STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

REPORT ON THE COAT OF ARMS BILL 2015 (BILL NO. 5 OF 2015)

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CHAIR'S FOREWORD

I am pleased to present the report of the Standing Committee on Justice, Law and Human Rights on the Bill for an Act to Declare the Coat of Arms of the Republic of Fiji and to Make Provisions for its Use (Bill No. 5 of 2015).

The coat of arms of Fiji is the heraldic device consisting of a shield divided quarterly by Cross of St. George and charged with a gold lion at the top, supported by two Fijian warriors, one on each side, and topped with a canoe as the crest. It was adopted in 1908 by a Royal Warrant and it has been the coat of arms of Fiji since that year, having been retained after independence in 1970. A modified version of the coat of arms is featured on the flag of Fiji.

The colours and objects on the coat of arms carry cultural, political, and regional meanings. The Cross of St. George which divides the shield quarterly and the golden lion at the top represent the United Kingdom, the former colonial power that ruled over Fiji. The cocoa pod held in the lion's paw, along with the sugarcane, coconut palm and bananas occupying three of the four quadrants, represent the country's natural resources, since these are key agricultural crops in Fiji. The bottom left quadrant contains a dove that symbolizes peace.

Depicted prominently on the Coat of Arms are the Cross of Saint George and a golden lion which represent the United Kingdom, our former colonial ruler and reflect the country's links with the United Kingdom. These symbols on the Coat of Arms allude to Fiji being a colony or dependency and do not represent Fiji's status as a truly independent and sovereign nation.

Therefore the Coat of Arms is a symbol that is tied to our colonial past. It is time to move on from these symbols of our past to new symbols that are truly Fijian, represent our nation and will resonate with Fijians in our present and future.

Previously the Coat of Arms was regulated by the Coat of Arms of Fiji (Restriction of Use) Act (Cap 245) which the Bill seeks to repeal. Therefore it became necessary to introduce new laws to govern the new Coat of Arms and to protect and regulate its.

The Bill after it was presented in the parliament was referred to the Standing Committee on Justice, Law and Human Rights for scrutiny. The Committee went through a thorough process in scrutinising the Bill. The process involved hearing oral submissions and reading written submissions. The Committee then went through legislative scrutiny which involved line by line reading of the Bill. Where clarification was needed the Committee consulted with the drafters and sought advice and necessary amendments were made.

In its current form the Bill has some notable features such as Section 9 which makes desecration of the Coat of Arms an offence, Section 10 which provides the mechanism for any further changes to the Coat of Arms once declared and Section 11 which provides for penalties for offences under the Bill particularly for desecration or misuse of the Coat of Arms. The penalties are in line with the accepted principles in other jurisdictions including Australia, New Zealand, USA, Kiribati, France, Germany, Hong Kong and China.

This report provides a summary and examination of submissions and oral evidence heard at the Committee's public hearings in, most of which were calling for review and amendments to the Coat of Arms Bill. The report is divided into three chapters:

- **Chapter 1** covers the role and responsibilities of the Committee and the inquiry process in undertaking a review of the current Coat of Arms Act of Fiji 1972.

- **Chapter 2** focuses on the Bill and examines the submissions received and the information provided at public hearings held by the Committee, including a summary of questions and answers from the public hearings.

- **Chapter 3** details the Committee's deliberations and analysis of the evidence received.

The parliamentary committee system under the 2014 Constitution and Standing Orders aims to enhance transparency of, and accountability by, public agencies and officials.

The Committee held its first meeting on 28th May 2015 and in response to a call for submissions, held a series of meetings from 1st to the 5th of June 2015 to receive submissions and oral presentation, on whether or not to recommend to the Fiji Government that the Coat of Arms Bill 2015 be reviewed or to be amended.

On behalf of the Honourable Members on the Committee, I would like to express my sincere thanks and appreciation to all those organisations and individuals who made a submission and/or attended public hearings. The strength and depth of the Committee's inquiry rests with the voluntary commitment and time of groups and individuals making submissions and appearing at public hearings. This was evident in the high quality of submissions received and with presenters at the public hearings, who candidly provided their opinions and advice to the Committee.

I wish to extend my heartfelt thanks to the Honourable Members involved with the production of this bipartisan report: my Committee colleagues Hon. Semesa Karavaki (Deputy Chair), Hon. Lorna Eden and Hon. Niko Nawaikula. I also thank the Hon. Alvick Maharaj, Hon. Brij Lal, Hon. Balmindar Singh, Hon. Anare Vadei, Hon. Alexander O' Connor and Hon. Mikaele Leawere for their contributions and for availing themselves as alternate members for those Members who were unable to attend the Committee meetings.

Lastly, I thank the Secretariat for the assistance provided during the Committee's deliberations.

This is a historic piece of legislation and will have profound impact on us Fijians as a nation and as a people. I hope the Bill receives the support of the full house.

I commend this report to the Parliament.

HON. ASHNEEL SUDHAKAR (MP)
CHAIRMAN

LIST OF ACRONYMS

CCF	-	Citizens Constitutional Forum
FPF	-	Fiji Police Force
OPM	-	Office of the Prime Minister
RFMF	-	Republic of the Fiji Military Forces
SOLDELPA	-	Social Democratic Liberal Party

1.0 INTRODUCTION

1.1 Background

Using the legislative powers provided to the Committee, this report examines the Government's proposal to make provision for the Coat of Arms of the Republic of Fiji and to provide for its use and protection.

This Bill is intended to provide for the alteration of the former Coat of Arms ('**Coat of Arms**'), and to regulate the use of the Coat of Arms.

Depicted prominently on the Coat of Arms is the Cross of Saint George and a golden lion which represents the United Kingdom, our former colonial ruler.

These symbols on the Coat of Arms allude to Fiji being a colony or dependency and do not represent Fiji's status as a truly independent and sovereign nation.

Therefore, the Coat of Arms is a symbol that is tied to our colonial past, it is time to move on from these symbols of our past to new symbols that are truly Fijian, represent our nation and will resonate with Fijians in our present and future.

1.2 The Standing Committee on Justice, Law and Human Rights

The Committee is a standing committee of the Fijian Parliament and was established under Section 109(2) (f) of the Standing Orders (SO) of the Parliament of the Republic of Fiji. The Committee comprises five Honourable Members, drawn from both the Government and the Opposition parties.

The Committee is mandated to examine matters related to crime, civil rights, courts and their administration, the Constitution, policing and human rights. Section 110(1) of the SO mandates the Committee to examine and make amendments to the Bills, to the extent agreed by the Committee.

On Thursday 14th May 2015, the Attorney General and Minister for Finance, Public Enterprises, Public Service and Communications introduced a Bill to make provision for the Coat of Arms of the Republic of Fiji and to provide for its use and protection (Bill No. 5 of 2015).

The House resolved that the Bill be committed to the Standing Committee on Justice, Law and Human Rights to examine and report back to Parliament during the July sitting.

1.3 Procedure and Program

On Saturday, 30th May and Wednesday 3rd June, 2015 the Committee called for submissions by placing an advertisement in the local newspaper (Fiji Sun) and through the Parliament website (www.parliament.gov.fj). Due to the tight timeframe for the Committee to consider and report back to Parliament on 6th July 2015, the deadline for submissions was on Friday, 12th June, 2015.

The Committee also wrote to government agencies, seeking submissions and to appear before the Committee at a public hearing.

1.4 Committee Members

The members of the Standing Committee on Justice, Law and Human Rights are as follows:

1. Hon. Ashneel Sudhakar - Chairman
2. Hon. Semesa Karavaki - Deputy Chairman
3. Hon. Lorna Eden - Assistant Minister for Local Government, Housing, Environment, Infrastructure & Transport
4. Hon. Iliesa Delana - Assistant Minister for Youth and Sports
5. Hon. Niko Nawaikula - Member

During the Standing Committee's meetings, the following alternate membership arose pursuant to Standing Order 115(5):

1. Hon. Alvick Maharaj
2. Hon. Brij Lal
3. Hon. Balmindar Singh
4. Hon. Anare Vadei
5. Hon. Alexander O' Connor
6. Hon. Mikaele Leawere

2.0 COAT OF ARMS BILL 2015

2.1 Introduction

The Committee received 9 submissions and heard oral evidence from 5 submission at public hearings held at Parliament Buildings, Suva, from 1st to 5th June 2015.

Key themes raised in the submissions and at the public hearings are noted below, under each of the 3 Terms of Reference below:

i. Are the clauses sufficient or should there be amendments to the clause in the respective Bills?
ii. The impact of the Bills on the nations as a whole?
iii. Any other views specific to the contents of the Bill?

2.2 Key themes raised in submissions and at public hearings

All submitters to the proposed Coat of Arms Bill 2015, whether in their written submissions or when presenting to the Committee, are outlined in the following subsection (2.3) of this report which included their recommendations.

2.3 Oral and Written submissions received

The purpose of the Committee was to conduct wider consultations and receiving written and oral submissions to ascertain the position and the views of the wider population of Fiji on the proposed Bill by Government to make provision for the Coat of Arms of the Republic of Fiji and to provide for its use and protection.

The Committee's consultation in Suva was conducted with the absence of Hon. Iliesa Delana who was engaged with the Fijian Flag Design Committee.

The Committee heard five (5) oral and received three (3) written submissions which are summarised below.

Submission One: Fiji Police Force

Mr. Isikeli Ligairi, Deputy Commissioner
Mr. Sakeo Raikaci, Actg. Senior Superintendent

The concern raised by the Police Department that the roles and functions of the Fiji Police Force are not well stated in the proposed Coat of Arms Bill 2015;

It was further stated that the powers of the Fiji Police Force need to be clearly spelt out in the Bill, this in terms of the power to arrest;

In terms of restriction on proceedings, Section 245 of the current Act which stated that any proceedings undertaken under the act has to be sanctioned by the Director of Public Prosecutions which the Police suggested that it should be re-instated and included as an amendment to the Bill; and

The Fiji Police Force had raised that the Bill need to cover also those Fiji citizens residing overseas who tears, burns, throws or commits any other offence in relation to the Coat of Arms and posts it through the social media.

Submission Two: Office of the Prime Minister

Mrs. Peniana Lalabalavu , Deputy Secretary, Policy
Ms. Susan Kiran, Secretary to Cabinet
Mr. Joeli Besetimoala, Director, PRMD
Mr. Aman Nath, Public Relations/Media

The only major issue raised by the Office of the Prime Minister is in Part 1 - Preliminary, Clause 2 'Interpretation', that is the use of 'Fiji Navy' as one of the Disciplined Forces which is not aligned to Section 129 of the Constitution, given that Fiji Navy is not included in the Disciplined Forces but is under the Republic of Fiji Military Forces.

The Office of the Prime Minister has fully supported the Bill given that it will also be administered by the honourable Prime Minister and the Office of the Prime Minister.

Submission Three: Republic of Fiji Military Forces (RFMF)

Colonel Sitiveni Qiliho, Commander Land Force
Captain Kanavati, Personal Staff Officer (PSO)

The RFMF viewed that the Bill are adequately cover the use of the Coat of Arms as part of the military uniform as per Section 8 (2) of the Bill.

The RFMF further stated that the need to regulate the use of Coat of Arms would protect Fiji's highest national symbols, to remain a national source of pride and patriotism and positive affirmation of loyalty and commitment.

The Coat of Arms Bill is used as the Presidential Standard, it is hoisted during formal military parades, where His Excellency the President and Commander in Chief is the Reviewing Officer, for example during the Fiji Day Parade.

The Coat of Arms is also flown on the presidential vehicle and is affixed onto the vehicle as the identification plate.

The Republic of Fiji Military Forces had raised that there is no provision in the Bill that states that the Coat of Arms is the Presidential Standard.

It was also raised if it is the Government intention to continue with the current practice where the Coat of Arms is the Presidential Standard then it should be specified in the Bill.

Submission Four: SODELPA Youth Council
Mr. Peter Waqavonovono, President
Ms. Laisani Qaqanilawa, Secretary

The SODELPA Youth Council viewed that the copyright in the design of the Coat of Arms is vested in the State in perpetuity and all rights and privileges conferred on the registered proprietor of a design under the Patents Law which should be enjoyed by the State. Also noted that this it is important that this is captured well in any law;

The Council further stressed that the office that governs the use of the Coat of Arms and manage its sustainability must also seek to practice their authority independently;

Also noted that it is important to keep this law flexible. For example, there are nations that have flowers or a particular flower as their Coat of Arms, and during the State evenings, because of what the law say, they have to be placed in a certain area;

The Council also highlighted Part 3 – Miscellaneous, Clause 1 'General Offences and Penalties' which are very hefty which is little bit too much for a peaceful country like Fiji, for a country that is rich in culture. The Youth Council believed that there is no need for such strong penalties;

In the hope of strengthening Fiji's democracy the Council has suggested if Fiji can look to other bigger democracies and see what has worked in those different countries;

The Council further stated that the Coat of Arms is the overarching symbol of Fiji's sovereignty and unity. This cannot be changed easily by a change of government, and in order to save the process and the right to use the Coat of Arm, the Council reiterated that Fiji must speak immediately to other stakeholders – consult, as Ratu Sir. Kamisese Mara did in 1972.

Submission Five: Mr. Mills Malcom Beddoes

The submission highlighted that the explanatory notes in the Bills on the Coat of Arms speak of symbols of Fiji's colonial past which Mr. Beddoes viewed that it is misleading, even self-serving and selective because other than the Union Jack and the lion, the depictions of sugarcane, coconut tree, bananas and the dove are all true symbols of our country and not our colonial past.

It was also pointed out that Bill No. 5 has 20 sections which 55 percent of its provisions related to offences citizens will face. These range from fines of $20,000 to $0.5 million or 10 years imprisonment or both.

Given that the Coat of Arms Bill No. 5 which has majority of the provisions related to punishment and fines arranging from $20,000 to $500,000 plus 10 years or both. Mr. Beddoes further stated that the Bill No. 5 however, continues on this course of legal extremes and flies in the face of Fiji's long-held principles that a person is presumed innocent until proven guilty.

Also highlighted by Mr. Beddoes that Section 11 is inconsistent with the rights of the accused person as stated in Section 14(2) of the Constitution, which says, and I quote: "*Every person charged with an offence has the right – to be presumed innocent until proven guilty according to law…*".

Submission Six: Edward Blakelock, Samabula

In the Explanatory Note, Mr. Blakelock stated that in the Background, Clause 1, and Sub-clause 1.1, if "alteration" is the case, then logically the Bill should only seek to amend the existing Coat of Arms of Fiji (Restriction of Use) Act (Cap 245). This would therefore be an amendment Bill only, which he perceived from the media's announcements is not the purpose. In this case, the intended purpose is a totally the new Coat of Arms and thus a new Bill and then a new Act. While he knew that the "Explanatory Notes" will not form part of the Act when it is passed, the Bill with the Notes attached, will be laid before Parliament for its deliberation. The Parliament should therefore be privy to the correct Objectives of the Bill, when the Bill is deliberated upon.

Next, in Part 1 – Preliminary, Clause 2 'Interpretation', it was noted that the clause needs to be amended by deleting the term "Fiji Navy" from the interpretation of the "Disciplined Forces".

The "Fiji Navy" is an intrinsic component of the "Republic of Fiji Military Forces" and should not therefore be separated here. Its separation is legally incorrect and deemed to be repetition.

Further in Part 2 –The Fijian Coat of Arms, Clause 7 'Commercial Use', Sub-clause (1)(c), it was noted that the sub-clause needs to be amended by inserting the word "its" before the word "depict" in the first line for grammatical reasons.

Also, in Clause 8 "Use of the Coat of Arms", sub-clause (2): This clause also needs to be amended by adding the article "the" before the term "Disciplined Forces" in the second line, as is the case in Clause 14 for grammatical reasons.

In Clause 9 "Changes to the Coat of Arms": This clause seems to be presumed that the new Coat of Arms will be part of the new flag (as is the case with the current flag), because it stated that a change to the flag could lead to the Coat of Arms being also amended and altered, as a consequence. However, the current shortlist of new flag designs, in fact do not have any Coat of Arms design in them. How then would a change to the new flag alter the Coat of Arms?

It was noted that the process for any amendment to be made to the new Coat of Arms should be just as stringent and similar to those for changes to the Constitution and the new flag. (i.e. 3 Readings and 75% support in Parliament and 75% support of the people through a referendum.)

The term "Statutory Authority" should be amended to read "statutory authority", this term should not be in caps as it does not refer to any particular authority.

Further in Part 3 – Miscellaneous, Clause 11 "Burden of Proof", the provisions in this clause is a fundamental shift from what is stated in Sec. 14 (2) (a) of the Constitution and should therefore be reviewed and amended accordingly. Therefore, a person charged with an offence has the right to be presumed innocent according to the law and not as stated in the Bill.

Also in Clause 12 on "Rules and Regulation" sub-clause (2), on the issue of the Coat of Arms on the President's vehicle, the assumption by Mr. Blakelock that the guidelines to be set out in the Gazette notice issued by the Minister under this sub-clause, would provide the necessary details for this, as well as details for other uses and circumstances.

For the Explanatory Note – Part 3, "Ministerial Responsibility": This notation should correctly be also included at the end of the act when published and not only in the Explanatory Notes.

Submission Seven: Citizens' Constitutional Forum Limited (CCF), 23 Denison Road, Suva

In Part 3 – Miscellaneous, Clause 1 'General Offences and Penalties', The CCF viewed that excessive penalties are considerably harsher than similar provisions from developed democracies such as New Zealand's Flags, Emblems and Names Protection Act 1981;

The Committee to revise the penalties to suit the gravity of the offence and that are more adaptable to the domestic setting;

Further, in Clause 11, "Burden of Proof": The violation of the right to presumption of innocence, which is a fundamental component to a fair trial, and consistent with the Bill of Rights in the Constitutions and customary international law. It is recommended that Clause 11 be removed since it is unnecessary, as it is adequately prescribed in Part 9 of the Crimes Decree 2009; and

CCF further suggested the need for a referendum to decide on whether alternatives to the Coat of Arms should be introduced, in following internationally accepted standards.

