

# **[VERBATIM REPORT]**

## **STANDING COMMITTEE ON JUSTICE, LAW & HUMAN RIGHTS**

### **ANNUAL REPORT**

**Fiji Independent Commission Against Corruption 2014 & 2015 Annual Report**

**INSTITUTION: Fiji Independent Commission  
Against Corruption (FICAC)**

**VENUE: Big Committee Room (East Wing)**

**DATE: Thursday, 22nd June, 2017**



**VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS HELD AT THE BIG COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON THURSDAY, 22ND JUNE, 2021, AT 3.30 P.M.**

**Interviewee/Submittee:      Fiji Independent Commission Against Corruption (FICAC)**

In Attendance:

- |     |                   |   |   |
|-----|-------------------|---|---|
| (1) | Ms. Kolora Naliva | - | Manager Corruption Prevention           |
| (2) | Ms. Arti Naidu    | - | Principal Corruption Prevention Officer |

-----

DEPUTY CHAIRPERSON.- Thank you, Honourable Members. We have representatives from the Fiji Independent Commission Against Corruption (FICAC) with us - Ms Kolora Naliva, the Manager, Corruption Prevention and Ms Arti Naidu, Principal Corruption Prevention Officer. We welcome you to our Committee this afternoon.

(Introduction of Committee Members by Deputy Chairperson)

We look forward to your presentation. We will allow you to present to us first and if we have questions at the end, then we will pose questions to you. We take this time to thank you for coming in on such short notice. We look forward to your submission and your insights in responding to our queries which was kind of last minute to you. So without further ado, we give this time to you.

MS. K. NALIVA.- Thank you, Deputy Chairperson and Honourable Members. Just in regards to Issue Note Number 1, just before I move on to answer the questions, Deputy Chairperson, we would like to humbly put in a correction to the Committee's issue that we have seen. Firstly, the reference that is made on your questionnaire, Note 6, we believe that it is not Note 6, it is supposed to be Note 16.

DEPUTY CHAIRPERSON.- Thank you.

MS. K. NALIVA.- Secondly, the Committee's reference is incomplete because what is written on page 50 of the Annual Report of 2014 stipulates that the Commission is controlled by the Government of Fiji, in accordance with the FICAC Promulgation which is now referred to as an Act.

Therefore, in answering the issue note, Note 16 refers purely to the finances of the Commission. It has no reference whatsoever to the prosecution functions, investigation functions and the corruption prevention functions of the Commission. Yes, we received our budgetary allocation from the Ministry of Economy and we depend on the Government of Fiji to provide a stipulated allocation for our budget.

DEPUTY CHAIRPERSON.- Carry on.

MS. A. NAIDU.- In reference to the issue that was raised in number 2, the question that was raised was specifically on corruption prevention and do we have awareness programmes. We would like to refer the Committee to the copy of our Annual Reports 2014 and 2015, which clearly stipulate that we have a Corruption Prevention Department which actually forms the proactive arm of the

Commission and it also indicates some of the programmes and initiatives that we have implemented throughout every level of the Community within Fiji.

To further add on to that, we have a number of programmes that we do initiate and these programmes are covered under Sections 12 (d)(e),(f),(g),(h) of the FICAC Act which basically allows us to go ahead and do corruption prevention. Some of our activities that we have is, the general awareness session which is for all levels of the community, and we do it in all languages as well, the three major languages which is Hindi, *iTaukei* and English.

We also have specifically designed programmes for primary school students and early childhood students as well, which is the 'Good Kido Programme' which is a buffer programme for a bigger programme that we are looking at which is the national anti-corruption curriculum. We are looking at piloting next year and having a full implementation by 2019 and this is in collaboration with the Ministry of Education.

We also have other programmes such as the CIP which is called the Corporate Integrity Pledge which is specifically designed for the private sector, so that we can rope in the private sector into this fight against corruption. We believe that we cannot just say that we are going to tackle the public sector and leave private sector out of it.

