



STANDING COMMITTEE ON SOCIAL AFFAIRS

REPORT ON THE HIGHER EDUCATION (AMENDMENT) BILL (BILL NO. 2 OF 2016)



**PARLIAMENT OF THE REPUBLIC OF FIJI
Parliamentary Paper No. 57 of 2016**

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Introduction

This report examines the Government's proposal to amend the *Higher Education Promulgation 2008*.

The Higher Education (Amendment) Bill ('**Bill**') was referred by Parliament to the Standing Committee on Social Affairs ('**Committee**') on 27th April, 2016 after its second reading. The Committee has responsibility for examining the Bill and agreeing to any appropriate amendments.

The Bill seeks to amend the Higher Education Promulgation 2008 ('**Promulgation**').

On Tuesday 10th May, Thursday 12th May and Saturday 14th May, 2016 the Committee had called for submissions from the public through its advertisements in the two local newspapers (*Fiji Sun* and *Fiji Times*). Due to the 30 days timeline for the Committee to consider and report back to Parliament on 30th May 2016 sitting, the deadline for submissions was on Monday 23rd May, 2016.

In the call of submissions, the Committee received 4 responses. It held oral submission sessions on 11th May and 16th May, 2016 and these were attended by representatives from the Solicitor General's Office, Fiji Higher Education Commission and the SODELPA Parliamentary Office. The Committee would like to extend its thanks to all those who participated and provided an essential contribution to this process which also involved the Consumer Council of Fiji. A full list of the evidence received is available in the Appendix.

Upon hearing the evidence from the Fiji Higher Education Commission, the Committee was made aware of the purpose of the Bill; that is to meet the changing higher education environment. It addresses the growth of different types of education providers and the use of diverse delivery modes resulting from the rapid pace of ICT development. The primary objective of the Amendment Bill is to broaden the definition of the "higher education institution" and provide for subsequent amendments arising from the change in definition.

After careful examination of the Bill and taking into account the views expressed by stakeholders, the Committee resolved to make no amendment to the proposed Bill. The Committee noted that all the issues and questions raised during the consultations were able to be clarified by the Fiji High Education Commission and the Office of the Solicitor General.

Committee Remit and Membership

The Committee is a standing Committee of the Fijian Parliament and was established under Section 109 (2) of the Standing Orders (SO) of Parliament of the Republic of Fiji. The Committee comprises of five (5) members, drawn from both the Government and the Opposition parties in Parliament.

The Committee is mandated to examine matters related to health, education, social services, labour, culture and media. Section 110 (1) (a) of the SO mandates the Committee to examine the Bill as referred by Parliament, and make amendments to the Bill, to the extent agreed by the Committee.

On Wednesday 27th April 2016, the Attorney General and Minister for Finance, Public Enterprise, Civil Service and Communications introduced the Bill to amend the *Higher Education Promulgation 2008 (Bill No. 2 of 2016)*.

The House resolved that the Bill be committed to the Committee to examine and report back to Parliament at the May 30th sitting.

Committee Members

The members of the Standing Committee on Social Affairs are as follows:

- | | | |
|----------------------------|---|--|
| 1. Hon. Viam Pillay | - | Chairperson |
| 2. Hon. Salote Radrodoro | - | Deputy Chairperson |
| 3. Hon. Veena Bhatnagar | - | Assistant Minister for Health and Medical Services |
| 4. Hon. Anare Vadei | - | Member |
| 5. Hon. Mohammed M. A Dean | - | Member |

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

1. Hon. Ratu Sela Nanovo (Alternate Member for Hon. Salote Radrodoro);
2. Hon. Ashneel Sudhakar (Alternate Member for Veena Bhatnagar);
3. Hon. Alexander O'Connor (Alternate Member for Hon. Mohammed Dean)

Analysis of the Evidence received

The Committee received 4 submissions and heard oral evidence from 3 stakeholders at Public Hearings held at Parliament Buildings, Suva from 11th May and 16th May, 2016.

A number of key issues were raised during the consultation process with regards to the contents of the Higher Education (Amendment) Bill. The issues raised on each Clause of the Bill are outlined below:

Clause 1: Short Title and Commencement

The issue of Clause 1(3) that was raised with the Committee during the consultation by the legal drafters that it was intended to be there for the Amendment Bill purposes, the *Higher Education Promulgation 2008* which was the actual principle or the main promulgation will now be referred to the Bill as the Promulgation.

Committee Comment: The Committee had supported the proposed amendment on this Clause which is to provide for the short title and commencement.

Clause 2: Insertion of a new word (“operating in”) to broaden the definition of higher education institution

It was also raised that Clause 2 had amended Section 2 of the principle promulgation. The new proposed insertion was the words “or operating in” after the word ‘in’ in the promulgation. The Committee had noted that Section 2 of the Promulgation says that the definition of higher education in the Promulgation only applies to all Higher Educational Institutions in Fiji.

Reason: The Committee was informed that the rationale behind this amendment was basically to include, not only those institutions that are based in Fiji, but also for those institutions that are overseas or foreign-based but operate in Fiji particularly through distance mode learning (online). It was noted that the present definition of the Bill was considered to be limited.

The Committee was informed that the high education environment was ever changing particularly with the use of new technologies and globalisation of higher education. The Fiji

Higher Education Commission was of the view that globalisation was affecting higher education and therefore the legal framework needed to change accordingly in response. This issue has been identified by the Commission in the past years which encouraged the review of the 2008 law. The broadening of the definition of high education as provided for in the Amendment Bill will regulate institutions that provide online programmes/courses in Fiji. This will ensure they come under the ambit of the FHEC whether they are based in Fiji or overseas.

Committee comment: The Committee also agreed to the proposed amendment in this Clause given its impact which will strengthen the law to control all Higher Education institutions that operated in Fiji which will then align their standards to the standards set by the Higher Education Commission and the standards set in the law as well.

Clause 3: Definition of Higher Education Institution

The Committee was further informed that Clause 3 amended the Section 4 of the promulgation that is by amending the definition of higher education institution. The previous definition was limited to Fiji alone and has no control on the overseas based institution that is operated in Fiji. It was noted that the present definition of the Bill was considered to be limited.

Reason: The new definition of *"higher education institution"* reads, *"This Promulgation applies to all Higher Educational Institutions in or operating in Fiji"*, so it will cater not only for those institutions in Fiji but also for those institutions that are foreign based but operate in Fiji. The list of high education institutions that are covered in this proposed amendment is listed under the amended Section 4 of the Bill.

Committee Comment: The Committee acknowledges the proposed amendment and agreed to the amendment required in this Clause given the issues arose from the current education environment. The Committee believed that this law will ensure good governance, productivity and quality education and training are given to individuals who will have access to these institutions.

Clause 4: Change of title for Part 3

The Committee was informed that Clause 4 of the Bill it mainly changes the title of Part 3, meaning that it just broadens the definition to capture all Higher Educational Institutions that are listed in the amended Section 4 of the Bill. Previously, the title of Part 3 in the promulgation reads *“Establishment and Recognition of Universities, including Degree-Awarding Institute of Technology”*, which was changed to be broad and it reads; ***“Establishment and Recognition of Higher Education Institutions”***, which would include universities, institute of technology and even other high education institutions.

Reason: The Committee was informed that the Bill had addressed the editing issues and that was to avoid repetition and inconsistency in the contents of the Bill. The proposed amendment will fill in the gaps which will also strengthen the proposed law.

The Committee was informed of the proposal to combine the previous Part 3 and Part 4 under a common heading of **Establishment and Recognition of Higher Education Institutions**. These two parts has been combined to one part as the new Part 3 given that Part 3 was considered in the past to be repeated in Part 4.

Committee Comment: The Committee had also found that there were two Parts -Part 3 and Part 4 was repeated in the promulgation. In this regard, the Committee agreed with the proposal to amend these two Parts and combined them into one Part as the new Part 3 of the proposed Bill.

Clause 5: Insertion of a new Subsection (3) in Section 13 of the Promulgation

It introduced a new Subsection 3 in Section 13 following Section 13(2) of the existing Promulgation. The Committee was informed that this new subsection (3) was an offensive provision. It was also stated that the new Subsection (3) enables the restriction of operation to be also applied to non-Universities or degree-awarding institutes of technology. The proposed new Subsection (3) penalises those persons who operate in contravention of Subsection (1).

Reason: It was noted that Subsection (1) was actually the registration bit, so for those that are not registered by virtue of the Promulgation will be deemed to have committed an offence and those were the penalties that have been proposed by the Higher Education Commission. The Committee was informed that in the case of an individual, it will be a fine not exceeding \$20,000 or \$100,000 for a body corporate or for a term not exceeding 5 years imprisonment for an individual or a director with respect to a body corporate, or to both with such fine and imprisonment.

Committee Comment: The Committee appreciates the idea of streamlining and recognising more institutes under the Higher Education Commission of Fiji. A suggestion raised from the Committee was the involvement of institutions based in overseas and operating in Fiji.

