can have a robust legislative framework in place but usually it is attitudinal barriers that are the hardest to overcome, so whether it involves more training and development in terms of that respect. But I thank you for your comments in that regard.

MR. CHAIRMAN.- Thank you, Honourable Member, for the question. I will ask Ms. Chand to continue with the second Protocol.

MS. S. CHAND.- Thank you, Honourable Members. My second presentation this morning is with respect to Protocol 155 - Protocol 2002 to the Occupational Health and Safety Convention 1981. I understand as with the previous Convention, you already have the summary of each Article, the requirements for implementation and the impact of the Convention. In the interest of time, I will not touch on that but, again, I will do a legal analysis and I will just look at the legal framework that we have currently in place.

So just by way of background, Fiji ratified the International Labour Organisational Occupational Safety and Health Convention 1981 on 28th May, 2008.

Article 4 of the Convention requires every State Party to formulate, implement and review a coherent national policy on occupational health and safety and the working environment.

In order to ensure the progressive work of each State Parties commitment under Article 4 of the Convention, the relevant functions of the competent authorities are set out in Article 11 of the Convention, include:

1. the establishment of an application of procedures for the notification of occupational accidents and diseases by employers and others directly concerned, and the production of annual statistics on occupational accidents and diseases; and
2. the publication annually of information on measures taken in pursuance of the policy on occupational accidents, occupational diseases and other injuries to health which arise in the course of, or in connection with work.

Now, in order to give effect to the National Policy Commitment under Article 4 of the Convention, the relevant functions of the State and the relevant functions of the State Parties competent authority provided under Article 11 of the Convention, and the need to strengthen recording and notification procedures for occupational accidents and diseases, the ILO General Conference adopted the Protocol 2002 to the Convention to address the proposals. As such the Protocol was adopted on 20th June, 2002 and came into force on 9th February, 2005.

Honourable Members, under Section 20 of the Fijian Constitution, every person has the right to fair employment practices, including humane treatment and proper working conditions.

The Health and Safety at Work Act 1996 and the Health and Safety at Work (Administration) Regulations 1997, provide the minimum requirements pertaining to health and safety at work. In this regard, they provide for the systems of notification and recordings of occupational accidents, occupational diseases, dangerous occurrences and suspected cases of occupational diseases by the employers and the competent authorities in Fiji.

Section 26(1) of the Act, which is the Health and Safety at Work Act, provides the following with regards to notifications of accidents and other matters where:

- a. an accident occurs at the workplace ,whether or not it causes the death of, or bodily injury to any person; or
- b. any other matter occurs at or in relation to a workplace which affects the health and safety of any person being an accident, or any other matter which is required by the regulations to be notified under the section; and
- c. the employer at the workplace or such other person as is prescribed shall give notice of the accident or other matter to the Chief Health and Safety Inspector.

Furthermore, Regulation 6 of the Health and Safety at Work Regulations requires every employer to, as soon as possible but not later than 48 hours after the occurrence of the accident or disease occurs at the workplace or any other matter that occurs at, or in relation to a workplace which affects the health and safety of any person to give to the Chief Health and Safety Inspector a written notice of that occurrence.

So there is already legislative provisions that mandate that, so as soon as something happens with respect to an accident at work or disease outbreak at work, an employer must notify the Chief Health Inspector not less than 48 hours.

The Health and Safety at Work Regulations further stipulates that every notice, shall specify the name place and residence and age of every person who is killed or suffered an injury or illness as a result of an accident, incident, disease or other matter. The notice is also required to provide the nature and circumstances of the accident, incident, disease or other matter and the details relating to the accuracy of the place, where the accident, incident, disease or other matter occurred.

The Regulations also provide for the offence of failing to notify accidents, deaths and injuries and occupational diseases at the workplace. And failure to do so, employers are liable to a fine of no more than \$10,000 in the case of a corporation and \$5,000 in any other case.

Honourable Members, I understand that the Ministry of Employment would have made a presentation to you on this Convention, so we support their submission and we also submit that the Ministry of Employment, Productivity and Industrial Relations through its National Occupation, Health and Safety at Work Compensation Service has maintained the records of workplace accidents and injuries from 1996 and, that is, since the Act was essentially enacted.

The statistics are used by the Ministry to determine and analyse high-risk industries or workplace activities. The main causes of accidents, the nature of injuries and the death rates by each groups. It also records and analyses a total number of injuries and deaths reported, compared to those that are assessed to be work-related for compensation purposes.