We have other media programmes and educational programmes which we conduct on a regular basis, in order that we are able to reach every level of the community, especially the grassroots level.

DEPUTY CHAIRPERSON.- Thank you. Honourable Members, since they are taking turns, do you want to ask questions immediately after their responses or shall we leave it till the end?

Leave it till the end, go ahead.

MS. A. NAIDU.- Deputy Chairperson and Honourable Members, in regards to Question 3, which is the awareness programmes that was implemented, can we provide a detailed report, in terms of awareness programmes and its effectiveness.

Reference is made to pages 23 to 26 of the Annual Report 2014 and pages 24 to 29 of the Annual Report 2015, which clearly outlines the programmes that we have and the results that the Commission has achieved so far.

In terms of our effectiveness, we have gauged our effectiveness through a substantial increase in the number of programmes that have been carried out in 2015. We have had an increase also in the number of request that have been made to the Commission for awareness programmes and the others including Correction Prevention Programmes that we have. Thank you, Sir.

MS. K. NALIVA.- Honourable Members, the complaint process of the Commission is that, we receive all complaints and they are received by the Complaints Department, they are then registered into the Case Management System, a unique case ID is given to the complainant. There are various modes of receiving complaints, including walk in complaints, toll free calls, emails, letters and even landlines.

Complaints that are within FICAC jurisdiction, it is received by the complaint officers and then it is referred to the Legal Assessment Unit, the Legal Assessment Unit comprises of lawyers where they will analyse the complaints and they will deliver their legal opinion and their

recommendation on how best the case is to proceed. On complaints that are non-corrupt related that lies outside of our jurisdiction, we receive those complaints as well and then we refer the complaint to the most relevant authority for their necessary further actions and then the complainants are also informed accordingly.

Under Section 9 of our Bribery Act, we have a provision there that gives powers to the Commission to deal with private sector corruption. However, the Commission's priority is to deal with public sector corruption, but in most times, we look at both public and private sector generally.

Just to answer the second bit of Question 4, the time frame for disposing a case is, it is case sensitive. With a major case, big paper trail, it would take time, while straight forward case, we would be able to dispose it within a short period of time and with cases that are still pending before the court, we really do not have any jurisdiction on that and it is up to the court's jurisdiction.

Moving onto Question 5, Deputy Chairperson and Honourable Member, we investigate cases that are corrupt related specifically to the public sector corruption. Cases of criminal nature, apart from corruption offences and bribery that is referred to the Police and non-corrupt related cases, we refer to the relevant authorities for further action. If we receive complaints on civil legal matters, the complainants are advised to seek private legal assistance in that regard.

Deputy Chairperson, on Issue Note number 6, the cases are referred back to the Ministry if the cases are not corrupt related cases or in such cases, if the case does not fall within FICAC's jurisdiction. When we refer the case back to the Ministry, the Ministry is left to further deal with the case pertaining to their internal policies and processes.

Issue Note number 7, we are unable to divulge any details on investigations, that would be against our Bribery Act, as such it is unlawful to divulge on the details of pending matters for investigation.

Issue Note number 8, yes the Commission has the protection of informers' provision under Section 38 of our Bribery Act.

Issue Note number 9, Deputy Chairperson, our interpretation of cybercrime is "criminal activities carried out by means of computer or internet". We do investigate cybercrime, if it is related to the corruption related offence. Until June 2016, the Commission had no powers to prosecute and investigate money laundering offences.

With the new amendments that we have to our laws, we now have prosecution and investigation powers to also investigate and prosecute money laundering offences under the Proceeds of Crimes Amendment Act.

Issue Note number 10, currently there is one case pending in court, it is the case of Feroz Jaan and the total assets worth \$2.2 million.