Given the measure in place in the Bill, the Committee still suggested the need to have an extradition agreement between Fiji and other countries by through the Ministry of Foreign Affairs. The objective of this proposal was for those foreign institutions that breach the law with regards to their operation in Fiji and Fiji should have some powers to take these foreign individuals or organisations to Court to be accountable of their practices.

The Committee was also notified that all penalties and fines received will be transferred to the Consolidated Fund at the Ministry of Finance. Based on the information received and the deliberation outcome, the Committee had agreed and fully supports the proposed amendment in Clause 5.

Clause 6: Amending Section 17 by Substituting Subsection (1) (a)

The Committee was informed that this Clause deletes subsection (1) (a) and replace it with a new subsection (1) (a). The new subsection (1) (a) in Section 17 of the as "***A higher education institution – is authorised by an Act in the case of a university or degree-awarding institute of technology, or authorised by the Commission in all other cases across a range of fields and to set standards for those qualifications***".

Reason: The Committee was informed that the purpose behind this amendment was that, previously in the Promulgation, the Higher Education Commission does not have the ability to recognise or authorise a higher education institution.

Under the new subsection (1) (a), the Higher Education Commission now has the liberty to authorise all higher educational institutions and set standards for those qualifications.

Committee Comment: The Committee welcomes the proposal that is to substitute subsection (1) (a) of Section 17 of the and fully supports the substitution made to this Clause.

Clause 7: Deleted of Part 4 of the Promulgation

The Committee was informed that Clause 7 of the Bill deletes Part 4 of the Promulgation with all references to '*university of degree-awarding institute of technology*'.

Reason: The Committee was made aware that the purpose of Clause 7 simply because it becomes contrary to the amendments in the Bill, and so the provisions however, require deletion. Further, the Committee was notified that in Part 4, it deals specifically with "universities or degree-awarding institutes of technology" which has been no longer exist as the definition of the "higher education institution" has now been broaden. So previously, Part 4 was confined specifically to universities and degree-awarding institutes of technology. It also deals with the recognition of higher educational institutions which was amended under Clause 6 which now enables the Commission to also recognise all other higher educational institutions.

Committee Comment: The Committee heard the evidence with what was required and the intention of the Bill and supported the deletion of Part 4 of the Promulgation.

Clause 8: Amended of all references to "university or degree-awarding institute of technology"

The Committee heard that with all references to '*university of degree-awarding institute of technology*' in the Promulgation, and any subsidiary laws made under it shall be deleted and substituted with the words '*higher education institution*' except where it appears in Section 13 of the Promulgation.

Reason: The Committee was made aware that it was only subsequent to those changes that were already made and this ensures the quality of the law and the powers/authority that was incorporated in the Bill were not tampered.

Committee Comment: The Committee acknowledges the need to amend the promulgation and the need to incorporate certain provisions to strengthen the law and finally supports the proposed amendments.

Further to the above, after scrutinizing the Bill and received submissions from key stakeholders, the Committee raised **few other issues** for consideration by the Fiji Higher Education Commission. The issues are as follows:

Consultation – On the consultation process of the Bill, the Committee noted that the Commission had consulted few key stakeholders but not all that will be directly affected by this amendment Bill. The Committee noted that the Solicitor General's Office was involved in the drafting of the Bill in consultation with the Commission but the concerns raised why the Bill was not taken to the key stakeholders of Fiji's Education system such as NGO's and especially the Higher Education Institutions.

Quality Assurance Standards – In terms of the quality assurance, the Committee notes with concern that whatever activities or operation that the FHEC will be undertaking will be based on the 11 mandated functions that are in Clause 7 of the Promulgation. The Committee also noted the high expectation from the stakeholders, these in terms of the Commission's function in registration and regulate higher education institutions.

The Committee further noted that quality assurance are determined through the Commission's processing system that were in place and these involved the questions *on how legally constituted are the institution, why and what financial and administrative processes do they undertake to operate, what policies are they have for students grievances and staff development, and the institutions facilities* on whether they have the right facilities.

The Committee was also informed that the FHEC will be using an outcome based approach. The FHEC had benchmarked its laws with the South African higher education legislation given that it established for a very long time. Also noted that this included South African Qualifications Authority which had been in operation for a long time and it was appropriate for Fiji to learn from some of their good practices which guided the drafting of this proposed law.

According to the FHEC, the FHEC was a full member of the International Network of Quality Assurance Agencies in High Education (INQAAHE) and the Asian Pacific Quality Network (APQN). The Committee was informed that the Commission has been sharing good practices and experience with other members of these two large networks.

Gender analysis

Gender is a critical dimension to parliamentary scrutiny. Under Standing Order 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 public notice which calls for public submission during the consultation process of the Bill.

The Committee is satisfied that the matters considered in this report will impact on both men and women equally in Fiji.

Committee Conclusion

The Standing Committee on Social Affairs was mandated to examine matters relating to the Higher Education (Amendment) Bill and make amendments to the Bill, to the extent agreed by the Committee.

The Committee report 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 by the stakeholders and further deliberated within the Members on the relevance and the quality of the comments received with regards to the proposed amendments in the Bill.

Based on the evidence received and the consensus of the Social Affairs Standing Committee, it came to the conclusion that the Committee agreed with the proposed amendments in the Bill and supported the Bill without any additional amendments. However, the Committee further requested that the FHEC to consult all other stakeholders on the proposed amendment Bill and conduct awareness to all its stakeholders once the Bill is passed.

SIGNATURES OF MEMBERS OF THE SOCIAL AFFAIRS COMMITTEE



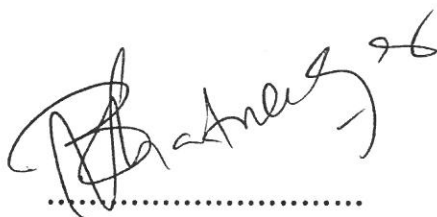
Hon. Viam Pillay

(Chairperson)




for Hon. Salote Vuibureta Radrodro

(Deputy Chairperson)



Hon. Veena Kumar Bhatnagar

(Member)



Hon. Anare Tuidraki Vadei

(Member)



Hon. Mohammed Mursalinul Abe Dean

(Member)

Date: 01 / 06 / 16 .

List of Acronyms

APQN	Asian Pacific Quality Network
EQA	External Quality Assurance
FHEC	Fiji Higher Education Commission
FIA	Fiji Institute of Accountants
FLS	Fiji Law Society
HEIs	Higher Education Institutions
INQAAHE	International Network of Quality Assurance Agencies in Higher Education
IQA	Internal Quality Assurance

APPENDICES

Appendix 1: Higher Education (Amendment) Bill (Bill No. 2 of 2016)

BILL NO. 2 OF 2016

A BILL

FOR AN ACT TO AMEND THE HIGHER EDUCATION PROMULGATION 2008
ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Higher Education (Amendment) Act 2016.
- (2) This Act shall come into force on the date of its publication in the Gazette.
- (3) In this Act, the Higher Education Promulgation 2008 shall be referred to as the “Promulgation”.

Section 2 amended

2. Section 2 of the Promulgation is amended by inserting the words “or operating in” after the word “in”.

Section 4 amended

3. Section 4 of the Promulgation is amended by—
 - (a) deleting the definition of “higher education institution” and substituting the following—

““higher education institution” means an educational institution in or operating in Fiji that provides award-conferring post-secondary

Higher Education (Amendment)— of 2016

education or provides educational support services for students of other higher education institutions including overseas institutions, including but not limited to—

- (a) technical and vocational education and training centres;
- (b) information technology centres;
- (c) secretarial schools;
- (d) language schools;
- (e) hospitality training centres;
- (f) educational agencies;
- (g) caregiving training providers;
- (h) performing arts and sports academies;
- (i) religious educational institutions;
- (j) colleges; and
- (k) universities;”;

(b) inserting the following new definition—

““operating” for the purposes of this Promulgation means conducting any form of activity in any medium to promote or in support of fee-paying or non-fee paying higher education and training that is sourced externally, or within Fiji or both;”

Part 3 amended

4. Part 3 of the Promulgation is amended by deleting the title and substituting with a new title “PART 3—ESTABLISHMENT AND RECOGNITION OF HIGHER EDUCATION INSTITUTIONS”.

Section 13 amended

5. Section 13 of the Promulgation is amended by inserting the following new subsection after subsection (2)—

“(3) Any person who operates a higher education institution, that is neither a university nor a degree-awarding institute of technology, in contravention of subsection (1), commits an offence and shall be liable on conviction to a fine not exceeding \$20,000 for an individual or \$100,000 for a body corporate or to imprisonment for a term not exceeding 5 years for an individual or a director with respect to a body corporate, or to both such fine and imprisonment.”