Submission Eight: Ministry of Defence, National Security and Immigration
Mr. Jonisio Mara, Deputy Secretary

i. The Clauses for the Bill are sufficient.

ii. The Ministry stated that the impact of the Bill on the nation especially in provoking some sort of insecurity or instability would be none. The majority of the Fijian people has come to accept the outcome of the 2014 General Elections and as such will also support the Bill.

iii. Also raised that the Coat of Arms Bill should reflect what Fiji would like to identify its people with. Therefore, some of the symbols included in the former Coat of Arms are now inappropriate and the onus would be on decision makers to choose something that would clearly distinguish Fiji from the rest of the world.

iv. It was noted as in the current Fijian flag, the Fiji's Coat of Arms is partially illustrated but it excludes the two i-Taukei warriors, canoe and the Fijian interpretation for: - Fear God and Honor the Queen.

v. The Ministry's point of view was that if Fiji choose to have a Coat of Arms then the whole Coat of Arms should be reflected in the flag and not only a portion of it as in some of the flags now.

3.0 COMMITTEE DELIBERATIONS ON THE COAT OF ARMS BILL, 2015

The Committee received submissions which highlighted key issues on the following clauses and subclause of the Bill.

3.1 Preliminary

i. Short title and commencement
ii. Interpretation
iii. Objective

3.2 The Fijian Coat of Arms

i. Declaration of the Fijian Coat of Arms
ii. Prohibition on the use of the Coat of Arms
iii. Misuse of the Coat of Arms
iv. Commercial Use
v. Use of the Coat of Arms
vi. Changes to the Coat of Arms

3.3 Miscellaneous

i. General Offences and Penalties

ii. Burden of Proof
iii. Rules and Regulation
iv. Transitional
v. Consequential Amendments
vi. Repeal

3.4 Gender Analysis

Under SO 110 (2), where a committee conducts an activity listed in clause (1), the committee shall ensure full consideration will be given to the principle of gender equality so as to ensure all matters are considered with regard to the impact and benefit on both men and women equally.

The Committee considered the issue of equal opportunity for all citizens including women and men during the advertisement of its expression of interest from all works of life to provide comments during the consultation process of the Coat of Arms Bill.

Submissions were received from the Citizen's Constitutional Forum Limited, Edward Blakelock, Mick Beddoes, SODELPA Youth Council and the Prime Minister's Office, among other government bodies.

The Committee is satisfied that the matters considered in this report, namely the Government's proposal to make provision for the Coat of Arms of the Republic of Fiji and to provide for its use and protection, impacts on men and women equally and as such, for the change made to Fiji's Coat of Arms which has the voice and support of all Fijians.

3.5 Consideration of Bill Clause by Clause

The Committee received submissions on 1st to 5th June, 2015 which highlighted key issues on the following clauses and sub-clauses of the Bill in the Table below:

CLAUSE	COMMITTEE COMMENTS & CLARIFICATION	RESPONSE – ORANIZATION (SUBMITTERS)
PART 1—PRELIMINARY *Short title and commencement* **1.**—(1) This Act may be cited as the Coat of Arms Act 2015. (2) This Act shall come into force on a date appointed by the Minister by notice in the *Gazette*.	**HON. N. NAWAIKULA**. - I have another question. If you can answer this, you can answer. If you cannot answer, you can just simply say 'no'. Under this Act, as well as the Coat of Arms Act, it makes it very important, like you said, this objects are very important. The implication is that, this object does not only belong to the State, but belong to the individuals. That is from my reading. Why I am saying that is because, to change the Coat of Arms or the flags after the passing of this Act, you will require first, a three-quarter majority in the House plus, it will have to have a Referendum in which each individual will need to express an opinion. That	**MR. I. LIGAIRI.** - Mr. Chairman, and honourable Members of the Committee, we will abstain from answering that question. Thank you.

CLAUSE	COMMITTEE COMMENTS & CLARIFICATION	RESPONSE – ORANIZATION (SUBMITTERS)
	is after this. My question is, do you feel we should also do that when we are changing this? You can answer it or if you do not?	
Interpretation **2.** In this Act, unless the context otherwise requires— "Coat of Arms" or "Fijian Coat of Arms" means the Coat of Arms declared in accordance with section 4; "Disciplined Forces" means the Republic of Fiji Military Forces, Fiji Police Force, Fiji Navy and the Fiji Corrections Service; "former Coat of Arms" means the Coat of Arms granted by Royal Warrant under the Coat of Arms of Fiji (Restriction of Use) Act (Cap. 245); "Minister" means the Prime Minister; and "person" means a natural or legal person, including a company or association or body of persons whether corporate or unincorporated.	**HON. S.D. KARAVAKI.** - Thank you, Mr. Chairman. Mrs. Lalabalavu, just referring to the issue of the Fiji Navy, you are saying that on its own, it is not part of the Disciplinary Force, but it is a Disciplinary Force within the Royal Fiji Military Force? It is part of the Fiji Military Force, but it is not on its own. Is that what you are saying? **HON. S.D. KARAVAKI**. - Mr. Chairman, just one clarification please before they leave. I think we were talking about the Fiji Navy, may be they can clarify this for us. We have in the Bill the Fiji Navy specifically mentioned. Also, apart from the Fiji Military Forces, we were discussing whether the Fiji Navy is on its own as it appears on the Bill, or should it be as it is, a part of the RFMF? It should not be mentioned on its own because when we look at Section 131 of the Constitution, the disciplinary force is there, the Fiji Navy is not specified there, and just for your clarification, please. **MR. CHAIRMAN**. - The honourable Karavaki's question arises from Section 129 to 131 of the Constitution, which defines the disciplinary forces as Fiji Police, Fiji Military Forces and the Prison Services or the Correctional Services. However, the Bill that is before us also includes Navy as a disciplinary force. That is where the	**MRS. P. LALABALAVU**:, On Bill No. 5 on the Coat of Arms, again on the Interpretation of Fiji Navy, in terms of alignment to Section 129 Constitutions, and Part 3 – Miscellaneous, the inclusion also of the national colours that will be part of the new flag. We just have two issues there on the Coat of Arms Bill. That wraps up our brief submission this morning. **MRS.P. LALABALAVU**.- Yes On Bill No. 5 on the Coat of Arms, again on the Interpretation of Fiji Navy, in terms of alignment to Section 129 Constitutions. **COL. S. QILIHO**. - Yes, the Fiji Navy is part of the RFMF, so as the Land Forces which I command. If you want to compare that to the bigger militaries of the world, they have the Army, the Navy, and the Air Force, which is linked up to the joint command that probably is the joint Chief of Staff in the bigger militaries - the same as with us in Fiji. There is the Navy and the land

CLAUSE	COMMITTEE COMMENTS & CLARIFICATION	RESPONSE – ORANIZATION (SUBMITTERS)
	question comes from, but I think we are clear that navy force is part of the Military, so by mentioning Military, Navy is automatically included.	forces which is the Army part of it, and they report to the Commander of the RFMF. They are both part of the RFMF, it is not separate, so that is the picture that we have to see. There is the Commander Navy, which is Captain Fox, and I am the Commander Land Force, and the Commander RFMF. He is not the Commander Army, he is the Commander, Republic of Fiji Military Forces, that we report to. I hope that clarifies your queries. **COL. S. QILIHO**. - That is correct, honourable Chair, and in regards to the specific mention of the Navy in our submission, there are customs and traditions of the Navy which is very different from that of the Army or the Land Force that I command that is the same throughout the world. So there are some customs and traditions, like they fly the White Hand-Signed for the Army part of the RFMF. We do not fly White Hand-Signed, we just fly the national flag. That is the same throughout the world, and so for those who have the Air Force, there are some customs and traditions that will be specifically mentioned that is different from the Army and the other two services.
Objective **3.** The objective of this Act is to— *(a)* provide for changes to be made to certain parts of the former Coat of Arms; *(b)* provide for the declaration of a new Fijian Coat of Arms; and	**HON. N. NAWAIKULA**. - I only have one. I am reading now from the explanatory notes and the explanatory note gives the reasons for the changes. In both, if I could just take one in relation to the Coat of Arms, for example, it says that the Coat of Arms or the Cross of Saint George represents our former colonial ruler. It does not represent our current status and therefore, the Coat of Arms is the symbol that is tied to our colonial past. It is time to move on to something that	**COL. S. QILIHO**. - Thank you honourable Chair and Member for that question. The ranks and traditions that the RFMF has, there is no intention to change that at this moment. If we look at former colonies of those protected were other militaries that in no way is tied to the Commonwealth or to the British Crown, they wear the same ranks as well. Closer to us is the Kingdom of Tonga, that is a kingdom in itself, even though

CLAUSE	COMMITTEE COMMENTS & CLARIFICATION	RESPONSE – ORANIZATION (SUBMITTERS)
(c) regulate the use of the Coat of Arms.	truly represents. Can I just ask in relation to the current tradition of the Fiji Military, in terms of how you, the rank and file, even in the way you drill, do you follow the English tradition and is there (now that we are changing) an intention to follow, to also change that?	protected of the British at some time, they still wear the same ranks and follow the basic traditions of the Commonwealth. I hope that answers the question, honourable Chair.
PART 2—THE FIJIAN COAT OF ARMS *Declaration of the Fijian Coat of Arms* **4.**—(1) The Minister shall by notice in the *Gazette* declare the Fijian Coat of Arms before 10th October, 2015. (2) The Coat of Arms declared in accordance with subsection (1) shall be the symbol of the State, the Government and the citizens of Fiji.	**HON. N. NAWAIKULA**. - I have another question. If you can answer this, you can answer. If you cannot answer, you can just simply say 'no'. Under this Act, as well as the Coat of Arms Act, it makes it very important, like you said, this objects are very important. The implication is that, this object does not only belong to the State, but belong to the individuals. That is from my reading. Why I am saying that is because, to change the Coat of Arms or the flags after the passing of this Act, you will require first, a three-quarter majority in the House plus, it will have to have a Referendum in which each individual will need to express an opinion. That is after this. My question is, do you feel we should also do that when we are changing this? You can answer it or if you do not? **HON. N. NAWAIKULA.** - Just a question on cost. Now we will have, from the law as it states, by the 10th of October we will have a new Coat of Arms. In terms of cost to the Police Department, do you need to change the emblem in every uniform or how is the cost implication to the Fiji Police, in changing the Coat of Arms?	**MR. I. LIGAIRI**. - Mr. Chairman, and honourable Members of the Committee, we will abstain from answering that question. Thank you. **MR. I. LIGAIRI. -** Mr. Chairman, I would rather abstain from answering that, but to our knowledge as of this point in time, there is not much cost that comes with changing the flag and the printing, as well as the embroidery of the flag on the sleeve of our uniforms. Thank you.

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Prohibition on the use of the Coat of Arms **5.**—(1) A person shall not use the Coat of Arms for any purpose whatsoever without obtaining the written approval of the Minister. (2) Any person who contravenes subsection (1) commits an offence.		
Misuse of the Coat of Arms **6.**—(1) Any person who uses the Coat of Arms or associates the use of the Coat of Arms with any action, speech, writing or any other means, to demean, disrespect and insult, the State, the Government or any member of the Government or the general public, commits an offence. (2) Any person who uses the former Coat of Arms for any purpose under subsection; (1) Commits an offence. (3) Any person who uses any design which in any way resembles the Coat of Arms in any manner likely to deceive commits an offence.		**COL. S. QILIHO**. - On the Coat of Arms Bill, Mr. Chairman and honourable Members of the Committee, currently the Coat of Arms is used as the Presidential Standard. It is hoisted during formal military parades, where His Excellency the President and Commander in Chief is the Reviewing Officer, for example during the Fiji Day Parade. The Coat of Arms is also flown on the presidential vehicle and is affixed onto the vehicle as the identification plate. There is no provision in the Bill that states that the Coat of Arms is the Presidential Standard. The RFMF suggests that if it is the intention to continue with the current practice where the Coat of Arms is the Presidential Standard then it be specified in the Bill.
Commercial use **7.**—(1) The Coat of Arms or any part of the Coat of Arms, shall not be used— *(a)* in any trademark or logo;		

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(b) for any advertising purpose; *(c)* in any form whatsoever that involves depiction, engraving or embossing on merchandise; or *(d)* for any commercial purpose, except with the prior written approval of the Minister. (2) Any person who— *(a)* produces, sells or displays the Coat of Arms; or *(b)* uses the Coat of Arms for any purpose set out under subsection (1), without the prior written approval of the Minister, commits an offence.		

CLAUSE	COMMITTEE COMMENTS & CLARIFICATION	RESPONSE – ORANIZATION (SUBMITTERS)
Use of the Coat of Arms **8.**—(1) It shall be an offence to use the Coat of Arms or any part of the Coat of Arms as part of a uniform, a costume, attire or any other wear for that matter, unless authorized by the Minister in writing. (2) Notwithstanding subsection (1), a patch of the Coat of Arms or a badge depicting the Coat of Arms may be affixed or printed onto the uniforms of Disciplined Forces.		**COL. S. QILIHO**. - On the Coat of Arms Bill, the RFMF is of the view that the Bill also adequately cover the use of the Coat of Arms as part of the military uniform as per Section 8 (2) of the Bill. In the same vein, the RFMF is of the view that to regulate the use of our Coat of Arms will protect our nation's highest national symbols, to remain a national source of pride and patriotism and positive affirmation of loyalty and commitment.
Changes to the Coat of Arms **9.** The Coat of Arms declared in accordance with section 4 shall only be amended or altered where a change to the Flag in accordance with section 15 of the National Flag Protection Act 2015 amends or alters the Coat of Arms.		
PART 3— MISCELLANEOUS *General offences and penalties* **10.** Any person or body corporate who acts in contravention or does not	**MR. CHAIRMAN**. - Honourable Eden, do you have any comments or questions to the submittee? Likewise, Sir, in the Bill to declare a Coat of Arms for the Republic of Fiji and to make provisions for its use, if we switch to Clause 10, again the General Offences and Penalties, the offences and penalties for contravention of the	**MR. I. LIGAIRI**. - Yes, Sir, we have no comments on that. We feel that it is appropriate at this point in time. **MRS.P. LALABALAVU**.- Part 3 – Miscellaneous, the inclusion also of the national

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comply with any provision under this Act commits an offence and shall be liable upon conviction— *(a)* in the case of a natural person – to a fine not exceeding $20,000 or to a term of imprisonment not exceeding 10 years, or to both; or *(b)* in the case of a company, association or body of persons, non-governmental organisation, Statutory Authority or entity – to a fine not exceeding $500,000 and for the Director, Chief Executive Officer, Manager or officer in charge for the time being, to a fine not exceeding $100,000 or to a term of imprisonment not exceeding 20 years, or to both.	Coat of Arms Bill is as follows; "10. Any person or body corporate who acts in contravention or does not comply with any provision under this Act commits an offence and shall be liable upon conviction— *(a)* in the case of a natural person – to a fine not exceeding $20,000 or to a term of imprisonment not exceeding 10 years, or to both; or *(b)* in the case of a company, association or body of persons, non-governmental organisation, Statutory Authority or entity – to a fine not exceeding $500,000 and for the Director, Chief Executive Officer, Manager or officer in charge for the time being, to a fine not exceeding $100,000 or to a term of imprisonment not exceeding 20 years, or to both." My question again would be, do you consider that this is appropriate for the breach of the Coat of Arms Act? **MR. CHAIRMAN**:- In the Coat of Arms there are similar words mentioned there in Background; 1.1 This Bill is intended to provide for the alteration of the former Coat of Arms and the adoption of a new Fijian Coat of Arms ('Coat of Arms'), and to regulate the use of the Coat of Arms. 1.2 Depicted prominently on the Coat of Arms is the Cross of Saint George and a golden lion which represents the United Kingdom, our former colonial ruler. 1.3 These symbols on the Coat of	colours that will be part of the new flag. We just have two issues there on the Coat of Arms Bill. That wraps up our brief submission this morning.

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	Arms allude to Fiji being a colony or dependency and do not represent Fiji's status as a truly independent and sovereign nation. 1.4 Therefore, the Coat of Arms is a symbol that is tied to our colonial past, it is time to move on from these symbols from our past to new symbols that are truly Fijian, represent our nation and will resonate with Fijians in our present and future. I read those as a brief background. You are not required to answer any a question on that but that was actually mentioned in the Explanatory Notes of the Bill so that is where the Bill is intended to take us. **HON. L. EDEN**. - Honourable Chairman, could I just clarify if we go back to the penalties. **MR. CHAIRMAN**. - For which Bill? **HON. L. EDEN.** - Both of them. If we look at Part 3, 10(b) – Fines not exceeding $500,000 and then it goes down to term of imprisonment not exceeding 20 years. Is that supposed to be 10 years, 10 years on both? **MR. CHAIRMAN**. - If you look at Clause 16 of the Flag Bill and Clause 10 of the Coat of Arms so in Part A it talks of $20,000 and 10 years imprisonment term for both in cases of a natural person. **HON. L. EDEN**. - Same on both. **MR. CHAIRMAN**. - And (b) it is $500,000 and $100,000 but the	

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	imprisonment term is in 10 years and the other one says 20 years. **HON. L. EDEN**. - The Coat of Arms is 20? **MR. CHAIRMAN**. - Yes, that has to be verified with the drafters again. I see the reason probably is, it is not my reason it is a probably reason. The Coat of Arms is usually used by certain sections, the discipline sections; military, navy and the government agencies. Whereas the flag is of general use. I think that is the rationale behind the 10 year and 20 year terms. Because the fines are almost same $500,000 and $100,000 I will refer this question back to the drafters. **HON. L. EDEN**.- (inaudible) **MR. CHAIRMAN**. - Page 6 part 3 – imprisonment up to 10 years. There seems to be a bit of a conflict here. Alright, I will check that with the draftsman. Thank you very much for highlighting that point.	
Burden of proof **11.** In the prosecution for an offence under this Act, the onus of proof shall be on the Defendant to prove his or her innocence.	**HON. N. NAWAIKULA**. - If you look at Clause 11, it states that "In the prosecution for an offence under this Act, the onus of proof shall be on the Defendant to prove his or her innocence"; in my view it is not normal. Because normally it makes it a very strict liability so that ones you charge, you already committed and then it is up to the Defendant to find his way out, whereas in our criminal system the burden of proof is always upon the prosecution or the police to prove beyond reasonable doubt. Do you have any feelings on that? Can I have your views in relation to that? This one is putting the burden to	**MR. I. LIGAIRI**. - Thank you, Sir. I thank the honourable Member for the question. I would like to refer the honourable Member to Section 3 which is the 'Objective of the Act', and probably that will answer the question the honourable Member is asking, about the seriousness of someone committing the offence and that is, we go along with the Bill that the burden of proof should be shifted to the Defendant. Thank you, Sir.