MS. A. NAIDU.- Deputy Chairperson, referring to Note number 11, which is the question on the total number of staff that FICAC has and is it sufficient. Our answer to that is, yes, it is sufficient and currently, we have just over 150 staff and when we look at it in accordance with the population of Fiji and the capacity of the public sector, the employed members of the public sector, we believe that it is sufficient, in order to carry out the duties of the Commission.

Referring to Issue Note number 12, on high number of staff turnovers, Deputy Chairperson, we believe that we do not actually have a very high number of turnovers. The most resignations that we have had, are the staffs that intended to migrate to overseas countries or termination of staff due to any disciplinary action or breach of code of conduct.

To the Deputy Chairperson and the Committee, we would like to request for Issues 13, 14, and 15 if we could be given more time, we are humbly seeking the approval of the Committee, if we could be given more time to put in a written submission on these issue notes, as we only received this documentation around 10.26 a.m. this morning.

DEPUTY CHAIRPERSON.- Honourable Members, I believe, we are in agreement in giving you more time to respond to that.

MS. A. NAIDU.- Thank you, Sir.

DEPUTY CHAIRPERSON.- Thank you. Honourable Members, do we have any questions? Maybe, I will just kick of things in regards to the staffing issue, probably the question I want to pose there, do you have enough legal people to deal with all your cases. As you said, you have a substantial increase in the number of cases that you deal with comparing 2013 to 2014, we have seen the table that you have, that is why I am asking, do you have enough legal people to deal with the cases now that you are looking at cybercrime coming into the picture?

MS. A. NAIDU.- In response to that, we would like to say that we do currently have a fully-fledged team of 10 to 12 legal members. Not only that, in terms of cybercrime, we only look into it if it is to do with anything with corruption related matters, we do not look at general cybercrime offences, as it is.

With regards to us moving into money laundering offences and proceeds of crime, at the moment, we do believe that we have the capacity to handle it and should there be a need then we will increase it accordingly.

DEPUTY CHAIRPERSON.- Thank you. Honourable Members, Honourable Singh.

HON. B. SINGH.- Thank you, Arti and Kolora for appearing this afternoon. Just on the staff turnover also, termination of staff, are they given opportunity again to join FICAC?

MS. K. NALIVA.- No.

HON. B. SINGH.- Are you sure?

MS. K. NALIVA.- Well, that is my opinion but I think it would probably be looking at it on a case by case basis because termination that have happened are termination of breach of code of conduct and disciplinary issues.

HON. B. SINGH.- It is regarding tempering of exhibits and all that, it is a criminal case but he has been observed back in the system?

MS. K. NALIVA.- Honourable Singh, in answering that, I would like to say that the recruitment is based on a case to case basis and it is at the discretion of the Deputy Commissioner, however, it is not just at the discretion of the Deputy Commissioner, we do have legal councils where

we do seek opinion prior to hiring, so we do ensure that the matter is looked into prior to any such matters. Thank you.

HON. M. LEAWARE.- I have been following your responses in Question 3, in terms of implementation of the awareness programme and the question that we are asking is, its effectiveness. I honestly believe that it is not answered because when we look at the effectiveness, we may touch a little bit in English, it is producing a desired result. So what is the result that we are looking for, in terms of your awareness programmes; you go to roadshows and all that. For me, I believe that the result will be the lesser number of cases being investigated by FICAC. So, if you can weigh this programme against that? Could we have some clarification on that, please?

MS. A. NAIDU.- Honourable Members, in reference to your question, I would like to answer it slightly different than how you actually proceeded, Sir. It is actually a two sided coin when you look at corruption prevention. Corruption prevention you can say that it will help decrease the number of complaints but on the other side, to actually determine the effectiveness of corruption prevention, it will also increase your investigation and prosecution cases.

How that happens is, initially you can say that the public has certain amount of information but when they are given correct information and good information, you are also building and empowering them with knowledge which helps them to further come back to us and have that trust in us to in fact, lodge more complaints.