Section 17 amended

6. Section 17 of the Promulgation is amended by deleting subsection (1)(a) and substituting the following—

“(1) A higher education institution—

- (a) is authorised by an Act in the case of a university or degree-awarding institute of technology, or authorised by the Commission in all other cases across a range of fields and to set standards for those qualifications;”

Part 4 deleted

7. Part 4 of the Promulgation is deleted.

All references to “university or degree-awarding institute of technology” amended

8. All references to “university or degree-awarding institute of technology” in the Promulgation and any subsidiary laws made under it shall be deleted and substituted with the words “higher education institution” except where it appears in section 13 of the Promulgation.

Office of the Attorney-General
Suvavou House
Suva
January 2016

HIGHER EDUCATION (AMENDMENT) BILL 2016

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Higher Education (Amendment) Bill 2016 (**‘Bill’**) seeks to amend the Higher Education Promulgation 2008 (**‘Promulgation’**).

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement of the new Act.
- 2.2 Clause 2 of the Bill amends section 2 of the Promulgation by inserting the words “or operating in” after the word “in”.
- 2.3 Clause 3 of the Bill seeks to broaden the definition of “higher education institution”. A higher education institution is an educational institution in or operating in Fiji that provides award-conferring post-secondary education or provides educational support services for students of other higher education institutions including overseas institutions, including—
- (a) technical and vocational education and training centres;
 - (b) information technology centres;
 - (c) secretarial schools;
 - (d) language schools;
 - (e) hospitality training centres;
 - (f) educational agencies;
 - (g) caregiving training providers;
 - (h) performing arts and sports academies;
 - (i) religious educational institutions;
 - (j) colleges; and
 - (k) universities.

- 2.4 Previously the definition was limited to only local higher education institutions that provided post-secondary education. Furthermore, the definition only encompassed local higher education institutions.
- 2.5 The new definition of “operating” encompasses all higher education institutions conducting any activity in any medium, whether they are based locally or are from overseas. This will bring all higher education institutions under the jurisdiction of the Promulgation regardless of their address and the span of time in which they provide higher education. This new definition will help reduce the number of higher education institutions who intend to operate only for a short period of time or those that do not allow students to complete their programmes of study. Such institutions may close down all of a sudden and leave students frustrated and cheated. This new provision will reduce the number of higher education institutions which only intend to make money.
- 2.6 Clause 4 of the Bill amends the title of Part 3.
- 2.7 Under clause 5 of the Bill, the new subsection (3) which follows section 13(2), allows for the prosecution of those higher education institutions that operate in contravention of section 13(1). The higher education institution must be either a university or a degree awarding institute of technology. Any other institution will not be considered as a higher education institution under the Promulgation.
- 2.8 Under clause 6 of the Bill, the new subsection (1)(a) states that every higher education institution which is either a university or degree awarding institute of technology, must be authorised by legislation and in all other cases, must be authorised by the Fiji Higher Education Commission. Previously a higher education institution could only be authorised by legislation but now the Commission also has powers to authorise a higher education institution.
- 2.9 Clause 7 of the Bill deletes Part 4.
- 2.10 Under clause 8 of the Bill, all references to “university or degree awarding institute of technology” has been deleted and replaced with the phrase “higher education institution” to encompass all types of higher education institutions.
- 3.0 MINISTERIAL RESPONSIBILITY**
- 3.1 The Promulgation comes under the responsibility of the Minister responsible for Education.

A. SAYED-KHAIYUM
Attorney-General

Appendix 2 – List of Submissions

Find below is the list of groups, individual and government agencies that provide submissions for the Higher Education (Amendment) Bill 2016:

Oral evidence received:

The Committee took oral evidence on the following dates from the following stakeholders:

1. **Solicitor General's Office** – Wednesday 4th May, 2016 at the Parliament Big Committee Room.
2. **Fiji Higher Education Commission** – Wednesday 11th May, 2016 at the Parliament Big Committee Room.
3. **SODELPA Parliamentary Office** – Monday 16th May, 2016 at the Parliament Big Committee Room.


Written evidence received:

The Committee subsequently received 3 written submissions from the following organisations:

1. **Fiji Higher Education Commission**
2. **SODELPA Parliamentary Office**
3. **Consumer Council of Fiji**

The Submissions received from these stakeholders are attached for information.

**Appendix 3: Copies of Written Submissions Received
by the Standing Committee on Social Affairs and all
the Verbatim Notes**



FHEC
Fiji Higher Education Commission

Brief for Standing Committee on Social Affairs
Wed. 11 May 2016

Bill No. 2
Higher Education Amendment Bill

Background

- The Higher Education Promulgation 2008 (HEP 2008) commenced in January 2010 and has been the legal framework within which the Higher Education Commission has operated since its establishment in February 2010.
- After 5 years of its operation, the Commission has found it necessary to amend a number of provisions in the HEP 2008 to address certain issues that it had encountered in the process of regulating the operation of higher education institutions, including universities, and the qualifications that they offer.

Background cont'

- In doing so, the Commission has been mindful of the influence of globalization in higher education. This is marked by:
- high growth rates in enrolments;
- the movement of students, institutions and programmes across borders;
- the phenomenal growth of different types of higher education providers in the last 10 years including private, online, cross border and distance education; and
- diversity in delivery modes resulting from the rapid pace of Information Communication Technology (ICT) development which is changing paradigms of teaching and learning.

Objectives of the Bill (2)

- To broaden the definition of "higher education institution" to enable all forms of training offered locally and sourced either locally or overseas to be subjected to the Commission's regulatory requirements for quality assurance.
- To delete the repetitions in Part 3 and Part 4 and thereby shorten the length of the promulgation by combining the two Parts into one Part 3. Changes are made accordingly in the sections within to avoid any omissions.

Rationale

- The Bill is basically a response to the changing higher education environment. It specifically addresses what can be negative influences of the growth of different types of education providers and the use of diverse delivery modes resulting from the rapid pace of ICT development.
- The Bill also addresses what is basically an editing issue, that of avoiding repetitions but doing so with care such that there is no detrimental effect.

Consultations on the Bill

- Commission
 - membership (FIE, FIA, FLS, ICT, Education)
- Solicitor General's Office

Implementing Agency

- Fiji Higher Education Commission
 - Compliance section which, when necessary, will work with relevant state authorities

International Examples or Good Practice

- HE Promulgation 2008 (ref. South African Higher Education Legislation and others)
- FHEC has Full Membership of
 - International Network of Quality Assurance Agencies in Higher Education (INQAAHE)
 - Asia Pacific Quality Network (APQN)
 - Registered on APQN Register of Institutions (1995 ext. Review)
 - INQAAHE & APQN Conferences at Natadola Resort 22–27 May 2016

The Bill

- Clause 1 – provides for short title and commencement of new Act.
- Clause 2 – amends section 2 of the Promulgation by inserting the words “or operating in” after the word “in”.

The Bill cont’

- Clause 3 – broadens the definition of “higher education institution”. Whereas previously, the definition was limited only to local institutions that provided post-secondary education, the new definition encompasses all HEIs and agencies conducting any training activity in any medium, whether they are based locally or overseas. This is enabled by the new definition of “operating” which is captured in Clause 2 of the Bill.

The Bill cont’

- Clause 4 of the Bill amends the title of Part 3.
- Clause 5 – introduces a new section (3) in section 13 following section 13 (2) to enable the restriction on operation to be applied to non-universities or degree-awarding institutes of technology now that Part 4 has been combined with Part 3 under a common heading of “ESTABLISHMENT AND RECOGNITION OF HIGHER EDUCATION INSTITUTIONS”.

The Bill cont’

- Clause 6 amends section 17 of the HEP 2008 by deleting subsection 1(a) and inserting a new subsection 1(a) as follows:
 “A higher education institution –
 (a) is authorized by an Act in a case of a university or degree-awarding institute of technology, or authorized by the Commission in all other cases across a range of fields and to set standards for those qualifications.”

The Bill cont'

- Clause 7 deletes Part 4 of the HEP 2008 with all references to "University or degree-awarding institute of technology" amended.

The Bill cont'

- Clause 8 is a statement that is subsequent to the amendments to state that all references to "university or degree-awarding institute of technology" in the Promulgation and any subsidiary laws made under it shall be deleted and substituted with the words "higher education institution" except where it appears in section 13 of the Promulgation.

THE END

Thank You.

**SUBMISSION BY SODELPA
PARLIAMENTARY OFFICE ON
HIGHER EDUCATION
(AMENDMENT) BILL NO. 2 OF 2016**

Produced in consultation with Shadow Minister for
Education, Heritage & Arts – Hon. Mikaele Leawere

Authorised by: Hon. Ro Teimumu Vuikaba Kepa
SODELPA Parliamentary Leader & Leader of Opposition

HIGHER EDUCATION (AMENDMENT) BILL 2/2016

INTRODUCTION

The Higher Education Promulgation of 2008 of which this Bill is proposing to amend, regulated all higher education institutions providing post-secondary education and training to be recognized and registered by the Higher Education Commission. The Promulgation also included the regulation of the operation of higher education institutions to ensure good governance, productivity and quality education and training for individuals as they enter the labour market.