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	the defendant as opposed to what is normal to us, where the burden fills on the prosecution to prove beyond reasonable doubt.	
Rules and Regulations **12.**—(1) The Minister may, from time to time, make Rules or Regulations Prescribing the— *(a)* forms, procedures and fees to be used or levied under this Act; *(b)* manner in which the Coat of Arms is to be depicted; and *(c)* standard sizes, proportions and dimensions of the Coat of Arms for any or all purposes. (2) The Minister may by way of notice in the *Gazette* set out guidelines to be followed in using the Coat of Arms.		
Transitional **13.**—(1) Any person using the former Coat of Arms at the commencement of this Act— *(a)* in any trademark or logo; *(b)* for any advertising purpose; *(c)* for any commercial purpose; or *(d)* for any manufacturing or production purposes, shall have 31 days from that date to cease such use. (2) Any person who	**MR. CHAIRMAN.** - I have noticed that in the Disciplined Forces on the sleeve of the uniforms, currently there is the National Flag and the Coat of Arms as well. After the coming into effect of this Bill, there will be a 31 day period when the old Flag and the old Coat of Arms could be used, and after that it has to be changed. Do you think that 31 days is sufficient time for change? **HON. N. NAWAIKULA**. - The one that you have, 'Salus Populi' that is different? So, 'Salus Populi' is on every single one?	**MR. I. LIGAIRI. -** Thank you, Mr. Chairman. Yes, 31 days is enough time for us. **MR. I. LIGAIRI.**- It is for police alone, Sir, and not everyone in the Disciplined Forces

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contravenes subsection (1) commits an offence. (3) Notwithstanding subsection (1), any person in possession of— *(a)* any item or attire which depicts the former Coat of Arms may continue to use such item or attire; or *(b)* any stock existing immediately prior to the commencement of this Act, which contains merchandise depicting the former Coat of Arms may sell such stock until it is exhausted.		
Consequential amendments **14.** All references to "Coat of Arms" or "Fiji Coat of Arms" in all written laws shall be construed as references to the Coat of Arms declared in accordance with section 4 of this Act.	**HON. N. NAWAIKULA**. - The second question which I have asked to all delegates is this. The change of the Coat of Arms after this. When we pass a law for the new Coat of Arms, it will require firstly a three quarters majority in the House by Bill which is next to impossible and after that you will need to refer it to referendum for every individual to express that. And I am saying that it is telling me that the Coat of Arms is owned by the individual not even the State and it is important. But in this transition that has not been done and therefore they are asking for a petition but my problem is mandate. We can go from here to the moon and back we do not have the numbers. Do you have any idea of any other means where we can convince government? **HON. N. NAWAIKULA**. - Yes.	**HON. V.R. GAVOKA**. - I just hope that good sense will prevail. This is a good start having these meetings and I hope that you would go out - not confining to Suva. If I understand you correctly, honourable Nawaikula, once this is accepted, it would take two-thirds of the House to change it. **HON. V.R. GAVOKA**.- Mr. Chairman and honourable Members, something like this, when they are crying out for a say in this thing and you have the weights of the law behind it and saying that once it is done, it is cast in stone, it is virtually difficult to change. You are really using the heavy hand of the State in a manner that I think people, down the years, will not be able to relate, even today. The State has the power to do all these but I think this is a matter of the heart. You cannot measure that in any other way but it is there for

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		you; the way out and the way is this, to have a referendum. I just hope you do not get to a stage where it becomes law and virtually impossible to change over the years because in my view, you are working against the majority wishes of our people.
Repeal **15.** The Coat of Arms of Fiji (Restriction of Use) Act (Cap. 245) is hereby repealed.		

3.6 AMENDMENTS TO THE COAT OF ARMS 2015 (BILL NO. 5 OF 2015)

Section 4 amended

Section 4 is amended by deleting subsection 1 and substituting a new subsection in its place.

Section 4 – (1) should read "The Minister shall by notice in the *Gazette* declare the Fijian Coat of Arms."

Reason: The amendment gives the Minister the liberty to decide on a date of which the declaration of the Fijian Coat of Arms to come into effect.

To prevent duplication of declaration of Coat of Arms.

Section 6 amended

Section 6 is amended by deleting the words "or the State or any member of the Government or the general public" immediately after the word Government in subsection (1).

Reason: To remove duplication of expression

Section 9 amended

The Bill is amended by inserting a new section immediately after Section 8. The new Section 9 provides for acts of Desecration; altering or dishonouring of Coat of Arms.

Reason: Provides for holistic safeguard to the protection of the Coat of Arms.

Section 10 amended

Section 9 is amended by deleting the whole section and substituting it with the provision similar to section 15 of the National Protection Bill 2015.

Section 9 (1) should now read as " Where the Fijian Coat of Arms has been declared in accordance with section 4, that the Fijian Coat of Arms may only be amended or altered in accordance with the procedures prescribed in this section and may not be amended or altered in any other way.

(2) An amendment or alteration of the Fijian Coat of Arms must be expressed as a Bill for an Act to amend this Act.

(3) A Bill under subsection (2) must be passed by parliament in accordance with the following procedure-

(a) The Bill is read three times in Parliament

(b) at the second and third readings, it is supported by the votes of at least three quarters of the members of parliament.

(c) an interval of least 30 days elapses between the second and third readings and each of those readings is preceded by full opportunity for debate; and

(d) the third reading of the Bill in Parliament does not take place after the relevant committee of Parliament has reported on the Bill to Parliament.

(4) If a Bill is passed by Parliament in accordance with subsection (3), then the Speaker shall notify the President accordingly who shall then refer the bill to the Electoral Commission, for the Electoral Commission to conduct referendum for all registered voters in Fiji to vote on the Bill.

(5) The referendum for the purpose of subsection (4) shall be conducted by the Electoral Commission in such a manner as prescribed by written law.

(6) The Electoral Commission shall, immediately after the referendum, notify the President of the outcome and shall publish the outcome of the referendum in the media.

(7) If the outcome of the referendum is that three- quarters of the total number of the registered voters in favour of the Bill, then the President must assent to the Bill, which shall come into force on the date of the President assent or on such other date as prescribed in the Bill.

Reason: To avoid cross referencing to another Bill and therefore provide one stop shop within the Bill itself.

Section 10 amended

Section 10 is amended by applying the following maximum penalty and imprisonment. Therefore the penalty in section 10 (a) should not exceed $7,000 and imprisonment of not exceeding 5 years or both. Section 10 (b) is amended by applying the maximum penalty of $70,000 and $7,000 for each continuing day of offence. The penalty against officers to be maximum of $15,000 and 7 years imprisonment or both.

Reason: (i) The reduction in penalties is made in comparison with the other jurisdictions including Australia, New Zealand, USA, Kiribati, France, Germany, Hong Kong, China etc. which have similar penalty as to amendments.

(ii) The Coat of Arms have a special significance as a symbol of the State, therefore the penalties are competitively higher than that of those imposed or applied under section 16 of the National Flag Protection Bill,2015.

4.0 CONCLUSION

The Standing Committee on Justice, Law and Human Rights was mandated to examine matters relating to Coat of Arms Bill.

The Committee is a bi-partisan one and contributions from both sides have provided the final report, closely supported by the Secretariat.

The Committee considered all the written and oral submissions made and made amendments accordingly. The amendments are reflected in the main body of the Bill in the colour red.

The Committee would once again like to thank the Parliament for referring the Bill to this Committee for scrutiny, the submitters for their contribution and all other persons and entities which have one way or another assisted in the process.

The Committee submits its report to the Parliament for consideration.

SIGNATURE OF CHAIRPERSON OF THE

STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS



Hon. Ashneel Sudhakar

(Chairperson)

25/8/15

(Date)

References:

Coat of Arms Bill, 2015 (Bill No. 5 of 2015)

APPENDICES

Appendix 1: Coat of Arms Bill 2015 (Bill No. 5 of 2015)

Appendix 2: List of Submissions

Find below are the list of groups, individual and government agencies that provide submissions for the Coat of Arms Bill 2015:

ORAL SUBMISSION:

1. Fiji Police Force
2. Office of the Prime Minister
3. Republic of Fiji Military Forces (RFMF)
4. SODELPA Youth Council
5. Mick Beddoes

WRITTEN SUBMISSION:

1. Edward Blakelock, Samabula.
2. Citizens' Constitutional Forum Limited
3. Ministry of Defence, National Security, and Immigration

The Committee subsequently received 8 submissions and heard evidence from 5 Witnesses at public hearings held at the Parliament Committee Room East Wing from 1st to 5th June, 2015.

Appendix 3: Copies of Written Submissions Received By the Standing Committee on Justice, Law and Human Rights

MINISTRY OF DEFENCE, NATIONAL SECURITY & IMMIGRATIO
1st & 2nd Floor, New Wing, Government Buildings, 26 Gladstone Road, Suva.
Post Office Box 2349, Government Buildings, Suva, FIJI.

Telephone: (679) 3211 210
Email: jonisio.mara@govnet.gov.fj;

Facsimile: (679) 3317721 / 3300346

File Reference: 1/F/10

Date: 12/06/15

The Chairman
Standing Committee on Justice, Law and Human Rights
Parliament House
SUVA

Attention: Mrs Kalo T. Galuvakadua

Sir,

WRITTEN SUBMISSION ON THE NATIONAL FLAG PROTECTION BILL NO 4 OF 2015 AND COAT OF ARMS BILL NO 5 OF 2015

This is our response to the invitation for submissions on the above-mentioned subject

This response is based on the following questions:

Q1. Are the clauses sufficient or should there be amendments to the clause in the respective Bills?
Q2. The impact of the Bills on the nations as a whole?
Q3. Any other views specific to the contents of the Bill?

National Flag Protection Bill

The proposed changes to the Bill are being reflected at Annex 1 of the submission.

Q1. Apart from the amendments alluded to above, the clauses for this particular Bill in our views are sufficient. However, there is a contradiction between Part 2 Section 6 Subsection (2) and Part 3 Section 12 Subsection (1). Part 2 Section 6 Subsection (2) says that the flag may be used or worn as part of any attire or for everyday use. Part 3 Section 12 Subsection (1) says that it will be an offence to produce and have it as a uniform or attire. The question is why do we prohibit it

in Part 3 Section 12 Subsection (1) and then in Part 2 Section 6 Subsection (2) state that anyone can wear it as part of any attire. We suggest that this should be revised.

Q2. The impact of this Bill on the nation especially in provoking some sort of insecurity or instability would be none. The majority of the Fijian people had come to accept the outcomes of the 2014 General Elections and as such will support the Bill as attested by the high number of flag submissions for example made to the FBC.

Q3. The need to have a new Fijian flag that is inclusive of all Fijians and the vision of our new democracy is necessary. The flag should be one that would depict Fiji's attitude for its new democracy.

As in the explanatory note (page 9 of the Bill), that Government wants to do away with the Union Jack and the lion symbol on the Coat of Arms because it does not signify our true identity. We agree with this, however, Government should replace both symbols with something signifying our independence.

Coat of Arms Bill

The proposed changes to the Coat of Arms are being reflected at Annex 2 of the submission.

Q1. The clauses for this particular Bill are sufficient.

Q2. The impact of this Bill on the nation especially in provoking some sort of insecurity or instability would be none. The majority of the Fijian people have come to accept the outcome of the 2014 General Elections and as such will support the Bill.

Q3. The Coat of Arms Bill should reflect what Fiji would like the world to identify us with. Some of the symbols included in our former Coat of Arms are now inappropriate and the onus would be on decision makers to choose something that would clearly distinguish Fiji from the rest of the world.

As in our current Fijian flag, Fiji's Coat of Arms is partially illustrated but it excludes the two i Taukei warriors, canoe and the Fijian interpretation for: - *Fear God and Honor the Queen.*

The Ministry's view is that if we choose to have a Coat of Arms then the whole Coat of Arms should be reflected in the flag and not only a portion of it as in some of our flags now.

Respectfully advised.

.....

Jonisio K. Mara
Deputy Secretary
for **Permanent Secretary for Defence, National Security & Immigration**



These are the comments for the proposed new Coat Of Arms.

1. The removal of the **"Cross Of St George"'**
2. The removal of the **"Lion".**
3. The retention of the **Takia** and the **two Fijian warriors.**
4. The **Shield/Image** at the centre of the Coat Of Arms to be replaced by an image of our proposed new flag.
5. The word **"Rerevaka Na Kalou Ka Doka Na Tui"** to be replaced by **"Equal Citizenry for All Fijians"**

Citizens' Constitutional Forum Limited
23 Denison Road, PO Box 12584, Suva, Fiji
Phone: [679] 3308 379 Fax: [679] 3308 380
E-mail: ccf@kidanet.net.fj
Website: www.ccf.org.fj

12 June 2015

Fiji Parliament Standing Committee on Justice, Law and Human Rights

Written submission in relation to the National Flag Protection Bill (No. 4 of 2015) and the Coat of Arms Bill (No. 5 of 2015).

Executive Summary

1. The CCF welcomes the introduction of a process to allow the Fiji flag and Coat of Arms to be changed as the nation evolves. However CCF strongly condemns the current process taking place to introduce the new flag and Coat of Arms, and protests that the current process is not subject to the proposed provisions contained in the Bills. A referendum consulting the majority of people is a transparent and accountable means of assessing the public's view on the change. The procedure is symbolic of a democratic nation emanating principles of good governance that encourage active citizenry as an overall impact.

2. In relation to the Bills, CCF would like to raise three important issues which require the Committee's urgent attention:

    a. Excessive penalties which are considerably harsher than similar provisions from developed democracies;
    b. Violation of the right to presumption of innocence, which is a fundamental component to a fair trial, and inconsistent with the Bill of Rights in the Constitution and customary international law; and
    c. The need for a referendum to decide on whether alternatives to the national flag and Coat of Arms should be introduced, following internationally accepted standards.

Are the clauses sufficient or should there be amendments to the clauses in the Bills?

General offences and penalties

3. The penalties section in both Bills *(1)* imposes fines which are at maxims of $20,000 for individuals or 10 years of imprisonment, or both. Specific categories of bodies corporate are mentioned and can be penalised at a maximum of $500,000. An additional penalty is imposed to the head of these bodies to a maximum fine of $100,000, a maximum imprisonment term of 10

Citizens' Constitutional Forum Limited
23 Denison Road, PO Box 12584, Suva, Fiji
Phone: [679] 3308 379 Fax: [679] 3308 380
E-mail: ccf@kidanet.net.fj
Website: www.ccf.org.fj

years, or both. These penalties are excessive and disproportionate to the offence.

4. Developed democracies have similar offence provisions protecting the use of their flag:

   a. Section 24 of New Zealand's *Flags, Emblems, and Names Protection Act 1981* provides a general penalty of a maximum fine of $5,000 for individuals. Bodies corporate can be fined to a maximum of $50,000, and an added $5,000 per day for a continuing offence.

   b. Section 2 of India's *Prevention of Insults to National Honour Act of 1971* provides for a maximum imprisonment term of three years and a fine for offences involving insults to Indian National Flag and Constitution of India.

5. Currently there are no specific laws in Australia that govern the offence of flag desecration. However the *Australian Flags (Desecration of the Flag) Bill 2003* has been introduced in Parliament, although it has not progressed to a second reading. It is worth noting that the Bill imposed a maximum fine of $11,000 for the desecration offence.

6. It is widely accepted that any laws regulating use and protection of the flag must be balanced carefully with the right to freedom of expression and political communication. This has been recognised and upheld in New Zealand *(2)* and the United States *(3)*. As discussed in these cases, excessive penalties greatly threaten the freedom to seek, receive and impart information and opinions of any kind in any form. The current Bills do not provide for this and is likely to be inconsistent with section 17 of the Constitution. CCF recommends that the Committee consider this development in the law and include a provision that portrays this balance between the right to freedom of speech and expression and the State's prerogative to protect its national ensigns.

7. Overall, the general penalty in both Bills is excessive, particularly for individuals. CCF urges the Committee to revise the penalties to suit the gravity of the offence and that are more adaptable to the domestic setting.

Citizens' Constitutional Forum Limited
23 Denison Road, PO Box 12584, Suva, Fiji
Phone: [679] 3308 379 Fax: [679] 3308 380
E-mail: ccf@kidanet.net.fj
Website: www.ccf.org.fj

Burden of Proof

8. Provisions on the burden of proof in both Bills *(4)* create an imminent issue. It states that in the prosecution of the offences in these Bills, the *onus of proof shall be on the Defendant to prove his or her innocence*. The underlying principle in the legal notion of the burden of proof is the Defendant's right to be presumed innocent until proven guilty according to law *(5)*. According to the criminal rules of evidence and international fair trial guarantees, the Prosecution has the duty of proving the guilt of the Defendant. However, these Bills propose to reverse this duty of bearing the burden of proof, and put the burden on the accused to prove their innocence. This offends principles of a fair trial under the Constitution and the ICCPR.

9. Article 14 (2) of the ICCPR states that 'persons charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.' Although Fiji is not a party to the ICCPR, this concept is also enshrined in Article 11 of the UDHR, and is customary international law. The ICCPR allows the presumption of innocence to be derogated from, only in exceptional circumstances, such as a public emergency which threatens the life of the nation and the existence of which is officially proclaimed.'*(6)*

10. Unless the State proclaims a public emergency under the ICCPR, or more ordinarily, the Defendant provides a defence which reduces criminal responsibility, such as, insanity or self-defence *(7)*, the burden of proving a criminal charge under these Bills remains with the prosecution. There remains a fundamental flaw with the current provision in these Bills as it contravenes the rules of evidence and the Constitutional right to the presumption of innocence. The Defendant is not obliged to prove their innocence, closely followed by the guarantees of a fair trial and due process afforded to them under the Constitution *(8)*, the UDHR and the ICCPR.

11. We urge the Committee to remove s 17 of the National Flag Protection Bill (No. 4 of 2015) and s 11 of the Coat of Arms Bill (No. 5 of 2015). The inclusion of this provision is unnecessary, as it is adequately prescribed in Part 9 of the *Crimes Decree 2009*.