The Ministry, we understand, has also over the years, put in place laws and policies that prevent accidents, such as the Health and Safety at Work (Control of Hazardous Substances) Regulations 2006 and the Health and Safety at Work Diving Regulations 2006.

The Ministry is also currently formulating regulations and code of practice in the areas of construction, plants and machineries, amusement rides, sawmills, maritime and we are also engaged in other occupational health promotions.

In conclusion, Honourable Members, we submit that under this Protocol, our biggest obligation is to make sure that we have incidents being reported, that is there tangibly, that when something happens at work the employer is mandated, under national law, to report it to the relevant authorities.

We are doing this already. The Ministry is doing this since 1996, data is there and because we are in compliance with the Articles of the Protocol, there is no impediment to ratifying the Protocol. Thank you, Honourable Members.

MR. CHAIRPERSON.- Thank you, Ms. Chand, for your observation of the Protocol and the Occupational Safety and Health Convention.

Honourable Members, do you have any questions for the team, Dr. Govind?

HON. DR S.R. GOVIND.- Thank you. This Protocol goes for a timely notification of accidents, injuries and occupational-related diseases. My question is; for accidents and injuries it is easy to report but for occupational diseases which have very long latent period where the employee may already have left the employment and then develop the disease, how does your Office and also the Ministry of Employment see this, in terms of capacity?

It is not the employer who will be able to detect the diseases, it has to be a competent authority medical personnel to whom the employer or the client has to access. So, what do you think of the kind of capacity we have to report, especially the occupational diseases?

In the past, occupational diseases related to asbestos and other chemicals which are subjected?

MS. S. CHAND.- Thank you, Honourable Member, for that question. Systems for recording the notification are actually outlined in Article 2 to Article 5 of the actual Convention. It does not impose a timeline per se under these Articles, but what we have under our laws, we have got that 'no less than 48 hour period' for employers to notify the appropriate authority with respect to any occupational accidents or incidents or diseases at work.

With respect to capacity and whether or not information is given in a timely manner, it would be pertinent for that question to be directed to the Ministry of Employment, as the Ministry is the implementation agency for that provision. So, they would be able to give you all of the statistics that they have collected and how soon or what is their competency like with respect to any sort of disease outbreak at work, et cetera, under our Health and Safety Act and Regulations.

MR. CHAIRMAN.- Honourable Members any further question?

Mr. Solvalu, do you wish to make a comment? Thank you.

MR. D. SOLVALU.- Yes, Honourable Member. I just wanted to also point out that under the Accident Compensation Act 2017 but I think since 2019, the Accident Compensation Framework was extended to include employment-related accidents. So under the Accident

Compensation Employment Regulations, there is compensation which is a 'no fault' basis compensation which is paid out from the Accident Compensation Commission of Fiji (ACCF).

So, in relation to prescribed diseases, the process is that, if a person has suffered a disease and that is connected to their workplace, they have 24 months. If the disease develops later, they have 24 months so they would get a medical certificate, confirming that they have a disease and that the disease occurred the 24 months prior to the medical certificate. If they can get that medical certificate, they will also have to provide a list of all their employers to the ACCF but ACCF will be the one compensating for their prescribed disease.

MR. CHAIRMAN.- Mr. Solvalu, you mentioned within the 24 months' timeframe on leaving, resigning or retiring from the entity?

MR. D. SOLVALU.- So, they could be still employed, they could be unemployed and have been employed in the last 24 months, but so long as they get a medical certificate that shows that they have this disease and that this disease was contracted in the past 24 months, and that link in the past 24 months is the link to whoever employed them in the past 24 months. That is in relation to acquiring information, but the compensation itself comes from the ACCF.

MR. CHAIRMAN.- For some of these and what Honourable Dr. Govind is referring to, are the diseases or sicknesses that occur well after 24 months, a couple of years. If your employees have been exposed to asbestos particularly, that is the disease that goes into the lung and asbestos is so, so fine that even the hair in the nostrils will not have it collected, it will find its ways straight down to your lungs and it builds up in your lungs and that is what that kills a person, without him even knowing that he has got that but on autopsy, it will be found out that he has that. But there are other things like, chemicals within the paint manufacturers, the LPG industry and abroad, ammonia industry, et cetera.

I appreciate your answer there, Mr. Solvalu, however, it is probably something that we need to look at the Employment Regulations Act again. Thank you very much for that. There being no further questions, thank you.

(Vote of thanks by Mr. Chairman)

The Committee adjourned at 10.50 a.m.