GENERAL OBSERVATION

Although the proposed amendments maybe viewed by many as an “administrative “there is still a need for consultation with those institutions that have been newly included.

The Promulgation was passed in 2008 and its Regulation of 2009, came into force in 2010 and it's been over 5 years since its implementation. This would have been an opportune time to review the effectiveness of the promulgation and its corresponding regulation and identify gaps that may have been overlooked.

A critical area that should be looked at is the regulation of fees and tuition particularly at this time when most families are facing financial hardship. There might be some considerations on having some Temporary Special Measures on “Educational Hardship”

We can have Higher Education Institutions that practice good governance and provide quality education that is accessible to all but this may not be the case if fees and tuition are not affordable.

SPECIFIC OBSERVATIONS.

Analysis of the HIGHER EDUCATION (AMENDMENT) BILL 2/2016

CLAUSE 1 to Clause 4

The proposed deletion, insertions and redefinitions as proposed under these clauses are in order and is consistent with the purpose of this proposed amendment Bill.

CLAUSE 5

The fine levied should be increased for both the individual and body corporate as this would serve as a deterrent.

CLAUSE 6

Agree with provision

Clause 7

Deletion of Part 4- the drafters of this Bill should be honest and admit that Part 4 was deleted as it is a repetition of Part 3. The only provision in Part 4 that was transferred to Part 3 was the amount in fine for individuals and body corporate which has been reduced,

FHEC AS REGULATOR

The FHEC has been given the mandate to regulate all HEIs in the country and why were they barred from entering FTC Nadi Centre to conduct its assessment in 2015? We have been reliably informed that the Director TFC gave explicit instructions not to let FHEC Team enter the premises. This again is a classic example that Fiji High Education Commission will succumb to the wishes of the Minister. The Commission must have a supervisory authority to vet all its activities to ensure transparency and accountability.

CLAUSE 8

Agree with proposed amendments.

RECOMMENDATIONS

- A new insertion to be made under Part 3- Consideration of Application which will require the applicant to indicate fees and tuition charged to student and how many of its students are recipients of government scholarships or other sponsorship.
- Higher Education Commission should regulate both content and fees charged on courses as there is inconsistencies on same degrees/diplomas that are offered across institutions.
- The Commission must have a supervisory authority to vet all its activities to ensure transparency and accountability.
- There might be some considerations on having some Temporary Special Measures on "Educational Hardship" as this is a critical area that should be looked at is the regulation of fees and tuition particularly at this time when most families are facing financial hardship.

CONCLUDING COMMENTS.

"To err is human" and not being honest about the drafting errors in the Bill re: deletion of Part 4 as duplication of contents in Part 3 is mischievous.

Consumer Council of Fiji

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23 May 2016

The Chairman
Standing Committee on Social Affairs
PO Box 2352
Government Buildings
Suva

Dear Sir

Re: Review of Higher Education (Amendment) Bill 2016

Greetings from the Consumer Council of Fiji

Please find attached the Council's submission on the Review of Higher Education (Amendment) Bill 2016.

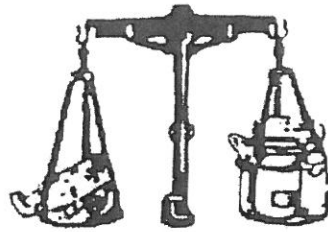
We sincerely hope the issues raised in the submission will be given a favourable response.

We would be happy to provide further clarifications should these be required.

Yours sincerely,

Kushal S Prasad
Manager Research & Policy Analysis

FOR: Chief Executive Officer, Consumer Council of Fiji



CONSUMER COUNCIL OF FIJI

A Submission to the

Standing Committee on Social Affairs

Review of Higher Education (Amendment) Bill 2016

May 2016

Member, Consumers International (CI)

1.0 Introduction

1.1 Role of Consumer Council of Fiji

The Council has statutory obligations under *the Consumer Council of Fiji Act (Cap 235)* to “to do all such acts and things which it may consider necessary or expedient to ensure that the interests of consumers of goods and services are promoted and protected.” The Council is also obliged to advise and make recommendations to the Minister responsible for consumer affairs in Fiji or any other Minister on issues affecting the interests of consumers. This work extends to providing advice and making submissions to regulatory agencies, policymaking bodies, private sector or industry groups and international agencies.

The Council decided to make submission to the Standing Committee on Social Affairs on the Review of the *Higher Education (Amendment) Bill 2016*. The Council sincerely hopes that the issues it raised in this paper are given due consideration in the interest of consumer justice and fairness.

1.2 Higher Education

Higher education is essential for development of any country as it provides opportunities for young people and adults to realize their potential and capabilities so that they can become productive and competitive in the workplace.

Fiji Higher Education Commission with the mission to “ensure that higher education institutions pursue a level of quality, excellence and relevance in higher education that is globally competitive and internationally recognized, aims to provide a premier world class higher education destination.

1.3 Government’s Vision on Education

Government’s overall vision on education is to provide a holistic education system that empowers current and future students to realize and appreciate fully their potential to contribute to a peaceful and sustainable National Development needs. It is therefore imperative that quality, affordable and recognized/accredited and these should be the guiding principles when setting rules or regulations for Higher Education.

The Council will share concerns and complaints received by the Council (being independent of Higher Education Commission) with the intention that the Higher Education (Amendment) Bill 2016 will address the issues faced by the students in higher education institutes.

2.0 Consumer Concerns and Complaints

The Council has been highlighting the issue of unfair practices faced by students enrolled in some educational institutions around the country. Complaints have been received from concerned members of the public who have been given a run around by some unprofessional higher education institutions. Since **2010 to May 2016**, the Consumer Council has received a total of 73 formal complaints against higher education institutions in Fiji.

The nature of complaints consists of:

- Institutions not releasing certificates of courses attended by paid students;
- Accepting tuition fees and half way in the course, the institution closed down without any notice;
- Institutions not refunding tuition fees upon closure;
- Delaying classes and non-compliance with schedule time;
- Delay in providing certificate of completion;
- Charging students extra fees;
- Increasing the number of units or points for students who are few units away from graduating
- Higher Institution operating without being accredited by the Higher Education Commission
- Institution failing to include name of graduating student in their list;
- Failing to reflect results of units completed in transcripts.

We know that there may be many more consumers who faced such issues while in higher education institute but have not come forward with their complaints.

The Council has also through its press releases has highlighted that misleading advertising is rife in this sector and parents/guardians and students are being lured into courses that promise to be quick, easy and cheap, or guarantee employment after its completion. The trend indicates that a large majority of complaints are attributed to the fact that the institutions concerned are unable to provide the services advertised.

The Council has further noted that the same programs offered by various institutions with similar fees and course structure carry different accreditations. The Council is concerned as consumers are left to make critical decisions without much knowledge on accreditations.

3.0 Services of Higher Education Institutions

The services provided by higher education institutions comes with a cost and consumers are paying exorbitant fees and charges to receive services to their satisfaction. It must be noted that the complainants in the above cases paid between \$100 to \$1,500 for a unit. However, their money goes to a waste when standards are not maintained by these institutions. Poor

communication, unclear rules, and poor service delivery had unfortunately resulted in complaints by members of the public who appeared to have been affected financially and emotionally.

The people of Fiji should be offered accredited courses by these educational institutions which are recognised by professional bodies and other overseas institution. The Council's concern is 'why there are some educational institutions in operation whose accreditation is still pending by the Fiji Higher Education Commission?'

The Council would like to witness Fiji Higher Education Commission through its vigorous assessment process register all institutions that are currently operating in Fiji. It is very important that people who pay high fees receive quality education service. Currently there are only 28 institutions fully registered under the Commission from a total of 72 recognised institutions.

(Source: Fiji Higher Education Website: <http://www.fhec.org.fj/index.php/en/>)

So the question is on what basis and under whose supervision these 44 institutions are operating? Ample time was given for conformance but these institutions are yet to comply.

Higher Education (Amendment) Bill 2016 should plug the current issues associated with institutions that open the door to make money quickly. It will also stop "fly by night operators" who close their facilities overnight leaving many frustrated students in a difficult situation. This amendment will protect consumers as higher education plays a major role in the success of any individual. Access to quality and accredited courses is a right for any consumer and the Council will always support a bill which brings in positive reforms to the higher education sector.

4.0 Way Forward

It is vital to set standards to regulate the services provided by Higher Education Institutions in Fiji to ensure public interest is protected and promoted.

Recently, Minister for Education stated that "Apart from the self-operating like the University of the South Pacific, Fiji National University, University of Fiji, there are other smaller institutions which are under the purview of the Higher Education Commission in terms of actual quality assurance. The Higher Education Commission also ensures that these qualifications that are offered out of these institutions are pegged at that particular level in that qualifications framework." (Fiji Times: <http://www.fijitimes.com/story.aspx?id=351480>)

The Council believes that consumers must be provided with the best education services when they pay for these services. This is an area that needs urgent attention.