Citizens' Constitutional Forum Limited
23 Denison Road, PO Box 12584, Suva, Fiji
Phone: [679] 3308 379 Fax: [679] 3308 380
E-mail: ccf@kidanet.net.fj
Website: www.ccf.org.fj

The impact of the Bills on the nation as a whole.

Declaration of national flag and Fijian Coat of Arms without a referendum

12. Both Bills state that the Prime Minister will declare the national flag and the Fijian Coat of Arms. This is an unusual situation where an announcement is made to change the current national flag and Coat of Arms without a broad public debate on the issue. Alternatives of the flag are currently advertised and an alternative to the Coat of Arms remains unknown. The decision is one of national identity and a unilateral declaration without a public referendum on the need to change the national emblems differs from a democratic process.

13. There are no legislated procedures in Fiji to conduct a referendum of such nature. Currently, New Zealand is undergoing a similar process to change their flag. The *New Zealand Flag Referendums Bill 2015* has passed its First Reading in Parliament and has been referred to their Justice and Electoral Committee. It introduces a process exemplary of a best practice model on referendums. The Bill employs a democratic procedure for broad public engagement providing an opportunity to vote on the flag change as well as alternative designs for the flag. The Government has also disclosed a statement with information on the policy development around the change. The Bill aims to regulate mechanisms for postal votes and surrounding activities which maintain principles of accountability, transparency and accessibility for all voters. A referendum of this nature is a reflection of a democratic process which acknowledges and recognises that the people of a country are determinants of their own future. It also reflects the government's integrity and shows the trust and faith that the government has in the people.

14. Fiji's Parliament has already received the views of 1900 petitioners that opposed the change, while the Flag Committee received over 1400 entries for new flag designs *(9)*. Opposing votes remain unaccounted for and reflect poorly on principles of good governance, discouraging active citizenry. These signs threaten the development of a sustainable democracy.

15. The Committee must acknowledge that a preliminary referendum on the nation's preference towards the change was disregarded. To gauge the impact of the Bills on the nation as a whole without a referendum is redundant. The Committee must reflect on the importance of adhering to democratic processes to ensure changes drastically affecting Fiji's national identity are accepted and create a sense of ownership, acknowledging its citizens sentiments inherently linked to the flag and the Coat of Arms. Therefore it is vital that Fijians have meaningful participation not just in the design of the flag, but in the decision of whether alternatives are to be introduced at all.

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CCF greatly thanks the Committee for the opportunity to make these submissions and looks forward to the Committee's report to Parliament. Please contact us on (679) 330 8379, or programmes@ccf.org.fj for any queries or clarifications in relation to this submission.

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Ken Cokanasiga
Citizens Constitutional Forum

Citizens' Constitutional Forum Limited
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8. s 14

9. The Fiji Times, "7000 flag submissions not recognised by committee" http://www.fijitimes.com/story.aspx?id=306697 Dated 22 May 2015.

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12 June 2015

Fiji Parliament Standing Committee on Justice, Law and Human Rights

Written submission in relation to the National Flag Protection Bill (No. 4 of 2015) and the Coat of Arms Bill (No. 5 of 2015).

Executive Summary

1. The CCF welcomes the introduction of a process to allow the Fiji flag and Coat of Arms to be changed as the nation evolves. However CCF strongly condemns the current process taking place to introduce the new flag and Coat of Arms, and protests that the current process is not subject to the proposed provisions contained in the Bills. A referendum consulting the majority of people is a transparent and accountable means of assessing the public's view on the change. The procedure is symbolic of a democratic nation emanating principles of good governance that encourage active citizenry as an overall impact.

2. In relation to the Bills, CCF would like to raise three important issues which require the Committee's urgent attention:

    a. Excessive penalties which are considerably harsher than similar provisions from developed democracies;
    b. Violation of the right to presumption of innocence, which is a fundamental component to a fair trial, and inconsistent with the Bill of Rights in the Constitution and customary international law; and
    c. The need for a referendum to decide on whether alternatives to the national flag and Coat of Arms should be introduced, following internationally accepted standards.

Are the clauses sufficient or should there be amendments to the clauses in the Bills?

General offences and penalties

3. The penalties section in both Bills *(1)* imposes fines which are at maxims of $20,000 for individuals or 10 years of imprisonment, or both. Specific categories of bodies corporate are mentioned and can be penalised at a maximum of $500,000. An additional penalty is imposed to the head of these bodies to a maximum fine of $100,000, a maximum imprisonment term of 10

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years, or both. These penalties are excessive and disproportionate to the offence.

4. Developed democracies have similar offence provisions protecting the use of their flag:

   a. Section 24 of New Zealand's *Flags, Emblems, and Names Protection Act 1981* provides a general penalty of a maximum fine of $5,000 for individuals. Bodies corporate can be fined to a maximum of $50,000, and an added $5,000 per day for a continuing offence.

   b. Section 2 of India's *Prevention of Insults to National Honour Act of 1971* provides for a maximum imprisonment term of three years and a fine for offences involving insults to Indian National Flag and Constitution of India.

5. Currently there are no specific laws in Australia that govern the offence of flag desecration. However the *Australian Flags (Desecration of the Flag) Bill 2003* has been introduced in Parliament, although it has not progressed to a second reading. It is worth noting that the Bill imposed a maximum fine of $11,000 for the desecration offence.

6. It is widely accepted that any laws regulating use and protection of the flag must be balanced carefully with the right to freedom of expression and political communication. This has been recognised and upheld in New Zealand *(2)* and the United States *(3)*. As discussed in these cases, excessive penalties greatly threaten the freedom to seek, receive and impart information and opinions of any kind in any form. The current Bills do not provide for this and is likely to be inconsistent with section 17 of the Constitution. CCF recommends that the Committee consider this development in the law and include a provision that portrays this balance between the right to freedom of speech and expression and the State's prerogative to protect its national ensigns.

7. Overall, the general penalty in both Bills is excessive, particularly for individuals. CCF urges the Committee to revise the penalties to suit the gravity of the offence and that are more adaptable to the domestic setting.

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Burden of Proof

8. Provisions on the burden of proof in both Bills *(4)* create an imminent issue. It states that in the prosecution of the offences in these Bills, the *onus of proof shall be on the Defendant to prove his or her innocence*. The underlying principle in the legal notion of the burden of proof is the Defendant's right to be presumed innocent until proven guilty according to law *(5)*. According to the criminal rules of evidence and international fair trial guarantees, the Prosecution has the duty of proving the guilt of the Defendant. However, these Bills propose to reverse this duty of bearing the burden of proof, and put the burden on the accused to prove their innocence. This offends principles of a fair trial under the Constitution and the ICCPR.

9. Article 14 (2) of the ICCPR states that 'persons charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.' Although Fiji is not a party to the ICCPR, this concept is also enshrined in Article 11 of the UDHR, and is customary international law. The ICCPR allows the presumption of innocence to be derogated from, only in exceptional circumstances, such as a public emergency which threatens the life of the nation and the existence of which is officially proclaimed.'*(6)*

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9. The Fiji Times, "7000 flag submissions not recognised by committee" http://www.fijitimes.com/story.aspx?id=306697 Dated 22 May 2015.

WHO REALLY WANTS OUR FLAG CHANGED?
Introduction

At 10am, October 10th 1970, I witnessed from the roof top of the Grand Pacific Hotel, the pomp and ceremony that marked our Independence Day Celebration and Parade at Albert Park.

I was 19 years old and the Hotel's Public Relations Officer, depending on whether you were born or a teenager like I was in 1970, it will be difficult for you to 'grasp' the significance of the moment.

I watched the Prince of Wales hand our nation's founding father and first Prime Minister, Ratu Sir Kamisese Mara, the Instruments of our Independence, 96 years to the, day, that our Chiefs willingly ceded Fiji to Queen Victoria.

As the Public Relations officer of the GPH, my task that day was to raise the Hotel's new 'banner blue' to the top of our flag pole at exactly the same time as the main flag raising ceremony at Albert Park.

Many of those who witnessed that Parade and Ceremony had family members taking part. This helped to deeply etch the occasion in our memories even though it occurred 45 years ago.

It was a moment of mixed emotions. Many felt regret and even sorrow about the British departure. They felt a special loyalty to Queen Elizabeth who had become the ultimate paramount chief of Fiji.

But the dominant sentiment was one of joy, buoyed by dreams of a glorious future as a united independent nation.

These dreams were captured in **our new flag**, fluttering proudly over the park and at many other locations throughout the country. This was our emblem, the mark and the image of our nationhood.

Such was the IMPACT ON THE NATION as a whole of that great occasion and Ratu Sir Kamasese delivered on that promise with 17 years or peace, progress and prosperity and I was fortunate to be one of the many young political activists that learnt from the founding father of modern Fiji.

Fiji had escaped the cruel struggles and bloodshed that so often marred the journey to independence of other colonies.

We had our differences politically, but there was a willingness on both sides to proceed to nationhood on the basis of consensus and compromise in the greater interests of Fiji.

The unique bonds forged by the chiefs and people with Queen Victoria continued through the reigns of her successors right up to Queen Elizabeth.

Now those cherished links, the links that helped define our history are to be rejected by an act of dictatorship, supported by the leadership of the Fiji First Party and government.

I am here today to protest this latest imposition on our islands because our people have not given their permission for changing Fiji's flag. Their voice was ignored when Prime Minister Bainimarama and Attorney General Aiyaz Sayed-Khaiyum decided we should have a new symbol.

The Explanatory notes in the Bills on the Coat of Arms and the New Flag speak of symbols of our colonial past. This is misleading, self-serving and selective.

Other than the Union Jack and the Lion, the depictions of sugar cane, coconut tree, bananas and the dove are all true symbols of our country and not our Colonial past. I surely do not need to tell you that the coconut tree, aside from its agricultural significance at that time, now symbolizes our 'World Dominance' in Rugby Seven's

They stood as the symbols of our new beginning as an Independent and sovereign nation from that 10th day of October 1970 and they remain relevant today. This is a fact.

Contrary to the claim in the Background notes of the National Flag Bill that our colonial past was marred by injustice and oppression, the reality is that British rule was benign.

There is no doubt that some injustices occurred, especially towards our iTaukei and Indo-Fijian communities.

But the real oppression of our people started with the military coup of 1987. It was reinforced by the insurrection of 2000, the Bainimarama coup of 2006, and the abrogation of our 1997 constitution in April 2009 and the eight long fear-filled years of the Bainimarama-Khaiyum dictatorship.

These are the undisputed facts.

The Explanatory Notes to Bill 4 state and I quote:

'A new national flag that will reflect our present state as a nation and will include truly Fijian symbols of identity that we can all honour and defend' unquote

- What symbols would we use to reflect our truly Fijian Identify when the government of the day refuses to ratify UNDRIP, the UN Declaration on the Rights of Indigenous People, and retains 17 Decrees that suppress only one community - our Indigenous people.

- Where is the honour when we remove the pinnacle of our Indigenous people's society, The Great Council of Chiefs, while allowing all other communities in Fiji the right to retain their respective cultural structures?

Let us put pretence aside and consider honestly our present state as a nation: The sad and alarming fact is that we are presently in an almost failed six months transition from dictatorship to democracy.

I ask the promoters of these Bills what symbols would best reflect this?

- A picture of a person with their mouth taped shut, to symbolize the fear to speak out?
- Perhaps a photo of a Minister with a full complement of bodyguards to protect him or her from the people they are supposed to represent?
- Or perhaps a copy of the Government propaganda sheet, the Fiji Sun? To symbolize how far we have fallen in terms of 'fair and balanced reporting'

If we dare to go back further, to the eight long hard years of dictatorship, what symbols would best represent the **state of the nation** for this period?

- Will they be symbols of abuse?
- Or perhaps symbols of nepotism, oppression and threats all wrapped up in copies of unjust decrees?

Bill No 5 has 20 sections. Fifty five percent 55% of its provisions relate to offences citizens will face.

These range from fines of $20,000 to $500,000 or 10 years imprisonment or both. These are extreme provisions and there are others that I shall be mentioning in a moment. I ask the Government committee members to consider this:

Our existing noble banner blue, in the words of the Prime Minister, is widely loved and admired. There is no extreme legislation governing its use and providing severe sentences for transgressions.

There's been no need for this because citizens respect and admire this symbol of our nationhood.

Why then has the Attorney-General introduced such draconian legislation for the Bainimarama flag? Is this because the two of them expected opposition to it and this must be dealt with severely and in a manner to which we have become accustomed?

Does this approach reflect the principles of the modern nation state that the Prime Minister and Mr Sayed-Khaiyum speak of so much?

This Bill No 5 even seeks to legislate patriotism, and seeks to force people to "respect the flag". It is intrusive to the extent that its provisions cover the private homes of every citizen by legislating the new flag should be in a place of prominence.

You can't legislate "respect". You have to earn it! Neither can you legislate patriotism. But patriotism about what? An imposed flag and Coat of Arms?

Section 7 of the Bill goes further and says if you speak, write or by any other means 'demean', disrespect or insult the 'State', the Government, or any member of the Government or the general public, you commit an offence?

This is extraordinary stuff Mr Chairman for those in Government who are boasting about our new democracy for a modern nation state. What has criticism of the Government, Minister or another individual got to do with committing an offence against the flag?

Similarly in the Coat of Arms Bill No 5, the majority of the provisions relate to 'punishment' and fines ranging from $20,000 to $500,000 plus 10 years or both.

Bill No 5 continues on this course of legal extremism that flies in the face of our long held principle that a person is presumed innocent until proven guilty.

In Section 11 it is stated that ***'In the prosecution of an offence under this act, the onus of proof shall be on the defendant to prove his or her innocence'***

This is inconsistent with the rights of the Accused person as stated in Sec 14 (2) of the constitution which says and I quote ***'Each person charged with an offence has the right –***

(a) To be presumed innocent until proven guilty according to law;

So because I have objected strongly against the proposed new flag and its legislation, anyone can claim I contravened Sec 11, and if it's all made up and I can't prove I did not, I get fined $20,000 plus get sent to jail for 10 years.

Nothing in these two Bills projects confidence from the authors that they feel the processes involved are democratic or just.

The heavy handed and threatening provisions in both Bills reveal a fearful and insecure administration that is obviously petrified of the people's rejection of what they intend to do. So their answer, it appears, is to put in place 'over the top' measures that will hopefully suppress any thoughts of protest or rejection.

The threatening tone, intrusive nature and oppressive language of Bills 4 & 5 are, I am sad to say, a true reflection of our state as a nation today.Threatening comments by a senior Police officer on television last night, only adds to the sense of oppression I have referred to.

The fact that the notices issued by Parliament for these meeting attempts to limit the contributions of citizens to just three key aspects of the Bill is of deep concern.

This is inconsistent with our rights under Sec 17 of The Bill of Rights to Freedom of speech, expression and publication; so there is clearly a constitutional issue here.

The fact that the hearings are being held here in Parliament, ignoring totally the rights of the majority of our people who live outside Suva and are therefore deprived of access to this hearing, is anti-democratic.

The fact is this Committee is obliged under the Standing Orders to ensure full access and time for citizens to make representations but this does not appear to have been done yet, which is also another grave concern.

Section 15 of Bill No 4 outlines the conditions under which the 'new flag' can be changed. Interestingly it calls for a 75% vote of all members of Parliament as well as 75% of all registered voters in a referendum before it can be changed.

I challenge the Government to demonstrate their confidence of the people's support for their actions and make these provisions retrospective and apply it to our current flag as well.

It is ironic that the very party that desecrated and stole the design and parts of the coat of arms of our existing flag, and politicized its use, demonstrating no respect, no honour or regard for our present national symbol, should want all of the protection they have not given our current flag to be given to the Bainimarama-Khaiyum flag.

In any democracy, if you suppress the voice of the people long enough and you curtail their rights to express themselves, their frustrations will ultimately be manifested.

In a news item the other day Hon Chair, you were quoted as saying the petition on a referendum for our flag assigned to this committee by Parliament in February, has been referred back to Parliament because the committee does not have the jurisdiction to deliberate on it.

Mr Chairman, there is a mystery here. The people need to know who made that decision. Where did the advice come from? Which part of the Standing Orders allows such a decision to be made?

Approximately two thousand citizens 2,000 signed that petition. That's 43% more people than the supposed total number of design entries. This is excluding the 7,000 other citizens who submitted their preference for a continuation of the present banner blue?

Their representations were excluded without any proper explanation. Have any of you taken a look at some of the names of the signatories who are all patriotic citizens of Fiji?

Given that there has not been a referendum on whether or not the people want to change their flag and in light of this committee's decision to refer the petition signed by 2,000 citizens back to Parliament, the Government cannot make any claim that the motivation to change our flag comes from the people of Fiji. **It does NOT**.

What we can conclude absolutely is that 9,000 citizens through the Petition and the flag competition have officially registered their opposition to changing our current flag.

We can also look at it another way: 10,400 citizens in total have expressed their opinions about changing our flag through the only official means available to them, the petition to Parliament, and the Flag Competition.

Of this number 87% or 9,000, want the current flag retained. In any opinion poll, the maximum respondents are usually between 1,000 to 2,000 people.

In this case 10,400 responded and of this 9000 did not want our flag changed.

So who really wants the flag changed? As the numbers show 87% say NO! As politicians, who no doubt want to be re-elected are you listening to the people or don't they count now that you are in power?

Mr Chairman, you try to justify your government's rejection of a referendum by stating that such a poll was not held in 1970 when we adopted our much-loved and admired noble banner blue.

With respect Hon Chair, you've got it wrong. A referendum was not necessary in 1970. We simply had to change our flag to reflect our status as an independent nation.

The choice of that flag 45 years ago was obviously a popular one as there has not been any desire by the people or successive democratic governments to change it up till now.

Allow me to make these final points:

A flag is supposed to be an emblem of togetherness. But this entire business of the forced flag change has accomplished exactly the opposite. It is dividing the nation. To that extent it is already a disaster.

It is very clear that the Prime Minister and Mr Aiyaz Sayed-Khaiyum have miscalculated.

They were still thinking like dictators when THEY decided that we should have a new flag. They had forgotten that we are now supposed to be a democracy where the will of the people MUST prevail.

They have forgotten, or simply thrown aside, the basic principle that the decision to change a flag is one for the people to take.

Thank you.