It is actually a two sided coin for us and that is how corruption prevention works for us. On one side, yes you can say that it should decrease corruption in Fiji but on the other side, it actually now puts a highlight to issues, therefore it becomes better in the sense that now the public are getting to the point of zero tolerance or non-tolerance towards corruption so when they do see something, they actually are more empowered to come out and complain about it. That is the reason why we would say that there is a spike in complaints as well, in terms of investigated and prosecuted cases. Issues that were initially not brought to us or kept silent because they were not regarded as corruption before, now public are more aware that these are actually corrupt practices and need to be reported to FICAC.

In terms of gauging our effectiveness, apart from the number of increase in the awareness session that we have, we have also had a substantial amount of increase in our programmes and initiatives that we have created. We also have an in-house monitoring and evaluation team that actually monitor the effectiveness of our sessions, our programmes and our initiatives by actually assessing the impact and the impact assessment is actually based on the participants take on our programmes and our initiatives. So, we actually do a monitoring and evaluation on all our initiatives and programmes that we have. Thank you.

DEPUTY CHAIRPERSON.- Thank you. I think one thing that we were talking about in regards to looking at the effectiveness of those awareness programmes because we thought that the more you have those awareness programmes, as it shoots up, one will have to shoot down, when it comes to a stage where everyone is well versed with your messages and they have been reporting.

Will there eventually come a time that we see investigations or people have adhered to the law that they are within the perimeters of the law and they do not obstruct because what we are seeing right now, all those figures are just rising, so where will we see those corrupt practices start to nose dive, people adhere to the law of the land and there are more people with integrity. So, is there some sort of time line or whether it is going to be a generation where you do those sort of things? I think that is something that we were discussing that came up. I do not know whether you will be able to respond to that.

MS. A. NAIDU.- Thank you, Honourable Members. In answering to that, that is a very valid point that you have put across. One of the issues that we are dealing with is the change perception of people and it has taken us a bit of time to actually change the culture and that perception that people have towards corruption because a lot of times we have noticed through our programmes that people generally have the perception that it is normal.

Bribery is normal, a gift giving issue is normal, so changing that perception is actually taking its time and it is going to take us more time because of the culture that we have and we really need to be doing more sessions in order to be able to change that perception. In terms of it taking a nose dive, I cannot really give a time frame on that, however the only thing that I can say is we will never probably reach zero because we are dealing with people, at the end of the day, the mind has its own way of working.

DEPUTY CHAIRPERSON.- So from your awareness programmes, you are having even the vernaculars, which of these are effective; the awareness that you carry out in English or whether it is *iTaukei* or Hindi? So when you are getting reports, can you correlate that with the number of reports that is coming back to you, in terms of effectiveness of the awareness programmes?

MS. A. NAIDU.- In answering that, we have run programmes in all three languages and if we look at the effectiveness, we believe that its effectiveness is across the board for all of the languages because in saying that, we are doing our programmes in three languages, we actually look at the different levels of the community.

When we are saying that we running the *iTaukei* programmes, it is actually at the grassroots level, so the kind of complaints that we get from the grassroots level is slightly different from what we get from other urban communities or semi-urban communities. Also it is different from the kind of complaints we get from the public sector but if we were to weigh out, which of these were effective, we believe that across the board, all have been effective for us.

DEPUTY CHAIRPERSON.- Thank you. Honourable Members, if there is no more question, we would like to take this time to thank Ms. Kolora Naliva, Manager, Corruption Prevention and Ms. Arti Naidu, the Principal Corruption Prevention Officer, thank you so much for your time and for being available at a short notice and we believe that you will respond to those pending questions 13, 14 and 15 and when we sit next week, we will be able to see your response, even if you just give it in writing and we can go through that as well.

On behalf of the Honourable Members and the Secretariat, we would like to take this time to thank you once again, thank you for your presentation.

The Committee adjourned at 4.00 p.m.