.....The End.....

VERBATIM REPORT OF THE MEETING OF THE STANDING COMMITTEE ON SOCIAL AFFAIRS HELD IN THE COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, SUVA ON WEDNESDAY, 4TH MAY 2016 AT 10.40 A.M.

Submittee:

Solicitor-General's Office

In Attendance:

- | | | | |
|-----|-----------------------------|---|-------------------------------|
| (1) | Mr. Godawattege A. De Silva | - | Senior Legal Officer |
| (2) | Ms. Lyanne Vaurasi | - | Deputy Chief Law Draftsperson |
| (3) | Ms. G. Andrews | - | Legal Officer |
| (4) | Mr Rajendra Singh | - | Legal Officer |

MR. CHAIRMAN.- Honourable Members, I would like to welcome the team from the Solicitor-General's Office, who will take us through the Higher Education (Amendment) Bill 2016 and National Research Council Bill 2016.

We will go through the Higher Education (Amendment) Bill 2016 first, and then the National Research Council Bill 2016. As we go along, I request Honourable Members if they have any questions or clarifications, to direct them to you. Once again, thank you, and the floor is yours.

MS. L. VAURASI.- Good morning, Mr Chairman and Honourable Members. We had appeared before this Standing Committee before, so I will briefly introduce my team.

(Ms. L. Vaurasi introduced Team members)

With regards to the Higher Education (Amendment) Bill 2016, we will be taking you through the eight Clauses that exist in the Bill. We will be starting off with Clause 1 – Short title and commencement. It is actually the Act that it is to be passed by Parliament. It is intended to come into force on the date of its publication in the Gazette. The Bill with its short title is actually the Higher Education (Amendment) Bill 2016.

In Clause 1(3), for the purposes of the Amendment Act, the Higher Education Promulgation 2008 which is actually the principle or the main promulgation will be referred to the Bill as the Promulgation.

Clause 2 - Section 2 amended. Clause 2(2) of the Promulgation is amended, as you can see, Honourable Members, by inserting the words "or operating in" after the word 'in' and the rationale behind this amendment is basically to incorporate, not only those institutions that are based in Fiji, but also those institution that are overseas or foreign based but operate in Fiji.

If you were to look at the Promulgation, Section 2 actually says that this Promulgation applies to all Higher Educational Institutions in Fiji. That is how it is currently worded in the Promulgation, but with this amendment, it will read, "This Promulgation applies to all Higher Educational Institutions in or operating in Fiji", so it caters not only those in Fiji but those that are foreign based but operate in Fiji.

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HON. A.T. VADEL.- I have a question on that issue, Mr. Chairman; the "operating in" that is foreign based. Will they be aligned to our curriculum accreditation or will they bring their own curriculum processes from their country into our country?

MS. L. VAURASI.- Thank you, Honourable Member. The Higher Education institutions that operate in Fiji will have to align to the standards set by the Higher Education Commission and the standards set by the Promulgation as well. So they do not basically need to align to any other standards.

HON. A.T. VADEL.- My main worry is people can switch in universities along the way so whether their courses can be cross-credited to the universities operating in Fiji?

MR. R. SINGH.- To answer your question, in Fiji, we have three main universities - the University of the South Pacific, Fiji National University and the University of Fiji. So, at the moment there is a system that most of these universities....(inaudible)

HON. A.T. VADEL.- Is it University of Fiji?

MR. R. SINGH.- (Inaudible)

HON. A.T. VADEL.- In addition to that, we have the Australian RMIT for technical/vocational college in terms of computer or IT training. When they get accredited from RMIT, will it reflect RMIT Australia or Fiji if they are operating the RMIT in Fiji?

MS. L. VAURASI.- Honourable Member, at this point, we would not be able to confirm for sure but we can seek advice from the Higher Education Commission and we will get back to you on that before the Parliament.

In Clause 3 of the Bill, it amends the definition of "higher educational institution", so it deletes the current definition in the Promulgation and inserts in its place a new definition, and you will see the listing that is provided in Clause 3 where it includes those overseas institutions but they are not limited to those institutions listed from paragraph (a) to paragraph (k). So, technical and vocational training centres are exceptional.

HON. A.T. VADEL.- Mr. Chairman, regarding some of the issues that we had discussed yesterday on paragraph (h) - performing arts which include music where will they provide this, will there be explanatory notes on this whereas (inaudible) those performing arts like drama, because the Fiji Arts Council conducts some training? We will be taking this document to the people. What are other the criteria concerning those sub-heading on Higher Educational Institutions?

MS. L. VAURASI.- Yes, Honourable Member, although this is just an Amendment Bill, there may be recognitions that prescribe whether(inaudible).. deleting of the submission and recognition of higher educational institutions in the Promulgation, et cetera. But just for the purposes of the Promulgation, the Higher Educational Institution, everything that is here, encompasses everything that happens to come to Fiji or currently outside of Fiji. As the Higher Educational Institution and they will have to comply with the(Inaudible).

MR. CHAIRMAN.- So, it means that the Higher Education Commission staff are(Inaudible)...they could provide more information as far as the Honourable Member's question.

MS. L. VAURASI.- That is correct.

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MR. CHAIRMAN.- In your programmes under the Thank you.

MS. L. VAURASI.- Yes.

HON. A.T. VADEI.- Mr. Chairman, also at the same time, there will be some international concerned institutions that will contribute some of the

MS. L. VAURASI.- In Clause 4 of the Bill it mainly changes the title of Part 3, and it broadens it so that it captures Higher Educational Institutions that are now listed in our definition of Higher Educational Institutions. So, currently in the Promulgation, the title of Part 3 is – ESTABLISHMENT AND RECOGNITION OF UNIVERSITIES, INCLUDING DEGREE-AWARDING INSTITUTE OF TECHNOLOGY”, it is changed to be broad; “ESTABLISHMENT AND RECOGNITION OF HIGHER EDUCATION INSTITUTIONS”, which would include universities, institute of technology and even more.

HON. A.T. VADEI.- What do you mean when you mentioned United Nations international or national recognition?

MS. L. VAURASI.- Sir, it is recognition of those Higher Educational Institutions as listed in our new definition.

HON. A.T. VADEI.- Thank you.

MS. L. VAURASI.- Clause 5 of the Bill amends Section 13 so that it inserts a new subclause after subclause (2)(inaudible) Section 13 of the Promulgation. This new subsection (3) is an offence provision. It penalises those persons who operate in contravention of subsection (1).

Subsection (1) is actually the registration bit, so if you are not registered by virtue of the Promulgation, you are deemed to have committed an offence and those are the penalties that have been proposed by the Higher Education Commission.

In the case of an organisation, it is a fine not exceeding \$20,000, and it breaks up into individuals and bodies corporate with the imprisonment penalty as well.

HON. M.M. DEAN.- I apologise for my interruption but I think it is a good idea that we are streamlining and recognising more institutes under Higher Education Commission of Fiji. I only have one suggestion; in the case of imposing.....(inaudible). It also includes institutions which are operating from overseas. So, I think with this Clause and measure in place in the Bill, I think there needs to be an extradition agreement between Fiji and those countries that have operating institutions. Let us say or suppose one of the foreign institution is found in breach of legislation where they are supposed to be operated as they have a guideline of I think the extradition comes(inaudible) with fines and penalties for the directors orbodies of the institution.

MS. L. VAURASI.- Thank you Honourable Member for your comments and they are noted. An extraditiondepends on(audible).HON. A.T. VADEI.- A question on that fine, will that go to the Consolidated Fund or go to the Higher Education Commission Fund?

MS. L. VAURASI.- Sir, all penalties will go to the Consolidated Fund.

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MS. L. VAURASI.- Clause 6 of the Bill amends Section 17 of the Promulgation. It deletes subsection (1)(a) and it inserts in its place a new subclause section (1)(a). The rationale behind this amendment is that, currently as it exists in the Promulgation, the Higher Education Commission does not have the ability to recognise or authorise a higher education institution. However, under paragraph (a), the Higher Education Commission now has the liberty to authorise higher educational institutions.

Clause 7 of the Bill deletes Part 4 of the Promulgation, simply because it becomes contrary to the amendments in the Bill, and so the provisions however, require deletion.

HON. A.T. VADEI.- So, that means from Clause 28 to Clause 40 of the Bill?

MR. CHAIRMAN.- Does that answer your queries which you have raised yesterday?

HON. A.T. VADEI.- No, no that is not. I am coming to that. I have plenty questions on that, and this is the first one.

MR. CHAIRMAN.- Yes, Honourable Vadei, your question?

HON. A.T. VADEI.- My question is with regard to Section 28 to Section 40 of the Promulgation 2008, all that will be deleted?

MS. L. VAURASI.- Yes, that is right.