FIJIAN ELECTIONS OFFICE

59 - 63 High Street, Toorak
P. O. Box 2528, Government Buildings, Suva

Phone : 3316 225
Fax : 3316 026

www.electionsfiji.gov.fj

01 June 2015

The Chairman
Standing Committee on Justice, Law and Human Rights
Suva
Fiji

Dear Sir

Re: National Flag Protection Bill, 2015 (BILL NO. 4 OF 2015) Coats of Arms Bill, 2015 (BILL NO. 5 OF 2015)

Warm greetings from the Fijian Elections Office (FEO).

We refer to your letter dated 28 March 2015, inviting the FEO to present its view on the National Flag Protection Bill.

We thank you for the opportunity however at this stage FEO does not wish to comment on the two Draft Bills as it is outside the purview of FEO's mandate under the Electoral Decree 2014.

Yours faithfully

.....
Mohammed Saneem
Supervisor of Elections

RFMF SUBMISSION

STANDING COMMITTEE ON JUSTICE LAW AND HUMAN RIGHTS

NATIONAL FLAG PROTECTION BILL, 2015 (BILL NO. 4 OF 2015) COAT OF ARMS BILL, 2015 BILL NO. 5 OF 2015

Presented by Colonel Sitiveni Qiliho, Commander Land Force

Honorable Chair and Honorable Members of the Standing Committee.

Thank you for this opportunity to present RFMF views on the **National Flag Protection Bill** and the **Coat of Arms Bill.**

The submission is made according to the terms of reference provided to us by the Honorable Chair of this Standing Committee.

First – on whether the clauses in the Bill are sufficient or should there be amendments.

Honorable Chair and Honorable members of the Committee, RFMF is of the view that the clauses in the National Flag Protection Bill are sufficient and covers all aspects of the way RFMF uses the Flag on Uniforms as per section 12 (2) and it also adequately covers the hoisting of the National Flag on Military establishments and the White Ensign onboard Naval ships as per Section 4 (3) (b) of the Bill.

On the Coat of Arms Bill, RFMF is of the view that the Bill also adequately covers the use of the Coat of Arms as part of Military Uniform as per Section 8 (2) of the Bill.

Honorable Chair, the Second part of the terms of reference sought RFMF views on the impact of the two Bills on the Nation as a whole.

RFMF is an institution that is rich with ceremonials and traditions that centers on Flags and colors. Those ceremonials highlight the prominence of Flags and colors as rallying points and as a source of pride and patriotism for our troops. In the same vein, RFMF is of the view that the two Bills to **regulate the use** of our National Flag and Coat of Arms will protect our nation's highest national symbols, to remain a national source of pride and patriotism and positive affirmation of loyalty and commitment.

The third and the last part of the terms of reference sought RFMF views (if any) specific to the contents of the Bills.

There is just one comment on the National Flag Protection Bill. We could not find easily a section that states that one can fly the National Flag on ships. Section 6 (1) reads ***"The Flag may be hoisted or displayed at any school, home, institutions, building or event."*** It does not mention ships. Section 6 (3) reads ***"The Flag whether displayed on a public or private premise, shall be displayed in a place of prominence."*** Only in the Interpretation section of the Bill (section 2) it says that ***premises means any land, building, vessel, vehicle, government department, school or place whatsoever.*** Section 6 (1) sounds limiting (to a layman like me) as to where you can hoist the National Flag. Perhaps section 6 (1) can be amended to reflect the definition of 'premises'.

On the Coat of Arms Bill,

Honorable Chair and Honorable Members of the Standing Committee. Currently the Coat of Arms is used as the Presidential Standard. It is hoisted during formal Military Parades where his Excellency the President and Commander in Chief is the Reviewing Officer (for

example during the Fiji Day Parade). The Coat of Arms is also flown on the Presidential vehicle and is affixed onto the vehicle as the identification plate. There is no provision in the Bill that states that the Coat of Arms is the Presidential Standard. RFMF suggests that if the intention is to continue with the current practice where the Coat of Arms is the Presidential Standard then it be specified in the Bill.

Thank you Honorable Chair.

FIJI FLAG AND COAT OF ARMS

A submission by the SODLEPA YOUTH WING to the Parliamentary Standing Committee on Law Justice

A submission

Introduction into SODELPA Youth

- The SODELPA Youth Wing is a collection of registered voters from the ages of 18 to 35 years.
- Our members live in different parts of FIJI and abroad ; and use this space to actively and positively engage in our democracy
- This presentation begins with an explanation of reasoning, as to why we have chosen to add our voice to this committee, our views on the Fiji Flag Protection Bill and our views on the Coat of Arms Bill. We than end with a discussion on the way forward

Reason for accepting invitation to make a submission

- The SODELPA Youth Wing along with other groups, actively sought to gather signatures for a referendum on the Fiji Flag change. A petition of 1900 was submitted with the Opposition Office and brought into the House. This action was done to ask Parliament to consider our views.
- The SODELPA Youth Wing presented 7000 reproductions of the Fiji Flag to the Fiji Flag Committee as a request to the Executive to accept our call not to change the Fiji Flag without a referendum
- We understand that this is not the space for a discussion on our efforts to let Fiji decide on the relevance of the Fiji Flag, but I hoped to explain the spirit in which we make this submission

Fiji Flag Protection Bill

- Quite a few young people have made their opinions clear to us regarding the Fiji Flag and any law relating to it. That the Flag be not politicized and used for political mileage.
- In this spirit we look at the Bill that is before this committee in it's totality and accept that:

1. There has never been a law in Fiji that seeks to govern the use and creation of a new Fiji Flag
2. That this Bill seeks to enforce change and legitimize the funneling of tax-payers money into a the production of a new flag to be hoisted on the 10th October 2015
3. That this Bill seeks to protect the FijiFirst Flag via strict regulations
4. And that this Bill's existence, it's rationale as to why it is fast tracked through Parliament without first addressing the views of the People of Fiji on whether they want to change the Fiji Flag is a matter of National Concern.

- Relevant sections in the said Bill give authority to a political office, ie: the office of Prime Minister, to govern the Fiji Flag. Such a responsibility regarding symbols of national unity should be given to the Office of President.
    - IF this is done, we suggest that the process be such, that the Parliament takes a vote on the motion to change the Fiji Flag,
    - That government informs the President of the Parliament decision
    - That the President speaks to the Electoral Commission
    - That a referendum is held to capture the true opinion and will of the people
    - That in the likelihood that the people want a new flag, that the President selects a committee to prepare the road map, process and design of the new Fiji Flag
    - That the President presents this Flag to the people of Fiji by gazette and by ceremony

Our next point is on **Flag desecration**. Flag desecration is a term applied to the desecration of flags or flag protocol, a various set of acts that intentionally destroy, damage or mutilate a flag in public. Often, in case of a national flag, such action is intended to make a political point against a country or its policies. Some countries have laws forbidding methods of destruction (such as burning in public) or forbidding particular uses (such as for commercial purposes); such laws may distinguish between desecration of the country's own national flag and flags of other countries.

The Supreme Court of the United States in its decision from 1969 has ruled that the burning of the flag is protected by the First Amendment. However, the person who burnt the flag can be found guilty of a misdemeanor for starting a fire without a permit.

- Actions that may be treated as flag desecration include:
  - Burning it
  - Urinating or defecating on it
  - Defacing it with slogans
  - Daubing it with excrement, etc.
  - Stepping on it
  - Spitting on it
  - Stoning it
  - Shooting it with guns
  - Hurling insults at it
  - Cutting or ripping it
  - Dragging it on the ground
  - Using it unconventionally,
- It is increasingly common to see clothing with the image of the flags forming a substantial part of the piece. Views vary as to whether some of this is an act of national pride or disrespect.

Such actions may be undertaken for a variety of reasons:

- As a protest against a country's foreign policy.
- To distance oneself from the foreign or domestic policies of one's home country.
- As a protest at the very laws prohibiting the actions in question.
- As a protest against nationalism.
- As a protest against the government in power in the country, or against the country's form of government.
- A symbolic insult to the people of that country.

All in all, it is important that the Bill allows people of Fiji to protest using the Fiji Flag, to be empowered to protect the Fiji Flag and to be consulted. That to change the Flag without the voice or will of the people is a symbolic insult to the people of Fiji and is desecration.

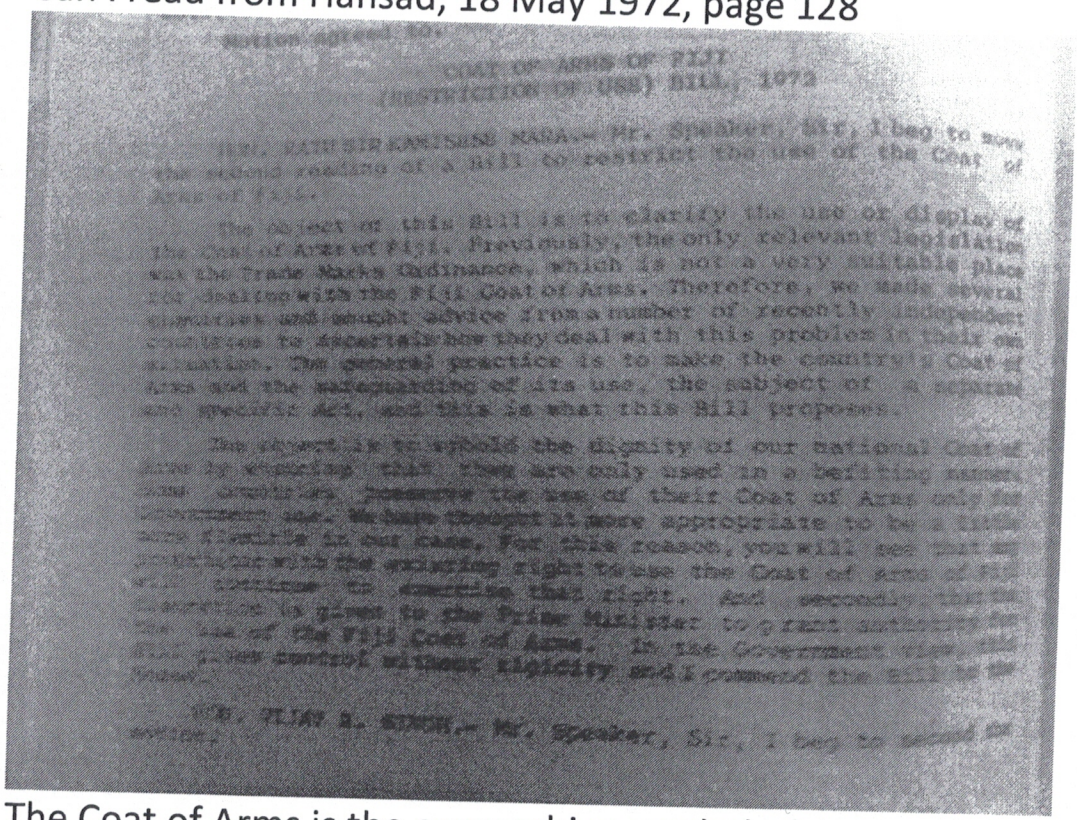
- Therefore on this premise, I ask the committee to caution the Parliament in making this Bill Law. That in theory, the current Fiji Flag is been insulted, the voice of the people placed aside and a singular process void of opposing opinions has been designed to change the Fiji Flag by Political Party and not by the will of the People.

Coat of Arms Bill

- The Bill to govern and regulate the use of the coat of arms, is timely and is a strengthening of current laws that offer the Prime Minister's office the authority to adjudicate on the responsible use of the Nations coat of arms.
- the copyright in the design of the National Flag and the Coat of Arms is vested in the State in perpetuity and all rights and privileges conferred on the registered proprietor of a design under the Patents law should be enjoyed by the State. It is important that this is captured well in any law. The office that governs the use of the Coat of Arms and manages it's

sustainability must also seek to practice their authority independently

- We ask that the committee look no further than 2014 for a solid example of how one political party was given approval to use the national coat of arms as signage and approval given to them by the Prime Minister's Office.
- This committee has a challenge to ensure that the coat of arms is maintained as a national symbol and is not politicized. Therefore the rightful office to govern or regulate its use is the Office of President.
- Because we don't understand what the new coat of arms will look like in the future, it is important to also keep this law flexible. There are nations that have a flower as their Coat of Arms, because of this, at national functions, the flower needs to be placed in central positions.
- Can I read from Hansad, 18 May 1972, page 128



COAT OF ARMS OF FIJI
(RESTRICTION OF USE) BILL, 1972

HON. RATU SIR KAMISESE MARA:- Mr. Speaker, Sir, I beg to move the second reading of a Bill to restrict the use of the Coat of Arms of Fiji.

The object of this Bill is to clarify the use or display of the Coat of Arms of Fiji. Previously, the only relevant legislation was the Trade Marks Ordinance, which is not a very suitable place for dealing with the Fiji Coat of Arms. Therefore, we made several enquiries and sought advice from a number of recently independent countries to ascertain how they deal with this problem in their own situation. The general practice is to make the country's Coat of Arms and the safeguarding of its use, the subject of a separate and specific Act, and this is what this Bill proposes.

The object is to uphold the dignity of our national Coat of Arms by ensuring that they are only used in a befitting manner. Some countries reserve the use of their Coat of Arms only for Government use. We have thought it more appropriate to be a little more flexible in our case. For this reason, you will see that we propose to continue with the existing right to use the Coat of Arms of Fiji without the necessity to exercise that right. And secondly, that the discretion is given to the Prime Minister to grant authority for the use of the Fiji Coat of Arms. In the Government view, this will give control without rigidity and I commend the Bill to the House.

MR. ELIAS D. SINGH:- Mr. Speaker, Sir, I beg to second the motion.

- The Coat of Arms is the overarching symbol of our sovereignty and unity. It cannot be changed easily by a change in government.

And in order to save the process and the right to use the coat of arms, we must immediately speak to other stakeholders – consult. As Ratu Sir Kamisese Mara did in 1972.

Moving Forward

- We ask that this committee ask Parliament to immediately seek legal guidance as to the process they have engaged in. That silencing the voice of the people and refusing to take us into a referendum on this two symbols of national unity are acts of flag desecration
- That law makers be cautioned as to how they go about with the issue of the Flag and Coat of Arms as there is a significant portion of our population who are not satisfied with the argument to change the Fiji Flag or have laws that protect the Bainimarama Flag.
- Be careful about the hefty penalties, these laws might return to hurt political parties that used the coat of arms as signage
- The existence of a law, the Coat of Arms Act CAP 245 and it's amendments will need to be repealed constitutionally before this Bill is enacted.
- That when talking about penalties, one must look at the Nation we belong to, it history and it's rich love for culture – and than ask, do we need such strict laws and fines. IF the committee wants, we as SODELPA Youth can suggest ways in which the penalties and fines can be reformed to best suit the context in which this country is run
- That consultations be made with other pressure groups to gauge the relevance of this Bill and its effect on society – where special reference needs to be made in consulting young people who are a significant segment of our society.

- That it is our wish that in every process regarding the FIJI FLAG and the COAT OF ARMS, the standard of Democracy is never lowered and the process reflects the true will of the people

I thank you all for allowing us to speak and be part of this process.

Peter Waqavonovono
SODLEPA Youth Council
President

Galuvakadua

:
eddie blakelock <v309ph@outlook.com>
Wednesday, April 22, 2015 2:03 PM
Kalo Galuvakadua
ect:
SUBMISSIONS-BILLS NO.4 and 5 of 2015

ched , please find my written submissions to the two above mentioned Bills for the Committee's consideration. The submissions lists my recommended ndments to the clauses in both Bills along with short explanations on the reasons for the amendments.

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SUBMISSION
on the
NATIONAL FLAG PROTECTION BILL 2015 (BILL NO.4 OF 2015)

RECOMMENDATIONS for AMENDMENTS to be considered in the Third Reading of the Bill.

Clause 1.
Subclause (1).
The title "*National Flag Protection Act 2015*" be amended to read "*National Flag Use and Protection Act 2015.*" or just "*National Flag Act 2015.*"

Reason : The Bill is not only about the protection of the national flag, but equally about its use moreso, when it is a legislation for something not legislated before. The recommended inclusion in the " *short title*" would make the "*short title*" more consistent with the intention indicated in the "*long title*".

Clause 2.
"Disciplined Forces"
This *clause* be amended by deleting the words "*Fiji Navy*" from the interpretation of the term "*Disciplined Forces*".

Reason : The terms "*Republic of Fiji Military Forces*" and "*Fiji Navy*" are both included here as separate components of the "*Disciplined Forces*". However, the "*Fiji Navy*" is the naval arm of the RFMF and comes under the command and authority of Commander RFMF. Its separate inclusion here would be legally incorrect and a repetition.

Clause 4.
The term "*proper national colours*" in this *clause* so be specifically defined *in Clause 2.*
Reason : The term is defined in the proposed amendment to the "*Ship Registration Decree 2013*" in this Bill, but its specific use in this Clause is not similarly interpreted in the Bill.

Clause 6.
Sublause (1)
This *subclause* should be rationalized with the interpretation of the term "*premises*" *in subclause (2)*, so as to enable the national flag to be displayed and hoisted on Fiji government vessels and Fiji naval ships.

Reason : This *subclause* does not specifically mention naval ships. However, I note that in the amendment provision in *clause 4(3)(b)*, the "*national colours*" flown by "*all Fiji ships*"

is interpreted as the "*national flag*". The issue is whether Fiji naval ships are included in the meaning of "*all Fiji ships*" in that amendment provision.

Subclause (2).
The *subclause* be deleted, or if not, be reworded.

Reason : This provision opens up a situation which will be difficult to monitor and control and just create problems if not handled properly. When the law allows the flag to be worn as part of an attire etc., there is a much more higher risk and greater possibility for the national flag to be demeaned , defaced, disrespected or worn without necessary due care and dignity. Deleting this provision would be the best option, as this would prevent problems we don't really need and may be sorry for later.
However, if the provision is to remain, then the provision must have very stringent and very clear guidelines laid out, preferably in any ensuing Schedule or Regulation.
A question that arises is whether there are any precedent for such a provision, in the flag legislations in other countries. If there is, then we should be guided by those provisions.

Subclause (3).
The *subclause* be amended by adding the words "*and with dignity*" at the end of this *subclause.* The words "*and with due care and respect*" could also be another option.

Reason : The current wording does not go far enough. There is a need to emphasize that while the flag should be displayed prominently, there is an added need for it to be done so with dignity, due care and respect.

Clause 7.
Subclause (1)
The *subclause* be amended by deleting the words " *to demean, disrespect, or insult*" and inserting the words " *which demeans, disrespects or insults*" in its place instead.

Reason : The subclause should also cater for a situation where an act is committed without any perceived intentions, but deemed injurious, if by its commission, demeans, disrespects or insults the State and the people of Fiji. Acts committed without perceived intentions but deemed injurious, should also be included in this provision. This is done by using the word "which". The current wording seem only to include acts

committed with direct intention, by the use of the word "to". i.e. *"to demean, disrespect or insult"* and therefore not all encompassing , as it should be.

Clause 8.

Question: Is this *clause* also applicable to situations where such acts are committed overseas by Fijian citizens or other nationalities ?

If so, then this *clause* needs to be amended accordingly to include them.

Clause 9.

Paragraph (a)
The paragraph be amended by adding the article *"the"* before the word *"placement"* in the second line , for grammatical reasons.

Paragraph (b).
The paragraph does not seem to include acts committed within a private premise, such as in a dwelling, office and in a private building. The provision seem only to refer to a *"public place."*

Clause 10.

The *clause* be amended by adding the words *"tears, throws"* after the word *"damages"* in the first line.

Reason : Adding these acts which are deemed to be offensive, makes the provision complete and consistent with the offensive acts that are stipulated in *Clause 8.* All the offensive acts listed in clause 8 should be included here, otherwise the current provision is incomplete.

Paragraphs (a) and (b) be amended by adding the article *"the"* before the
word *"peace"* in both paragraphs, for grammatical reasons.

The Constitution is our supreme law and any deviation from its provisions, would be deemed unconstitutional.

Paragraph 3 (Ministerial Responsibility) in the Explanatory Notes.

This paragraph should be part of the Bill proper, at the end.

Reason :

This notation, which identifies the Minister who is to be responsible for this legislation, should correctly be added to the end of the bill proper and the ensuing Act(after the Schedule, if there is any). It should not be included in the *Explanatory Notes* only, as these Notes are not part of the published Act. The name of the controlling Minister should be identified and included as part of the published legislation, because it is part of the *Assignment of the Ministerial Responsibilities* issued by the President on the appointment of a Minister and for which that Minister is responsible to Parliament , to Cabinet and to the people of Fiji. This suggested inclusion is consistent with the format of existing laws.

**********EB**********

SUBMISSION

on the

COAT OF ARMS BILL 2015 (BILL NO. 5 OF 2015)

Recommendations for Amendments to be considered in the Third Reading of the Bill.

Clause 1

Observation

In the " *Explanatory Notes* " to the Bill , the Bill is intended to provide for the alteration of the former Coat of Arms and the adoption of a new Fiji Coat of Arms. If "alteration" is the case, then logically this Bill should only seek to amend the existing *Coat of Arms of Fiji (Restriction of Use) Act (Cap 245*). This would therefore be an Amendment Bill only , which I perceive from media announcements is not the purpose. The intended purpose is a totally new Coat of Arms and thus a new Bill and then a new Act. While I know that the *"Explanatory Notes"* will not form part of the Act when passed, the Bill with the Notes attached ,will be laid before Parliament for its deliberation. The Parliament should therefore be privy to the correct Objectives of the Bill ,when the Bill is deliberated upon.

Clause 2

"Disciplined Forces "

This *clause* be amended by deleting the term " *Fiji Navy* " from the interpretation of the " *Disciplined Forces".*

Reason:

The "*Fiji Navy* "is an intrinsic component of the "*Republic of Fiji Military Forces*" and should not therefore be separated here. Its separation is legally incorrect and deemed to be a repetition.

Clause 7.

Subclause (1) (c)

This *subclause* be amended by inserting the word *"its"* before the word *"depict"* in the first line for grammatical reasons.

Clause 8

Subclause (2)

This *subclause* be amended by adding the article "the" before the term " *Disciplined Forces*" in the second line, as is the case in *Clause 14* for grammatical reasons.

Clause 9

Observation : This clause seem to presume that the *new Coat of Arms* will be part of the new flag (as is the case with the current flag), because it states that a change to the flag could lead to the *Coat of Arms* being also amended and altered ,as a consequence. However, the current shortlist of new flag designs , in fact do not have any *Coat of Arms* design (which I presume to be also new) in them. How then would a change to the new flag alter the *Coat of Arms ?*

Furthermore, the process for any amendment to the new *Coat of Arms* should be just as stringent and similar to those for changes to the *Constitution* and the new Flag. (i.e 3 Readings and 75% support in Parliament and 75% support of the people through a referendum.)

Clause 10.

The term *"Statutory Authority"* should be amended to read *"statutory authority"* .

Reason :

This term should not be in caps as it does not refer to any particular authority. This correction can form part of Secretary General to Parliament's editorial corrections to the Bill, prior to the Bill being published and is only here as a reminder.

Clause 11

The provisions in this clause is a fundamental shift from what is stated in *Sec . 14 (2) (a)* of the *Constitution* and should therefore be reviewed and amended accordingly. A person charged with an offence has the right to be presumed innocent according to the law and not as stated here.

Clause 12

Subclause (2).

Observation:

On the issue of *the Coat of Arms* on the President's vehicle, I assume that the guidelines to be set out in the *Gazette* notice issued by the Minister under this *subclause*, would provide the necessary details for this, as well as details for other uses and circumstances.

3. *Ministerial Responsibilities (Explanatory Notes)*

This notation should correctly be also included at the end of the Act when published and not only in the *Explanatory Notes*, as was explained in my submission for *Bill No. 4 of 2015.*

##EB##

The Ministry of Infrastructure & Transport

Nasilivata House
87, Ratu Mara Road, Samabula
Private Mail Bag, Suva, Fiji

Telephone: (679) 338 4111
Facsimile: (679) 338 3198
Website: www.moit.gov.fj

MINISTRY OF INFRASTRUCTU & TRANSPOR

11 June 2015

The Chairman
Justice Law and Human Rights
Parliament Complex
Suva

Dear Sir

MINISTRY OF INFRASTRUCTURE AND TRANSPORT SUBMISSION ON FIJI FLAG ENSIGNS

Kindly find attached our Ministry's submission on the above mentioned subject matter for your consideration please.

By way of introduction, the Ministry's submission is mainly the hoisting flags on ships. As you may be aware of, apart from the national flag which the ship belongs to, there are various other types of flags that are used for signalling and navigational purposes.

In this regard, the Ministry in consultation with the Maritime Safety Authority of Fiji gladly submit our report to your esteem office for your kind consideration.

The Ministry renders its services should your committee require further clarifications on this matter.

Yours sincerely

LUI. NAISARA
Deputy Secretary Transport and Energy
For Permanent Secretary

cc: PSIT

FIJI FLAG SUBMISSION

Background

Flags have been used by ships, both commercial and defense, since the advent of shipping activities. On ships, flags are a symbol of honour, dignity, and ownership. They stir emotions of pride and respect in crew as well as passengers' hearts.

There are several rules and regulations attached with hoisting flags on ships. Apart from the national flag which the ship belongs to, there are various other types of flags that are used for the signaling and navigational purpose.

These flags are international code flags which are used to pass signals between two ships or between the ship and the shore. There are several rules and regulations that govern these flags. The article describes the common flag etiquette and rules at sea.

Flag Etiquette at Sea

Ocean going vessels display flags for mainly three reasons – to display the nationality of the ship, to display the status assigned to them because of the services they offer, and to provide courtesy in accordance with the international rules and regulations. Whether you are sailing a ship, ferry, or a boat, the flag etiquettes at sea remains the same for all.

Intention of Submission

Government had opted for a change in the current National Flag and the National Flag Protection Bill (Bill No.4 of 2015) is currently in place to provide guidance on the creation of a new National Flag. In reiteration of the comments made from the office of the Prime Minister on 4June 2015, the Bill must be consistent with all relevant Laws in Fiji.

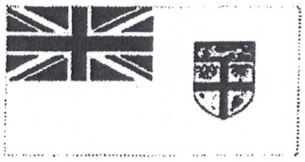
Part 5 of the Ship Registration Decree (SRD) 2013 involves the flying of National Flag by all vessels registered in Fiji while serving in Fiji waters and in other foreign ports. That is mandatory under the Law.

Also, there are three other Ensigns in the SRD 2013 (*section 2*) Part 1 – 3 for vessels owned by Government, the Republic of the Fiji Military Forces and Merchant ships. Respective vessels owned by the above institutions are also eligible under the law to fly their respective flags.

The Ministry of Infrastructure and Transport would like to bring to the attention of the committee that in the event of changing our national flag it will also have some bearing on the current colours of the ensigns that are being flown from our vessels such as:

The National Flag in accordance with the Ship Registration Decree 2013

Part 1
Republic of Fiji Military Forces Ensigns



Part 2
Government Ensign



Part 3
Merchant Ensign



Sources: Ship Registration Decree 2013

The above are also captured in the National Protection Bill 2015, Part 2, Clause 4 (b).

Recommendations

The Ministry of Infrastructure and Transport in consultation with the Maritime Safety Authority of Fiji recommends that the colour background of the three ensigns to remain the same as their representations are closely associated with quality of the marine sectors which remains a flag of choice for owners seeking high standards and ensure safe running of ships. Furthermore it distinguishes a vessel from other ships which portrays a symbol of honour, dignity, and ownership that stirs the emotions of pride and respect in crew as well as passengers' hearts. The coat of arms and changes in design will be dependent on the decision made on the national flag.



OFFICE OF THE LEADER OF OPPOSITION
Republic of the Fiji Islands

Submission on our Position to Retain the Current National Fiji Flag

To the Standing Committee on Justice, Law & Human Rights

By Hon. Viliame Gavoka

3 June 2015

Contact Details:

Hon. Viliame Gavoka

Office of the Leader of the Opposition

Phone: 5225652 / 9723339

I. Introduction

1.1 Foremost, we greatly appreciate the opportunity to make representation today and thank the Committee for such an opportunity.

1.2 This submission is in response to the call for submissions from the Fiji public regarding the national Fiji flag petition tabled to Parliament in February 2015.

1.2 The principle focus of this submission is to affirm our strong support to retain the current national Fiji flag given its historical significance to Fiji's people, culture, politics and economy and more importantly our bond to the values and principles of Christianity.

1.3 We note the absence of any public referendum and prior consensus from Fiji's citizens regarding this proposed change and emphasize our belief that greater public consensus and open dialogue is required before implementing such significant change.

1.4 This submission makes a number of recommendations which we respectfully request this Committee take into consideration in its deliberations on this matter.

II. Our Noble Banner Blue, A Symbolic Pride

2.1 Historically, the current Fiji flag, dubbed our "Noble Banner Blue" was hoisted for the first time in 1970, following its selection during a democratic public competition. It proudly emphasizes our rich and unique link to the British monarchy and represents their contributions to our language, life and sports, our culture and traditions and parliamentary democracy.

2.2 In his ministerial statement regarding governments' intention to change the Fiji flag, the Honorable Prime Minister had stated that "the current flag is out of date, it is irrelevant, and is a symbol tied to our colonial past that we must sever ties with if Fiji is to keep to its aspirations in the 21st century".

2.3 We disagree very strongly as this is not the consensus view of many of our citizens. The Noble Banner Blue is a thing of beauty, color, design, function and meaning-it represents Fiji's history and values viz-a-viz:

- The Union Jack - represent our history of close to 100 years with the British, who made significant contributions to our development as a nation, preparing and equipping us for our independence.
- The Union Jack was originally known as the Flag of Union when England and Scotland united in 1606 under King James VI; the flag combined the vertical red cross of St George of England and the diagonal blue cross of St Andrew of Scotland. Later the white cross of St Patrick, apostle of Ireland was included. These three saints date back to the period of Christ and early Christians, and are significant to the Christians in Fiji, who make up the majority of the population.
- The Cross of St George is on the pips worn by every military officer of the Commonwealth, including the Fiji Military Forces. Indeed, the Indian Navy, or the navy of the biggest democracy in the world has the Cross of St George as its flag.
- The Union Jack is also known as the RED,WHITE and BLUE; the red signifying the blood of Christ on the Cross, white as purity, and blue as the color of service; which are all part of the foundation of the Christian faith.
- The inclusion of the Union Jack reflected the general mood in Fiji leading up to independence, in that we were sentimental about the past and optimistic about the future.
- To the Fijians though, the ties to the Union Jack were more than sentimental; it stood for a chiefly relationship of the highest order that started with Queen Victoria in 1874. The lowering of the Union Jack for the last time was a very delicate matter to the chiefs of Fiji. Not for them was the lowering at mid-night amidst cheering and the raising of the new colors'

also with cheering, as practiced elsewhere. It had to be done with dignity, hence the decision to lower the Union Jack on 9 October at a military retreat which had the tone befitting the occasion, with the Noble Banner Blue hoisted for the first time on the next day 10 October 1970.

- The shield is from the national Coat of Arms granted by Royal Letter Patent in 1908. The English Lion stands above the Cross of St George, but in its paws, it holds a cocoa pod. The Cross of St George divides the shield into four parts; one has sugar cane, one has coconuts and the third bananas, like cocoa, all signifying crops important to Fiji; while the fourth has the dove of peace, the main element in the flag of Ratu Cakobau.
- The background is blue representing the sea around us.
- Together, the elements combine to interweave history with its Christian and political significance; the economy with the crops important to Fiji; the desire for peace through the dove and our geographical location in the blue of the Pacific.

2.4 We respectfully draw your attention to sentiments and views expressed by some of the many citizens who signed the petition to stop Government from changing the Fiji flag:

- Ana Bulai from Ba said, *"...History is behind the Fiji flag, I would like to keep it. And I love it...Just love it..."*
- Israel Cakanivere from Suva said, *"...Although we have gained independence, this flag reminds any and all generations about our rich heritage..."*
- Seci Kalou from Belfast, UK said, *"...Changing our Fiji flag is ridiculous. The Fiji flag has been part of our very unique identity, my identity and this is something I hold very close to my heart. On all my travels, I proudly carry my flag and hang it in every place I call home for it signifies who I am and where I come from...Even in the furthest of places our flag is recognized and people acknowledge who we are, our love for rugby and our friendly smiles...This is our identity. We have been made to feel so uncomfortable about the change in nationality and now this. Please stop. Don't change the flag..."*

- Jason Konrote from Suva said, *"...The current Fiji flag allows me to recognize my identity in this constantly changing dynamic world providing evidence of a past and a guidance into the future..."*

2.5 We submit these views encapsulate the gist of our submission and reinforce our position that we retain the current Fiji national flag. Further we add that:

- The current flag is already well known internationally and its distinctive and attractive design is effective in promoting Fiji's identity overseas.
- The popular support for the Fijian flag is demonstrated by its widespread use - flying from private buildings, as a hand-waver on Fiji Day and at other public events and as a car sticker or lapel pin.
- It is not a derelict, or a relic, but something that is relevant, something that touches the hearts of our people in ways we can all relate too. The 7000 odd members of the public submitting the 'Noble Banner Blue' as their design to the Flag Committee is indicative of the depth with which we identity with "our flag". The 7000 designs was submitted within four days from when our SODELPA volunteers called for submissions - an initiative the media refused to recognize, even refusing to feature our paid advertisement.
- The flag represents our national pride. It has flown been flown during most of Fiji's significant events in history, including major sporting events like the South Pacific Games in Suva and many other great sporting events overseas. For the HSBC 7's the Fiji Flag is arguably the most dominant anywhere, whether it's in Wellington, Las Vegas, Hong Kong or London.

III. A Symbol of Courage, Peace and Service

3.1 Since its first involvement in military action, Fiji's soldiers have fought and died to defend and serve the country in the various wars and peacekeeping operations under what the current Fiji flag represents - and that is courage, valor, sacrifice, and peace. Some question the validity of the English lion in the shield, not realizing that our military tradition and ethos follow that of the British.

3.2 Whilst any change of flag will not diminish Fijian soldiers' service and contribution to wars and peacekeeping operations, it will certainly prematurely diminish their connection and link to a part of their lives they so valiantly sacrificed in the name of commitment and service to their country.

3.3 Such significant change will be difficult to embed, given the current emotional connection to the Fiji flag as a national symbol and we question if this is the right time to make such changes.

IV. Dialogue and Referendum

4.1 We reiterate that any change of the current Fiji flag not be undertaken without clear evidence of widespread public support for change. We again draw your attention to the sentiments and views expressed by some of the many citizens regarding the need for a referendum.

- Mere Hudson from Australia, said, *"...The flag was democratically chosen in the lead up to independence, and it should not be changed without the prior approval of the people..."*
- Luisa Senibulu from Suva, said, *"...I do not agree with the approach used to change the Fiji flag. Let the people, who own the flag, decide..."*
- Mosese Dakunivosa from the UK, said, *"...Changing a flag cannot simply be the mandate of a single political party of government. Simply a nation's flag is a national institution and should be accorded proper due processes when changing. Citizens should be consulted and consent sought through the parliamentary process..."*

4.2 We, the supporters of the current flag are aghast that such a significant change is occurring without the approval of the overall majority. We are certain that the heavy

FURTHER REQUESTED DOCUMENTS

Peter Waqavonovono

SODELPA YOUTH COUNCIL

Honorable Members of the Standing Committee currently receiving submissions on a Bill to protect the NEW Fiji Flag and NEW Coat of Arms,

As requested, I present you with a

1. *case citation on the acceptance of flag desecration with appropriate reason, that is covered under the US 1st Amendment*
2. *a flag burning overview and case laws that have stemmed from the protection of FREE SPEECH*
3. *a copy of the Amendment to the Coat of Arms Act CAP 245 is also available in the Parliament Library. And it is understood that one of the purposes of this Bill no. 5 is to repeal the above mentioned Act.*
4. *A copy of the hansad from which the Coat of Arms Act that was debated and brought into Parliament in 1972*

We are still ready to assist in providing

1. *A subtext amendment to the Bill in regards to protecting all Fiji Flag's including the current Fiji Flag*
2. *Help with consultations and bring forward a revised text on penalties*
3. *We can also provide a collection of views and positions on Referendums if the committee wants to consider this*

I again thank you for considering our views and humbly present this paper to your committee

Peter Waqavonovono

SODELPA Youth Council

Texas v. Johnson, 491 U.S. 397 (1989), was a decision by the Supreme Court of the United States that invalidated prohibitions on desecrating the American flag enforced in 48 of the 50 states. Justice William Brennan wrote for a five-justice majority in holding that the defendant Gregory Lee Johnson's act of flag burning was protected speech under the First Amendment to the United States Constitution. Johnson was represented by attorneys David D. Cole and William Kunstler.