HON. A.T. VADEI.- You have mentioned that it contradicts the amendment. Can you brief us on those various section (28), (29) to the amendment that you have incorporated in Part 4 of the Bill? The reason why I am asking this question is because we want to be prepared when we take this Bill out to the public, so we need to prepare ourselves to questions from the public.

MR. R. SINGH.- Basically, the amendments that are coming in from the Promulgation, covered all(inaudible, so if we leave Part 4 as it is, then it would be the new amendments will(inaudible) Part 4. So, whatever is in Part 4 has been covered in the summary, involving the amendments that are coming in.....(inaudible).

MS. L. VAURASI.- Honourable Member, as well as the initial to his explanation, you will notice that in Part 4, it deals specifically with "universities or degree-awarding institutes of technology" which now no longer exists as the definition of the "higher education institution". So Part 4 is confined to universities and degree-awarding institutes of technology. It also deals with the recognition of higher educational institutions which now in an amendments under Clause 6 enables the Commission to recognise higher educational institutions.

HON. A.T. VADEI.- Thank you.

MR. CHAIRMAN.- Is it clear Honourable Vadei?

HON. A.T. VADEI.- Yes, thank you.

MS. L. VAURASI.- The final Clause, Mr. Chairman, of the Bill is the consequential amendment where references to "university or degree-awarding institutes of technology" be deleted, given our current amendments in the Bill, and in their place the words, "higher education institution" be inserted in this Bill.

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MR. CHAIRMAN.- Since there are no other questions, I think the presentation is quite clear. Thank you, madam, I now request you to take us through on National Research Council Bill 2016.

MS. L. VAURASI.- Thank you, Mr. Chairman.

Mr. Chairman and Honourable Members, the National Research Council Bill 2016 was structured with the intentions to establish the National Research Council and to create the National Research Fund which would ultimately fund research proposals that are submitted to the National Research Council. Our office worked closely with the Ministry of Education, who has informed us that consultations were held with the Fiji National University, University of the South Pacific, University of Fiji, Sugar Research Institute of Fiji, Fiji Institute of Applied Studies and the Koronivia Research Station.

If I could take you through the Clauses of the Bill, again Clause 1 of the Bill is the standard clause where it provides for the short title and the commencement provision. The Act if passed by Parliament, be cited as the National Research Council Act 2016, and it will come into force on the date appointed by the Minister by notice in the Gazette.

Clause 2 - Act to bind the State, this actually means that the Government wants to be included in the governing of the Research Council which will have to comply with the provisions in the Bill..... (inaudible) Clause 3 - Interpretation, 1 provides the definitions of the terms that are used throughout the Bill.

Clause 4 - Objective of this Act, outlines the objective of the Act and if you see in paragraphs (a) and (b), it is essentially to make provision for a national body to pursue and fund activities that are designed to -

- (a) raise the standards and development of research, and development in all scientific, health, educational, industrial, technological, social and economic areas; and
- (b) encourage or promote consideration of ethical issues relating to research and development.

So, that is the main objectives of the Act, to establish a national body that would be responsible for funding activities and jurisdictions.

Clause 5 - Establishment of the National Research Council. This is the standard Clause as well

Clause 5(1) establishes the National Research Council as a body corporate with perpetual succession and a common seal.

Clause 5(2) whereby the Council may enter into contracts and sue or be sued in its corporate name and do all those things that a corporate body can do - dispose of property, as well as all its function under this Act or any written law.

Clause 5(3) which states that the affixing of the seal of the Council must be authenticated in the manner specified under section 48 of the Interpretation Act (Cap. 7) and when so authenticated must be judicially noticed. For your information, section 48 of the Interpretation Act basically states that(inaudible) has to be affixed by the Chairperson or a Manager or a Secretary to that Board, Commission or Committee and shall be authenticated by signature.

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Clause 5(4) states that if a document appears to bear the common seal of the Council, it must be presumed that the common seal of the Council was duly affixed to such document.

Clause 6 - Composition of the Council. Clause 6(1) states that the Council has to be constituted by six members –

- (a) the chairperson to be appointed by the Minister;
- (b) the permanent secretary responsible for strategic planning;
- (c) the permanent secretary responsible for education;
- (d) three persons who are or have been actively engaged in research to be appointed by the Minister; and
- (e) such other persons appointed by the Minister who will be representing institutions that will be designated by the Minister by notice in the Gazette.

Clause 6(2) states they hold office for a term of up to three years and are eligible for reappointment.

Clause 6(3) states that their remuneration if they are not public officers must be determined by the Minister.

HON. A.T. VADEL.- This will be the pinnacle body for the country, like Koronivia has the agriculture. I have not seen any appointment authority if a research has been done, like to conduct the council wants to appoint some projects of programmes to our research to be conducted by Koronivia. The appointment authority, I have not seen that(inaudible)....

MS. L. VAURASI.- One of the functions is in Clause 9 of the Bill ultimately get(Inaudible)

HON. A.T. VADEL.- Yes, the appointing authority, the status quo of that Council that nominated that authority because Fisheries can conduct that research as well. That is a nominating authority that is to be done by the chairman or the committee, that is what I wanted to see reflected in this Bill.

MS. L. VAURASI.- I gathered that the intention of the Bill so that..... (inaudible)

HON. A.T. VADEL.- The reason why I raised that, the Bill is here but we are at the infant stage of building a better laboratory to conduct this research - a national laboratory where we can have more of this in one stop shop because we have Koronivia Research Station, USP, Fisheries and Minerals Resource Laboratory to conduct their own various parameters of research. That is why I am saying, when they received the projects, these are the qualified people in those various areas to conduct research and I have not seen that in this Bill the nominating authority when they receive those, but will it be confirmed otherwise?

MR. CHAIRMAN.- The way I see it (inaudible)to get everybody together that we are doing (inaudible).....as to what is expected of them.

HON. A.T. VADEL.- Is that so?

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MS. L. VAURASI.- Under the function of the Council in Clause 9(g) the Council amalgamates the research needs of government ministries but those who also conduct research, also felt.....(inaudible)

MR. CHAIRMAN.- So, any research being done, the Council will give its approval?

MS. L. VAURASI.- Yes,....(inaudible)

Clause 7 of the Bill creates the Office of the Director of the Council to be appointed by the Council on terms and conditions as determined by the Council and the functions of the Director are outlined in Clause 7(2). They basically manage the affairs of the Council, appoint staff, keep the Council informed of the accounts maintained by the Council and submit an annual report on the operations of the Council.

Clause 8 outlines the powers and functions of the Council. The powers of the Council are discretionary. It may be exercised but it will not be exercised by the Council or whereas the functions of the Council are mandatory to carry out those functions as prescribed by law.

HON. A.T. VADEI.- Mr. Chairman, in Clause 8(c) states, "determine the fees to be paid or charges" Will the Bill provide those supplementary for fees and charge?

MS. L. VAURASI.- Yes, pursuant to this Bill if it is passed by Parliament, regulations may mean that prescribed fees that may be waived from the (inaudible).....

HON. A.T. VADEI.- Will the fees go to the Government or go to the Council?

MS. L. VAURASI.- As opposed to.....(inaudible) I will take you through Clauses 10 and 11. Clause 10 basically states that the Council must meet at least twice annually, and at places and times that the chairperson determines. Interestingly though, the quorum of this Council is seven. I had mentioned earlier that the composition of the Council is six, plus the three members who would be appointed by the Minister who would be representing institutions. So, seven is the quorum.

MR. CHAIRMAN.- Madam, it was raised(inaudible).

MS. L. VAURASI.- It is a minimum number(inaudible). So, it says, "must at least meet twice annually." So it sets the minimum requirement.

MR. CHAIRMAN.- So, is that clear, Honourable Member?

HON. A.T. VADEI.- Yes, it is.

MR. CHAIRMAN.- You may continue.

MS. L. VAURASI.- Clause 11 enables the Council to make policies for the efficient management and governance of the Council.

Clause 12 is a conflict of interest provision where if a member of the Council has a conflict of interest, he/she must disclose that interest, and take no further part in the discussion, unless the Council itself agrees that he/she can continue to deliberate in the discussion.

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HON. A.T. VADEL.- In that context, just to be clear that (inaudible) but he remains in the meeting.

MS. L. VAURASI.- It says that unless the Council otherwise determines, then that member will not take part in the consideration of the matter.

Clause 13 is the a personal indemnification provision, so a member of the Council it is personally liable for any act that he/she does as long as(inaudible)

Clause 14 protects information that in research proposal or any information that is related to research. So, it says that any person exercising the function under this Act is not to disclose any information related to any research proposal or any information pertinent to any research proposal, unless it is consented to or for the purpose of the administration of the Act or.....(inaudible) or unless it is complying with an order approved by any court or requires the judicial authority, as in paragraphs (a), (b) and (c) of Clause 14(1).

In Clauses 15 and 16, these are provisions that safeguard the protection of animals and the protection of the environment during in researches. So it says that; "A researcher must exercise all due diligence and take reasonable steps to ensure basically that the safety of animals and protect the environment.

MR. CHAIRMAN.- Any questions on that Honourable Members?

HON. A.T. VADEL.- On the protection of animals and environment because this is a concern now with genetically modified food that we have here, so what level of that protection will it go down to?

MS. L. VAURASI.- These provisions are..... (inaudible)

HON. A.T. VADEL.- My question is on the other side, you are genetically modifying plants and animals but you are not harming the environment but it is a mutant of their cells that can affect their product that they are sold for food. That is my question.

MS. L. VAURASI.- Yes..... (Inaudible)

Mr. Chairman and Honourable Members, Part 4 deals with the finances of the Council.

In Clause 17 f the Bill, it creates a sustainable fund which is known in the Bill as the National Research Fund which will be used for funding research and developing proposals, but according to the priorities that are set up by that Council.

Clause 18 outlines the funds of the Council and what constitutes the fund. It would be:

- (a) moneys appropriated from the Consolidated Fund and authorised by Parliament to be paid to the National Research Fund;
- (b) revenues that are allocated to the Fund by the Minister or under any written law;
- (c) money earned by the Council through fees and charges;
- (d) grants, endowments, donations or contributions to the Fund;
- (e) money that is borrowed; and
- (f) investments or returns.

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MR. CHAIRMAN.- Any questions on Clause 17(1) and (2)?

HON. A.T. VADEI.- Mr. Chairman on Intellectual Property Rights, will you factor this item, regarding research?

MS. L. VAURASI.- Are you referring to the funds of the Council?

HON. A.T. VADEI.- No, no, what I am saying is the outcome of the research, so they will have the intellectual property rights over it, so will that be factored into that provision?

MS. L. VAURASI.- Intellectual Property Right are you referring to copyright patents, trademarks, et cetera?

HON. A.T. VADEI.- Yes, that is correct.

MS. L. VAURASI.- Those have their own.....(inaudible).

MR. CHAIRMAN.- Similar to how the Crimes Decree (inaudible) Similarly, as you have just mentioned, this also covered(inaudible)

MS. L. VAURASI.- Honourable Members, if you take a look at Clause 25(3)(a), it does protect some fabrication, falsification and misnomer to those offences but copyright patents, trademarks, those other Intellectual Property Rights are governed by the Property Rights statutes.

HON. A.T. VADEI.- Thank you. Yes. This is for our national interest because some of the researchers also conduct regional researches like the kava research, cassava research, dalo research, so that is what I am concerned with. So, when the Government takes over, Government can with the IPR, so that there is a demarcation in the protection, like in the noni juice.

MR. CHAIRMAN.- Madam, let us take note of that. MS. L. VAURASI.- Clauses 19, 20 and 21 relate to the finance of the Council, has all the provisions in the budget. The Council, each year, adopts the budget for the following year and ensures that it operates within the Council's budget.

HON. A. T. VADEI.- Mr. Chairman, as we have changed our financial year, what would be the Council's calendar year?

MS. L. VAURASI.- The Financial Management Act that was recently amended last week by Parliament that takes care of the Government's financial year. Statutory bodies, they have their own statutes that establish and determines their financial year. There is a provision in last week's Amendment Act that transitionally provides for existing financial needs to continueunless (inaudible).....

HON. A.T. VADEI.- Clause 22(2)(b) what I am worried because we have changed our government financial year, so Parliament will be sitting in July for the Budget. When you mentioned that(inaudible) they will be caught in their submission.

MS. L. VAURASI.- I agree completely, Honourable Member, given that this Bill was tabled in February prior to the government's announcement of the change in the financial year, (inaudible).....provision that can be revised.....

MR. CHAIRMAN.- We will take note of that.

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MS. L. VAURASI.- Clause 23 of the Bill outlines the application process for funding.

Clause 23(1) states that an application is made to the Council for funding of a research and in Clause 23(2) outlines the information that is accompanying the application.

In Clause 24, that is where the Council, under consideration of the research proposal and the relevant circumstances determines whether or not the research would be funded.

Part 5, Honourable Members, deals with Misconduct or Unethical Behaviour. Any such behaviour would be reported to the Council and the Council must conduct a formal inquiry the allegation.

If you take a look at Clause 25(3), whilst listed in Clause 25(3)(a)(i) to (viii), those are basically what we have considered as misconduct or unethical behaviour but not limited to these.

Under Clause 26, it deals with the termination of appointment of members of the Council. Essentially, whoever has the power to appoint, has the power also to terminate. So, the Minister appoints members of the Council and he is also empowered under Clause 26 to terminate those members, if they are unable to perform the functions, they are absent from three consecutive meetings, they are declared bankrupt and has not been discharged; convicted of an offence or if they misuse the funds of the Council.

Clauses 27 and 28 are Miscellaneous provisions. Clause 27 empowers the Minister to make regulations to give effect to the provisions of the Bill. So, if some of the provisions lack administrative rules, those details can be by the Commission.....(inaudible).

Clause 28 is about non-discrimination. The clause basically states that the Council is subject to scrutiny on the basis of race, culture, ethnicity, HIV/AIDS status, disability, et cetera.

MR. CHAIRMAN.- Honourable Members do you have any questions or clarifications?

Thank you actually we had a very good session yesterday with the Manager Research and after today's session, the Honourable Members and myself as Chair had a better understanding of the two Bills which are in front of us.

HON. A.T. VADEI.- On the last question that was raised yesterday, Mr. Chairman, the penalty clause for the misuse of funds in the conduct of research, if that can be addressed in this new Bill.

MS. L. VAURASI.- Misuse of funds?

HON. M. DEAN.- Actually, I had raised that issue because when it comes to the issue of misconduct and mismanagement of funds by research organisations.....(inaudible)....National Research Council. So, my point there was that, if someone mismanages the fund, the crux of the matter is that, it is still the Government's fund. So, there should be some provision whereby the Research Council should be given some sort of powers to prosecute this individual or organisation or recommend that the prosecution (inaudible).....

MS. L. VAURASI.- The misuse of funds is a criminal offence and can be dealt with FICAC under their laws under the Crimes Decree. If the (inaudible).....

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However, if a member of the Council misuses the funds, it warrants a termination by the Minister.

HON. A.T. VADEI.- wWhat we were discussing yesterday, these funds was requested by to be conducted and they misused and abused that fund by other organisation. What will the Council do?

HON. M. DEAN.- That is adding on to what Mr. Sharvada is saying. The reason why I raised that issue yesterday was because the Higher Education Commission has those funds, so I was just wondering why the National Research Council does not have those funds.

MS. L. VAURASI.- It is something that we can have a look at..

MR. CHAIRMAN.- Actually this was raised yesterday and I believe it is a very good point. I understand that is also covered in the Crimes Decree, et cetera, but if we can also put it include it in this Bill, if such scenario arises, the processes after that where it will be taken care of.

HON. V. BHATNAGAR.- Mr. Chairman, what about the termination of appointments of members in Clause 26? It is written there in Clause 26(2)(e), I quote: "The Minister must terminate the appointment of any member of the Council if the member- has misused the funds of the Council".

MS. L. VAURASI.- Yes, Honourable Member, but I think the concern is if the researcher misuses the funds that is provided by the Council..

MR. CHAIRMAN.- Those who have applied and then they misused the fund, that is the concern which was raised. We know there are laws, like the Crimes Decree which will take care of that, but some Members wish if that can be included?

MS. L. VAURASI.- Thank you Mr. Chairman, sorry my response earlier with regards to the Crimes Decree and the prevention of bribery was in terms of the public official. However, if it is in terms of a researcher, it is something that we can take a look at and probably factor it in the Bill.

In addition to that, last week Parliament also passed the False Information Act where information provided(inaudible).....need to use the funds or the money, the benefit for the circumstances which you have applied for the benefit of, and if you have not, you should return the money or (inaudible).....under the False Information Act.MR. CHAIRMAN.- So, you can just mention here such scenario has arisen, how it is taken care of?

MS. L. VAURASI.- We have taken that on board, Mr. Chairman.

MR. CHAIRMAN.- Are there any other questions or clarifications, Honourable Members?

We have been having a great good session from yesterday, and I must thank the team from SG's Office. I think the Honourable Members have a better understanding of the amendment and also the National Research Council Bill 2016. We hope we will be having similar advice from the SG's Office.

Once again, thank you again for coming today.

MS. L. VAURASI.- Thank you, Mr. Chairman.

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MR. CHAIRMAN.- Honourable Members, we have finished our meeting today, we will meet tomorrow at 9.30 a.m.

The Committee adjourned at 11:45a.m.