Background of the case

Gregory Lee "Joey" Johnson, then a member of the Revolutionary Communist Youth Brigade, participated in a political demonstration during the 1984 Republican National Convention in Dallas, Texas. The demonstrators were protesting the policies of the Reagan Administration and of certain companies based in Dallas. They marched through the streets, shouted chants, and held signs outside the offices of several companies. At one point, another demonstrator handed Johnson an American flag stolen from a flagpole outside one of the targeted buildings.

When the demonstrators reached Dallas City Hall, Johnson poured kerosene on the flag and set it on fire. During the burning of the flag, demonstrators shouted such phrases as, "America, the red, white, and blue, we spit on you, you stand for plunder, you will go under," and, "Reagan, Mondale, which will it be? Either one means World War III." No one was hurt, but some witnesses to the flag burning said they were extremely offended. One witness, Daniel E. Walker, received international attention when he collected the burned remains of the flag and buried them according to military protocol in his backyard

Johnson was charged with violating the Texas law that prohibits vandalizing respected objects (desecration of a venerated object). He was convicted, sentenced to one year in prison, and fined $2,000. He appealed his conviction to the Fifth Court of Appeals of Texas, but he lost this appeal. The Texas Court of Criminal Appeals would then see his case. This was the highest court in Texas that would see Criminal Appeals. That court overturned his conviction, saying that the State could not punish Johnson for burning the flag because the First Amendment protects such activity as symbolic speech.

The court said, "Recognizing that the right to differ is the centerpiece of our First Amendment freedoms, a government cannot mandate by fiat a feeling of unity in its citizens. Therefore that very same government cannot carve out a symbol of unity and prescribe a set of approved messages to be associated with that symbol." The court also concluded that the flag burning in this case did not cause or threaten to cause a breach of the peace.

Texas asked the Supreme Court of the United States to hear the case. In 1989, the Court handed down its decision

The Supreme Court's decision

The opinion of the Court came down as a controversial 5-4 decision, with the majority opinion delivered by William J. Brennan, Jr. and Justices Marshall, Blackmun, Scalia, and Kennedy joining Brennan, with Kennedy also writing a concurrence.

The Court first considered the question of whether the First Amendment protected non-speech acts, since Johnson was convicted of flag desecration rather than verbal communication, and, if so, whether Johnson's burning of the flag constituted expressive conduct, which would permit him to invoke the First Amendment in challenging his conviction.

The First Amendment specifically disallows the abridgment of "speech," but the court reiterated its long recognition that its protection does not end at the spoken or written word. This was an uncontroversial conclusion in light of cases such as *Stromberg v. California* (display of a red flag as speech) and *Tinker v. Des Moines Independent Community School District* (wearing of a black armband as speech).

The Court rejected "the view that an apparently limitless variety of conduct can be labeled 'speech' whenever the person engaging in the conduct intends thereby to express an idea," but acknowledged that conduct may be "sufficiently imbued with elements of communication to fall within the scope of the First and Fourteenth Amendments." In deciding whether particular conduct possesses sufficient communicative elements to bring the First Amendment into play, the court asked whether "an intent to convey a particularized message was present, and [whether] the likelihood was great that the message would be understood by those who viewed it."

The Court found that, "Under the circumstances, Johnson's burning of the flag constituted expressive conduct, permitting him to invoke the First Amendment... Occurring as it did at the end of a demonstration coinciding with the Republican National Convention, the expressive, overtly political nature of the conduct was both intentional and overwhelmingly apparent." The court concluded that, while "the government generally has a freer hand in restricting expressive conduct than it has in restricting the written or spoken word," it may not "proscribe particular conduct because it has expressive elements."

Texas had conceded, however, that Johnson's conduct was expressive in nature. Thus, the key question considered by the Court was "whether Texas has asserted an interest in support of Johnson's conviction that is unrelated to the suppression of expression."

At oral argument, the state defended its statute on two grounds: first, that states had a compelling interest in preserving a venerated national symbol; and second, that the state had a compelling interest in preventing breaches of the peace.

As to the "breach of the peace" justification, however, the Court found that "no disturbance of the peace actually occurred or threatened to occur because of Johnson's burning of the flag," and Texas conceded as much. The Court rejected Texas's claim that flag burning is punishable on the basis that it "tends to incite" breaches of the peace by citing the familiar test of *Brandenburg v. Ohio* that the state may only punish speech that would incite "imminent lawless action," finding

that flag burning does not always pose an imminent threat of lawless action. The Court noted that Texas already punished "breaches of the peace" directly.

Kennedy's concurrence

Justice Kennedy wrote a concurrence with Brennan's opinion Kennedy wrote:

For we are presented with a clear and simple statute to be judged against a pure command of the Constitution. The outcome can be laid at no door but ours. The hard fact is that sometimes we must make decisions we do not like. We make them because they are right, right in the sense that the law and the Constitution, as we see them, compel the result. And so great is our commitment to the process that, except in the rare case, we do not pause to express distaste for the result, perhaps for fear of undermining a valued principle that dictates the decision. This is one of those rare cases.

Though symbols often are what we ourselves make of them, the flag is constant in expressing beliefs Americans share, beliefs in law and peace and that freedom which sustains the human spirit. The case here today forces recognition of the costs to which those beliefs commit us. It is poignant but fundamental that the flag protects those who hold it in contempt

Rehnquist's dissent

Brennan's opinion for the court generated two dissents. William H. Rehnquist, joined by two other justices, argued that the "uniqueness" of the flag "justifies a governmental prohibition against flag burning in the way respondent Johnson did here." Rehnquist wrote,

The American flag, then, throughout more than 200 years of our history, has come to be the visible symbol embodying our Nation. It does not represent the views of any particular political party, and it does not represent any particular political philosophy. The flag is not simply another "idea" or "point of view" competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with an almost mystical reverence regardless of what sort of social, political, or philosophical beliefs they may have. I cannot agree that the First Amendment invalidates the Act of Congress, and the laws of 48 of the 50 States, which make criminal the public burning of the flag.

However, the Johnson majority found the lack of evidence for flag protection in the Constitution that necessitated the claim of "uniqueness" to counter indicate protection of the flag from free speech. They answered the "uniqueness" claim directly: "We have not recognized an exception to [bedrock First Amendment principles] even where our flag has been involved...There is, moreover, no indication -either in the text of the Constitution or in our cases interpreting it- that a separate juridical category exists for the American flag alone...We decline, therefore, to create for the flag an exception to the joust of principles protected by the First Amendment."

Rehnquist also argued that flag burning is "no essential part of any exposition of ideas" but rather "the equivalent of an inarticulate grunt or roar that, it seems fair to say, is most likely to be indulged in not to express any particular idea, but to antagonize others." He goes on to say that he felt the statute in question was a reasonable restriction only on the manner in which Johnson's idea was expressed, leaving Johnson with, "a full panoply of other symbols and every conceivable form of verbal expression to express his deep disapproval of national policy." He quotes a 1984 Supreme Court decision in *City Council of Los Angeles v. Taxpayers for Vincent*, where the majority stated that, "the First Amendment does not guarantee the right to employ every conceivable method of communication at all times and in all places."

Stevens' dissent

Justice John Paul Stevens also wrote a dissenting opinion. Stevens argued that the flag "is more than a proud symbol of the courage, the determination, and the gifts of nature that transformed 13 fledgling Colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of good will for other peoples who share our aspirations...The value of the flag as a symbol cannot be measured." Stevens concluded, therefore, that "The case has nothing to do with 'disagreeable ideas.' It involves disagreeable conduct that, in my opinion, diminishes the value of an important national asset," and that Johnson was punished only for the means by which he expressed his opinion, not the opinion itself.

Subsequent developments

The Court's decision invalidated laws in force in 48 of the 50 states. More than two decades later, the issue remained controversial, with polls suggesting that a majority of Americans still supported a ban on flag-burning. Congress did, however, pass a statute, the 1989 Flag Protection Act, making it a federal crime to desecrate the flag. In the case of *United States v. Eichman,* 496 U.S. 310 (1990). that law was struck down by the same five person majority of justices as in *Johnson* (in an opinion also written by Justice Brennan). Since then, Congress has considered the Flag Desecration Amendment several times. The amendment usually passes the House of Representatives, but has always been defeated in the Senate. The most recent attempt occurred when S.J.Res.12. failed by one vote on June 27, 2006.

Flag-burning overview

Robert Justin Goldstein

Tuesday, November 19, 2002

Today, the American flag is a ubiquitous symbol of the United States. It is displayed widely in front of government buildings, private homes and commercial enterprises. It is used extensively as a design springboard for clothing, advertising and the widest possible variety of other products. However, after June 14, 1777, when the Continental Congress adopted it as the nation's symbol, it attracted little interest or public display for more than 80 years. Only the outbreak of the Civil War transformed the flag into an object of public adoration (although only, of course, in the North).

The newfound Northern love for the flag continued after the Civil War, but the flag's growing popularity was not accompanied by any sense that it should be regarded as a sacred object or relic. The most common form in which it became increasingly visible in American life during the post-Civil War period was as a decorative accompaniment in the commercialization of a wide range of products, as the modern advertising industry developed amidst the rapid postwar industrialization of the nation. Gradually, after 1890, union veterans and members of traditional patriotic groups (such as the Sons of the American Revolution) began to protest what they alleged was the commercial debasement of the flag. Such commercial use, they argued, would ultimately degrade the significance of both the flag and patriotism among the general public. After about 1900, the supposed threat to the flag shifted from commercial exploitation to the threat allegedly posed by its use as a means of expressing radical protest — by the likes of political radicals, trade union members, and immigrants (who were often indiscriminately lumped together).

Between 1897 and 1932, veterans and hereditary-patriotic groups lobbied for stringent laws to "protect" the flag against all such forms of alleged "desecration" (a term heretofore used to refer to harm against sacred religious objects). Such efforts ultimately resulted in the passage of flag-desecration laws in all 48 states, with a burst of 31 states acting between 1897 and 1905 alone. The laws generally outlawed: (1) attaching anything to or placing any marks on the flag; (2) using the flag in any manner for advertising purposes; and (3) physically or even verbally "harming" flags in any way, including "publicly" mutilating, trampling, defacing, defiling, "defying" or casting "contempt," either "by word or act," upon the flag. The term "flag" was generally defined to mean any object of any form, size or material that resembled the American flag.

First Supreme Court rulings: advertising and flag desecration

The earliest state flag-desecration laws were quickly and, at first, successfully challenged in local and state courts as illegally restricting property rights by adversely affected commercial interests. However, in the 1907 case of *Halter v. Nebraska,* the U.S. Supreme Court upheld (8-1 with Justice Rufus Peckham dissenting) Nebraska's law in sweeping terms, terms that made clear the futility of any further legal challenges for the foreseeable future. The case involved selling bottles of "Stars and Stripes" beer, which had pictures of flags on the labels. The majority, per

Justice John Marshall Harlan, held that the state was entitled to restrict property rights for the valid and worthy purpose of fostering nationalism. In a ruling that did not address free-speech rights, the Court declared that "love both of the common country and of the State will diminish in proportion as respect for the flag is weakened." The basic idea was that advertising usage of the flag tended to "degrade and cheapen it in the estimation of the people" and that the state was entitled to "exert its power to strengthen the bonds of the Union and therefore, to that end, may encourage patriotism and love of country among its people."

The Supreme Court never considered another flag-desecration case until 1969. During the interim period the constitutionality of flag-desecration laws was essentially considered beyond review by the lower courts. The Court finally revisited the issue during the Vietnam War period, when flags were widely burned or otherwise used in unorthodox ways to express political dissent (resulting in scores of flag-desecration prosecutions).

In *Street v. New York* (1969), the Court relied heavily upon its rulings in *Stromberg v. California* (1931) and (especially) *West Virginia Board of Education v. Barnette* (1943) to strike down flag-desecration provisions that outlawed *verbal* disrespect for the flag. This time the Court's ruling was grounded in the First Amendment. The Court, by a 5-4 vote, with Justice John M. Harlan (grandson and namesake of earlier Supreme Court Justice John Marshall Harlan) writing for the majority, overturned Sidney Street's flag-desecration conviction on the strained grounds that since he had been charged under a provision of New York's law outlawing casting "contempt" upon the flag by "words or acts," and evidence concerning his statements had been introduced at trial, he might have been convicted for his words alone. Any such conviction in the absence of an evident threat to the peace or incitement to violence was held to violate the First Amendment. The majority reasoned: Since "it is firmly settled that under our Constitution the public expression of ideas may not be prohibited merely because the ideas are themselves offensive to some of their hearers," even opinions about the flag "which are defiant or contemptuous." The Court did not address the constitutionality of laws that banned *physical* flag desecration; it did so on the grounds that there was no need to decide the case "on a broader basis than the record before us imperatively requires." After *Street,* the Court overturned convictions in two other Vietnam-era flag-desecration cases, *Smith v. Goguen* (1974) and *Spence v. Washington* (1974), which were both decided on narrow grounds. Again, the Court avoided directly addressing the validity of state interests in protecting the physical integrity of the flag in light of First Amendment questions.

New era: *Texas v. Johnson*

Finally, in *Texas v. Johnson* (1989) the Court addressed the flag-burning issue head-on and held (5-4) that Texas' "venerated objects" law had been unconstitutionally applied to Gregory Lee Johnson when he burned a flag in Dallas. In considering the two interests advanced by Texas as overriding Johnson's First Amendment rights, the majority first held that, under previously established standards, "the state's interest in maintaining order is not implicated" since "no disturbance to the peace actually occurred or threatened to occur because of Johnson's burning of the flag." Turning to Texas' second asserted interest, "preserving the flag as a symbol of nationhood and national unity," the majority held that since Johnson's guilt depended "on the likely communicative aspect of his expressive conduct," the Texas statute violated the "bedrock principle underlying the First Amendment, … that the Government may not prohibit expression

of an idea simply because society finds the idea itself offensive or disagreeable." Citing its holding in *Street* that "a State may not criminally punish a person for uttering words critical of the flag," the majority, represented by Justice William Brennan, declared flatly that Texas' attempt to distinguish between the "written or the spoken words [at issue in *Street*] and nonverbal conduct … is of no moment where the nonverbal conduct is expressive, as is here, and where the regulation of that conduct is related to expression, as it is here."

Furthermore, Brennan declared that the principle that "the Government may not prohibit expression simply because it disagrees with its message, is not dependent on the particular mode in which one chooses to express an idea" and therefore the state could not "criminally punish a person for burning a flag as a means of political protest" on the grounds that other means of expressing the same idea were available. The majority concluded that the "principles of freedom and inclusiveness that the flag best reflects" would be reaffirmed by its decision: "We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that his cherished emblem represents."

The June 21, 1989, decision touched off an intense and massive uproar across the United States. Virtually every member of Congress endorsed resolutions condemning the ruling. In no time the congressional agenda was clear: namely *how* to circumvent the Court's holding. Most Democrats maintained a statutory law would suffice to undercut the Court. The Democratic congressional leadership noted that *Johnson* struck down a Texas statute that forbade flag desecration likely to cause "serious offense" to observers. Thus, the logic went that the Court might uphold a "content neutral" law. By contrast, President George H.W. Bush and most Republicans maintained a constitutional amendment would be required to negate the Court's decision.

1989 Flag Protection Act and *U.S. v. Eichman*

Whether due to a perceived cooling of public sentiment, to increasing signs of growing "elite" opposition to a constitutional amendment, or to growing acceptance of the argument that trying a statute first was preferable to constitutional "tinkering," by October 1989, the drive for a constitutional amendment, seemingly unstoppable in late June after President Bush endorsed it, was sputtering. On Oct. 19, the constitutional amendment was killed, at least for that year, when the Senate defeated it by a vote of 51 for and 48 against, with two-thirds of those voting required for approval. However, in the meantime both houses of Congress had passed the proposed statutory alternative, the Flag Protection Act (FPA) of 1989.

The FPA provided penalties of up to one year in jail and a $1,000 fine for anyone who "knowingly mutilates, physically defiles, burns, maintains on the floor or ground, or tramples upon any flag of the United States" with "flag" defined as "any flag of the United States, or any part thereof, made of any substance, of any size, in a form that is commonly displayed." Although the stated purpose of the FPA was to end flag burnings, its immediate impact was to spur perhaps the largest single wave of such incidents in American history. Flags were burned in about a dozen cities shortly after the law took effect in late October.

Acting under an extraordinary expedited review procedure mandated by the FPA, the Supreme Court struck the FPA down by 5-4 in *U.S. v. Eichman* (1990). The *Eichman* ruling, again with Justice Brennan writing for the majority, essentially bolstered *Johnson,* finding that the government's interest in protecting the flag's "status as a symbol of our Nation and certain national ideals" was related "to the suppression of free expression" and could not justify "infringement on First Amendment rights." While conceding that the new law, unlike the Texas statute in *Johnson,* "contained no explicit content-based limitation on the scope of prohibition conduct," the majority held the FPA still suffered from "the same fundamental flaw" as the Texas law, namely that it could not be "justified without reference to the content of the regulated speech." Justice Brennan added, "Punishing desecration of the flag dilutes the very freedom that makes this emblem so revered, and worth revering."

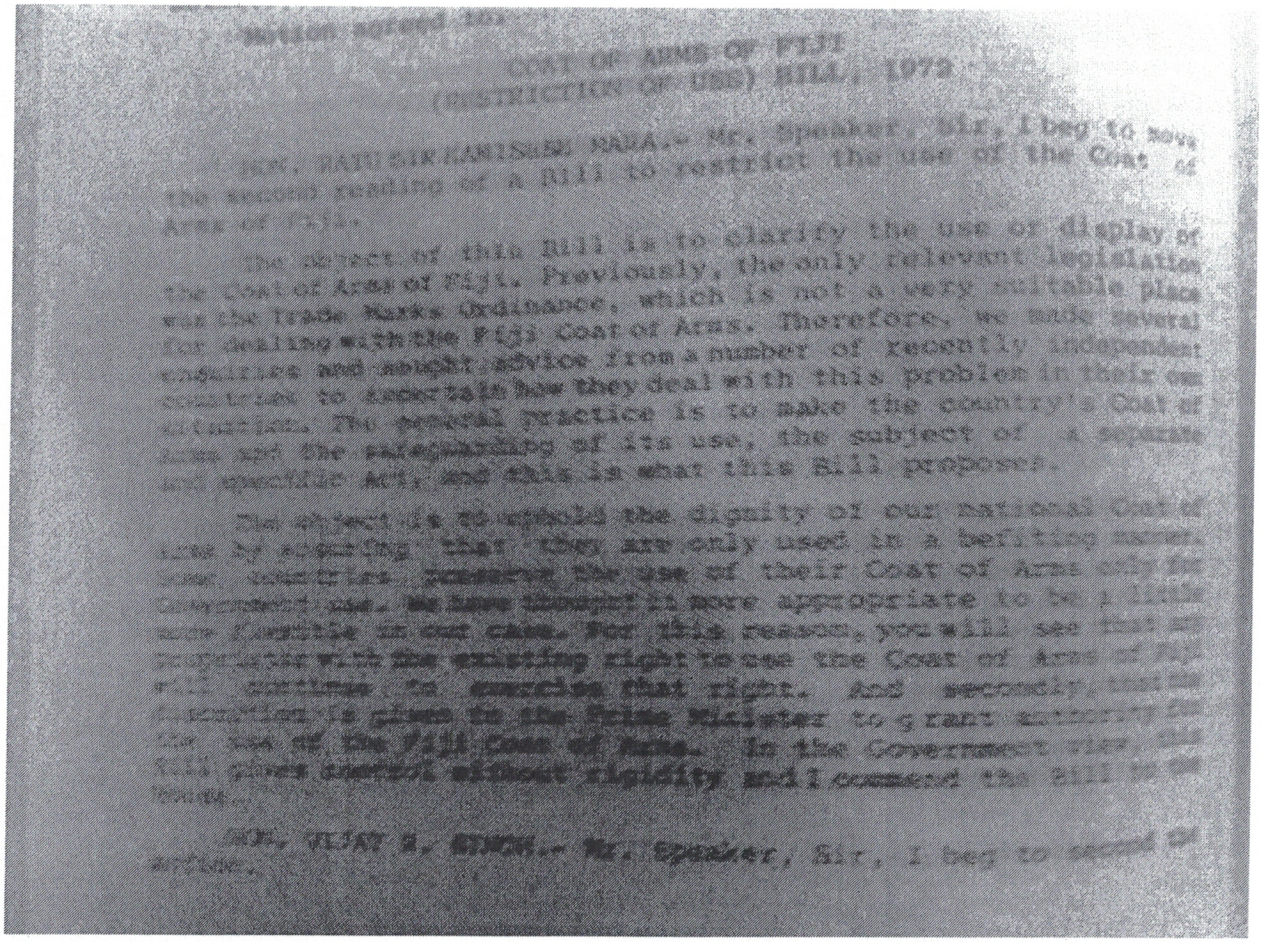
The *Eichman* decision sparked an immediate renewal of calls by President Bush and others for a constitutional amendment. However, the proposed amendment was defeated in both houses of Congress in 1990. Revived after Republican election victories in 1994 that gave them control of both houses of Congress of the first time in 40 years, the amendment has been repeatedly passed by the required two-thirds supermajority in the House, but thus far has failed to gain a two-thirds vote in the Senate, most recently in June 2006.

Updated June 28, 2006

http://www.firstamendmentcenter.org/flag-burning-overview

TEXT on the Coat of Arms of Fiji Bill, 1972, second reading

18th May 1972



motion agreed to.

COAT OF ARMS OF FIJI
(RESTRICTION OF USE) BILL, 1972

HON. RATU SIR KAMISESE MARA.- Mr. Speaker, Sir, I beg to move the second reading of a Bill to restrict the use of the Coat of Arms of Fiji.

The object of this Bill is to clarify the use or display of the Coat of Arms of Fiji. Previously, the only relevant legislation was the Trade Marks Ordinance, which is not a very suitable place for dealing with the Fiji Coat of Arms. Therefore, we made several enquiries and sought advice from a number of recently independent countries to ascertain how they deal with this problem in their own countries. The general practice is to make the country's Coat of Arms and the safeguarding of its use, the subject of a separate and specific Act, and this is what this Bill proposes.

The object is to uphold the dignity of our national Coat of Arms by ensuring that they are only used in a befitting manner. Some countries reserve the use of their Coat of Arms only for Government use. We have thought it more appropriate to be a little more flexible in our case. For this reason, you will see that we propose with the existing right to use the Coat of Arms of Fiji, will continue to exercise that right. And secondly, that the discretion is given to the Prime Minister to grant authority for the use of the Fiji Coat of Arms. In the Government view, this Bill gives control without rigidity and I commend the Bill to the House.

HON. VIJAY R. SINGH.- Mr. Speaker, Sir, I beg to second the motion.

POSSIBLE STAKEHOLDERS FOR NATIONAL FLAG PROTECTION BILL AND COAT OF ARMS BILL

Prime Minister's Office

Electoral Commission

Supervisor of Elections

Fiji Navy

Fiji Retailers Association

Fiji Military Forces

Fiji Police Force

Fiji Prisons and Corrections Service

Petitioners

Appendix 4: EXPRESSION OF INTEREST ADVERTISEMENTs FOR SUBMISSION ON THE COAT OF ARMS BILL 2015

PARLIAMENT OF THE REPUBLIC OF FIJI

PARLIAMENT COMPLEX, GLADSTONE ROAD
P.O.BOX 2352, GOVERNMENT BUILDING, SUVA
PHONE 3225600, FAX: 3305525

Calling for Written Submissions
Coat of Arms Bill (Bill No. 5 of 2015)

The Parliament passed a resolution on Thursday, 14th May, 2015 that the Coat of Arms Bill, 2015 (Bill No. 5 of 2015) be referred to the Standing Committee on Justice, Law and Human Rights and to report back to Parliament during the July sitting.

The Bill intends to provide for the alternation of the former Coat of Arms and the adoption of a new Fijian Coat of Arms (**'Coat of Arms'**), and to regulate the use of the Coat of Arms. In view of the timeline given, the Committee would be grateful if your presentation could be based on the following issues:

1) Are the clauses sufficient or should there be amendments to the clauses in the Bill?
2) The impact of the Bill on the nation as a whole.
3) Any other views specific to the contents of the Bill.

The Standing Committee on Justice, Law and Human Rights invites interested persons or organisations wishing to express views on the Bill to lodge written submissions with:

The Chairman
Standing Committee on Justice, Law and Human Rights
PO Box 2352
Government Buildings
SUVA

as soon as possible but no later than 12th June 2015.

Invitations to appear before the Committee for oral presentations may be issued on the basis of written submissions received. Written submissions made to the Standing Committee are usually made public, however persons making submissions should seek the concurrence of the Standing Committee before separately making them public. Copies of the Bill are available on the Parliament website www.parliament.gov.fj.

For further information please contact the Committee Secretary (Savenaca) through email address savenaca.koro@govnet.gov.fj or telephone contact 3225673.

PARLIAMENT OF THE REPUBLIC OF FIJI

PARLIAMENT COMPLEX, GLADSTONE ROAD
P.O.BOX 2352, GOVERNMENT BUILDING, SUVA
PHONE 3225600, FAX: 3305525

Calling for Written Submissions from the Public
National Flag Protection Bill 2015 (Bill No. 4 of 2015)

The Parliament passed a resolution on Thursday, 14th May, 2015 that the National Flag Protection Bill, 2015 (Bill No. 4 of 2015) be referred to the Standing Committee on Justice, Law and Human Rights and to report back to Parliament during the July sitting.

The Bill intends to provide for the introduction and adoption of the new Fijian Flag ('**Flag**') and to protect and regulate the use of that Flag. In view of the timeline given, the Committee would be grateful if your presentation could be based on the following issues:

1) Are the clauses sufficient or should there be amendments to the clauses in the Bill?
2) The impact of the Bill on the nation as a whole.
3) Any other views specific to the contents of the Bill.

The Standing Committee on Justice, Law and Human Rights invites interested persons or organisations wishing to express views on the Bill to lodge written submissions with:

The Chairman
Standing Committee on Justice, Law and Human Rights
PO Box 2352
Government Buildings
SUVA

as soon as possible but no later than Friday 12th June 2015.

Invitations to appear before the Committee for oral presentations may be issued on the basis of written submissions received. Written submissions made to the Standing Committee are usually made public, however persons making submissions should seek the concurrence of the Standing Committee before separately making them public. Copies of the Bill are available on the Parliament website www.parliament.gov.fj.

For further information please contact the Committee Secretary (Kalo) through email [redacted] or telephone contact 3225609.

EXPRESSION OF INTEREST
2015 KULA AWARDS

Film Fiji launched the 2015 Kula Awards on 29 April with major sponsors HFC Bank and Fiji Airways. This year marks the 10th anniversary of the awards, which was established in 2006. This is part of our strategy to develop local infrastructure to support the growing number of international productions that are coming to shoot films in Fiji.

The Kula Awards is aimed at developing our young people in the audio visual industry and is an avenue through which our youths can tap their potential in creative arts.

Film Fiji invites Expressions of Interest from individuals and professionals in the following areas:

1. Event Coordinator
2. Production Assistants
3. Sound & Lighting
4. Video Production
5. Staging

Proposals must be submitted with:-

1. Company or Individual Profile
2. Details of past experience in undertaking similar projects
3. Fees and/or Costs

For a copy of the project specification document, please contact Anand Narayan at Film Fiji on 3306662 or email: anand.narayan@film-fiji.com.fj.

Expressions of Interest close on 12th June 2015. All submissions should be addressed to **"2015 Kula Awards Expression of Interest", Film Fiji, GPO Box**

PARLIAMENT OF THE REPUBLIC OF FIJI

PARLIAMENT COMPLEX, GLADSTONE ROAD
P.O.BOX 2352, GOVERNMENT BUILDING, SUVA
PHONE 3225600, FAX: 3305525

Calling for Written Submissions from the Public
Employment Relations (Amendment) Bill 2015 (Bill No. 10 of 2015)

The Parliament passed a resolution on Friday 22nd May, 2015 that the Employment Relations (Amendment) Bill, 2015 (Bill No. 10 of 2015) be referred to the Standing Committee on Justice, Law and Human Rights and to report back to Parliament during the July sitting.

The Employment Relations (Amendment) Bill 2015 seeks to amend the Employment Relations Promulgation 2007. In view of the timeline given, the Committee would be grateful if your presentation could be based on the following issues:

1) Are the amendments suggested in the (Amendment) Bill sufficient and do they address the issues lacking in the Employment Relations Promulgation 2007?
2) If you think the amendments are not sufficient, what amendments should be made to the (Amendment) Bill?
3) Any other views specific to the contents of the (Amendment) Bill.

The Standing Committee on Justice, Law and Human Rights invites interested persons or organisations wishing to express views on the Bill to lodge written submissions with:

The Chairman
Standing Committee on Justice, Law and Human Rights
PO Box 2352
Government Buildings
SUVA

as soon as possible but no later than **Friday, 12th June 2015.**

Invitations to appear before the Committee for oral presentations may be issued on the basis of written submissions received. Written submissions made to the Standing Committee are usually made public, however persons making submissions should seek the concurrence of the Standing Committee before separately making them public. Copies of the Bill are available on the Parliament website www.parliament.gov.fj.

PARLIAMENT OF THE REPUBLIC OF FIJI

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

Calling for Written Submissions from the Public

National Flag Protection Bill 2015 (Bill No. 4 of 2015)

The Parliament passed a resolution on Thursday, 14th May, 2015 that the National Flag Protection Bill, 2015 (Bill No. 4 of 2015) be referred to the Standing Committee on Justice, Law and Human Rights and to report back to Parliament during the July sitting.

The Bill intends to provide for the introduction and adoption of the new Fijian Flag (**'Flag'**) and to protect and regulate the use of that Flag. In view of the timeline given, the Committee would be grateful if your presentation could be based on the following issues:

1) Are the clauses sufficient or should there be amendments to the clauses in the Bill?
2) The impact of the Bill on the nation as a whole.
3) Any other views specific to the contents of the Bill.

The Standing Committee on Justice, Law and Human Rights invites interested persons or organisations wishing to express views on the Bill to lodge written submissions with:

The Chairman
Standing Committee on Justice, Law and Human Rights
PO Box 2352
Government Buildings
SUVA

as soon as possible but no later than **Friday 12th June 2015**.

Invitations to appear before the Committee for oral presentations may be issued on the basis of written submissions received. Written submissions made to the Standing Committee are usually made public, however persons making submissions should seek the concurrence of the Standing Committee before separately making them public. Copies of the Bill are available on the Parliament website www.parliament.gov.fj.

For further information please contact the Committee Secretary (Kalo) through email ktakape@parliament.gov.fj or telephone contact 3225609.

IN THE MATTER OF THE SECURITY INDUSTRY DECREE, 2010

NOTICE is hereby given in accordance with section 11 (4) of the Security Industry Decree, that as per Government of Fiji Gazette No. 25, Vol.16 dated Friday, 17th April 2015, the following companies have been registered and issued with a Master License

No.	Name of Company	No.	Name of Company
1	Evergreen International Fiji, LLC	29	Ryda Ltd
2	Kumar's Locksmith Ltd	30	Paradise Security Services Ltd
3	Grid Security	31	General Data Cabling & Communication Ltd
4	City Security Services (Fiji) Ltd	32	Sam's Security Services
5	Mactronics Limited	33	Electronic Control System(ECS)
6	Supreme Security Services	34	Maxsafe Security Services
7	Datec Fiji Limited	35	Grand Pacific Hotel Limited
8	Beekay's Security & Consultancy Services (BK's)	36	Tambi Security Services
9	Safeway Electronics Ltd	37	Defence Security Service
10	Multi Electronics Technologies Ltd	38	USP Security Services
11	Rhino Security Limited	39	FNU Security Services
12	South Pacific Security	40	Vatukoula Gold Mine
13	Professional Security Services Ltd	41	EPIC International Ltd
14	Jean-Michel Cousteau Resort	42	Gaunavou Secure Solution
15	Leie Security	43	All-Time Security
16	Hi-Tech Pro Security	44	Neo-Tech Solutions
17	Ayaan Security	45	Port Denarau Marina
18	Free Bird Institute	46	Black Meridian Watchers
19	Universal Electronics Ltd	47	Rical Security Management
20	Safety Security Services Ltd	48	Canopy Security Services Ltd
21	D-Tronics Security	49	Wyndham Denarau Resort
22	Fiji Palms Beach Club & Resort	50	Radisson Blu Resort
23	Lenisau Enterprise	51	Comtech Communication Technologies
24	Galaxy Tech. Services	52	Carpenters Fiji Ltd
25	Electro Security Ltd	53	Tagosamo Security Solutions Company Ltd
26	HomeLink Security	54	Fiji Television Limited
27	Ace & Ace Enterprise	55	Satya's Professional
28	Silver Security Services Ltd	56	Matrix Risk Management Ltd
		57	Diefar Security Services

For further enquiries, please contact the undersigned:-

Ministry of Defence, National Security & Immigration
P.O. Box 2349
Government Building
Suva

PARLIAMENT OF THE REPUBLIC OF FIJI

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

Calling for Written Submissions

Coat of Arms Bill (Bill No. 5 of 2015)

The Parliament passed a resolution on Thursday, 14th May, 2015 that the Coat of Arms Bill, 2015 (Bill No. 5 of 2015) be referred to the Standing Committee on Justice, Law and Human Rights and to report back to Parliament during the July sitting.

The Bill intends to provide for the alternation of the former Coat of Arms and the adoption of a new Fijian Coat of Arms (**'Coat of Arms'**), and to regulate the use of the Coat of Arms. In view of the timeline given, the Committee would be grateful if your presentation could be based on the following issues:

1) Are the clauses sufficient or should there be amendments to the clauses in the Bill?
2) The impact of the Bill on the nation as a whole.
3) Any other views specific to the contents of the Bill.

The Standing Committee on Justice, Law and Human Rights invites interested persons or organisations wishing to express views on the Bill to lodge written submissions with:

The Chairman
Standing Committee on Justice, Law and Human Rights
PO Box 2352
Government Buildings
SUVA

as soon as possible but no later than **Friday, 12th June 2015**.

Invitations to appear before the Committee for oral presentations may be issued on the basis of written submissions received. Written submissions made to the Standing Committee are usually made public, however persons making submissions should seek the concurrence of the Standing Committee before separately making them public. Copies of the Bill are available on the Parliament website www.

PARLIAMENT OF THE REPUBLIC OF FIJI

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

Calling for Written Submissions from the Public

Employment Relations (Amendment) Bill 2015 (Bill No. 10 of 2015)

The Parliament passed a resolution on Friday 22nd May, 2015 that the Employment Relations (Amendment) Bill, 2015 (Bill No. 10 of 2015) be referred to the Standing Committee on Justice, Law and Human Rights and to report back to Parliament during the July sitting.

The Employment Relations (Amendment) Bill 2015 seeks to amend the Employment Relations Promulgation 2007. In view of the timeline given, the Committee would be grateful if your presentation could be based on the following issues:

1) Are the amendments suggested in the (Amendment) Bill sufficient and do they address the issues lacking in the Employment Relations Promulgation 2007?
2) If you think the amendments are not sufficient, what amendments should be made to the (Amendment) Bill?
3) Any other views specific to the contents of the (Amendment) Bill.

The Standing Committee on Justice, Law and Human Rights invites interested persons or organisations wishing to express views on the Bill to lodge written submissions with:

The Chairman
Standing Committee on Justice, Law and Human Rights
PO Box 2352
Government Buildings
SUVA

as soon as possible but no later than **Friday, 12th June 2015**.

Invitations to appear before the Committee for oral presentations may be issued on the basis of written submissions received. Written submissions made to the Standing Committee are usually made public, however persons making submissions should seek the concurrence of the Standing Committee before separately making them public. Copies of the Bill are available on the Parliament website www.