**VERBATIM REPORT OF INTERVIEW CONDUCTED BY THE STANDING COMMITTEE ON
SOCIAL AFFAIRS, HELD ON WEDNESDAY, 11TH MAY, 2016, AT 10.30 A.M. IN THE
COMMITTEE ROOM (EAST WING), GOVERNMENT BUILDINGS**

Present:

- | | | | |
|----|-------------------------|---|--------------------|
| 1. | Hon. Viam Pillay | - | (Chairman) |
| 2. | Hon. Salote V. Radrodro | - | Deputy Chairperson |
| 3. | Hon. Mohammed Dean | - | Member |
| 4. | Hon. Veena Bhatnagar | - | Member |
| 5. | Hon. Anare T. Vadei | - | Member |

In Attendance:

- 1) Mr. Savenaca Koro - Committee Secretary

Submittee: **Fiji Higher Education Commission (FHEC)**

In Attendance: **Mrs. Salote Rabuka - Director**

MR. CHAIRMAN.- Honourable Members, on behalf of the Committee, I would like to welcome Madam Salote Rabuka, Director of Fiji Higher Education Commission (FHEC). She is here to give her presentation in regards to the Higher Education (Amendment) Bill 2016 so welcome, Madam, and I will give you the floor now to start with your presentation.

MRS. S. RABUKA.- Thank you, Sir, for your words of welcome this morning. What I have for the Honourable Members is basically what I had presented at the workshop at few weeks ago. Some of you may be coming across this for a second time, and I have a few handouts as well.

Mr. Chairman, in line with the format of the Bill presentation that I was given last time for the workshop, it is actually Bill No. 2 – Higher Education (Amendment) Bill 2016. First of all, a little background to this, some of you might already be aware that the Higher Education Promulgation of 2008 actually commenced in January 2010, and that gave rise to the High Education Commission which was actually established in February 2010. The Commission has operated since using within the bounds of this High Education Promulgation 2008.

It is now five years already, we are kind of almost getting into the five-and-half years of the operation. The Commission has come across certain things in the promulgation that it considers need to be amended for the currency of the law and also for relevance, and also in response in what is happening in the highly changing environment of higher education. So, this is basically a little background to that.

The objectives of the Bill, Mr. Chairman and Honourable Members, there are two main objectives that are not all that complicated (I would say), the two sets of amendments. First, is to broaden the definition of the “higher education institution”. The definition is in the promulgation which you may already have, I think it is Section 4 in the Interpretation. Section 4(e) is the section that has the higher education definition.

What the Commission considered was that, it was necessary to expand that definition a little bit to enable all forms of training offered locally and sourced either locally or overseas to be subjected to the Commission’s regulatory requirements for quality assurance. There are agencies here in Suva, for instance, that have these online programmes that our people pay for to be able to be accessed and then they actually graduate as a result of those online courses/programmes. Those are the ones that the Commission thinks

that it should also have access to, in other words, to see what kinds of programmes these are because our people are paying money to access them, that these programmes should be regulated in the sense that they should be quality assured for their content and for their relevance to the Fiji environment. Basically, that is the first objective of the Bill.

The second is basically, a narrative or editing matter. There are two Parts - Parts 3 and 4, Mr. Chairman, that the Commission thought were repetitive. In other words, there were Sections in Part 3 that were repeated in Part 4 which is basically an editing matter. We thought that by removing the repetitions, the Promulgation itself would be shortened and those were not necessary, but that those changes had to be done very carefully to avoid any omissions that could be detrimental to the effect of the whole law. So, that had to be done very, very carefully.

There is a little rationale there, Mr. Chairman. I think I have already touched on this, that the higher education environment is highly changing, and this is what is called Globalisation in Higher Education. The Commission, to be responsive to these changes in a positive way needed to take control of the impact of globalisation in higher education on our people, on our industry, and this is the reason for the first purpose of the Bill, to broaden the definition of higher education so that those agencies that are conducting online programmes/courses can also come on board and be regulated by the Commission. That is basically what it is saying there and, of course, I had already stated the second one under the rationale. The Bill also addresses what is basically an editing issue, that of avoiding those repetition, so that is quite straight forward.

On the consultations on the Bill, I have to admit at this point that the Bill had not gone out to all those who would be affected by the Bill, simply for the reason that in the Commission's view, its membership was already constituted in a way that those major professional bodies are represented. There is an engineer, actually the President of the South Pacific Engineers Association, FIE, FIA (Fiji Institute of Accountant), FLS (Fiji Law Society), ICT (well represented in terms of the chair at that time) and, of course, Education. I have to admit that this could be a shortfall in this, and of course, we worked very closely with the Solicitor General's Office to get everything put together and presented to you.

The implementing agency is, of course, the Commission and there is a Compliance Section in the Commission made up of two officers, whose work is to ensure that there is compliance with any of our regulations, the same for policies, et cetera. That is where the agencies are concerned.

We were asked about the International Examples or Good Practice and for this, I would like to mention that when the Promulgation was drafted, the major reference point here was the South African Higher Education Legislation. There were other legislation as well that we had to look at to give us an idea of how this was to be drafted, but we considered the South African High Education Legislation as like the main reference that was used because it had been in place for a relatively long time and the South African Qualifications Authority also has been in operation for a long time. We have learnt several good practices from them, so when the Promulgation itself was drafted, it was based mainly on that.

I am also mentioning there under that same International Examples of Good Practice, the FHEC is now a full member of these two international networks - the International Network of Quality Assurance Agencies in Higher Education (INQAAHE) and the Asian Pacific Quality Network (APQN). These two big networks are going to be holding conferences back to back this month in the two weeks' time, and will be held at the Natadola Resort. We had bid for that and we got the bid. It is not an easy thing to do, we had to sacrifice a lot for that. We are hoping to get a lot more good practices because the two large networks are going to share a lot of good practices and experiences that will help us in our work of quality assurance.

Mr. Chairman, we now go on to the Bill itself. This is what the various clauses are doing.

Clause 1 provides for the short title and commencement of a new Act.

Clause 2 amends Section 2 of the Promulgation by inserting the words “or operating in” after the word “in”. That is a key phrase there, that is really the one that makes the difference in the proposed amendment that ‘operating in’. That one is going to affect the present definition of the Bill which was considered to be a little limited. That is why this Clause is very important.

Clause 3 is the clause that is bringing out the new definition itself. It broadens the definition of Higher Education Institution where as previously, the definition was limited only to local institutions, provided post-secondary education. The new definition encompasses all HEIs and agencies conducting any training activity in any medium, electronic or otherwise, whether they are based locally or overseas. This is enabled by the new definition of ‘operating’, which is captured in Clause 2 of the Bill, which was what I had referred to.

Clause 4 of the Bill amends the title of Part 3 (quite straightforward).

Clause 5 introduces a new Section 3 in Section 13 following Section 13(2) of the existing Promulgation. Mr. Chairman, I suppose you have copies of the Promulgation that is quite straightforward to that one, introduces the new Clause 3 to enable the restriction on operation to be applied to non-universities or degree-awarding institutes of technology.

Now that Part 4 has been combined with Part 3 under a common heading of Establishment and Recognition of Higher Education Institutions. If I may say a little bit more on this, Mr. Chairman, as I had mentioned earlier, there were these two Parts - Part 3 and Part 4 and they were considered to be repetitions in the two Parts. So, Part 3 and Part 4 have been combined, and the combination is now put as Part 3 under the new heading, ‘Establishment and Recognition of Higher Education Institutions. We are no longer separating the Universities and Degree Awarding Institutes of Technology, we are not separating that from the other Higher Education Institutions, we are bringing them both together under one heading. It is the implications of that, that the rest of the Bill really is about.

Clause 6 amends Section 17 of the Higher Education Promulgation 2008 by deleting subsection 1(a) and inserting a new subsection 1(a) as follows, I quote:

“A higher education institution -

is authorised by an Act in the case of a university or degree-awarding institute of technology, or authorised by the Commission in all other cases across a range of fields and to set standards for those qualifications.”

What you are going to be seeing after this, Mr. Chairman, is the care that has been taken to ensure that when these repetitions were removed, that the Act itself was not put in jeopardy, like this is one. It is only the changes that needed to be made to ensure that there are no omissions, so the essence of the law is still there, so to speak. It is still contained so that the removal of the repetitions will not have any adverse effect.

Clause 7 deletes Part 4 of the HEP 2009 with all references to ‘university of degree-awarding institute of technology’ amended. All references to what are in quotes are amended. So, again it is only a technical thing, I suppose.

Clause 8 is a statement that is subsequent to the amendments, to state that all references to ‘university or degree-awarding institute of technology’ in the Promulgation, and any subsidiary laws made under it shall be deleted and substituted with the words ‘higher education institution’, except where it appears in Section 13 of the Promulgation. That again, Mr. Chairman, is only subsequent to those changes that have happened and it is a way of ensuring again that the quality of the law and the powers/authority that are there are not tampered with in any way. So, Clause 8 is all about that. Like I said earlier it is basically a technical thing, to ensure that that was the effect of this change that has taken place.

Mr. Chairman and Honourable Members, that is about all that I have to present at this point in terms of those proposed amendments.

MR. CHAIRMAN.- Thank you very much, Madam, for the presentation. I will now allow our Honourable Members for any questions or clarifications starting with Honourable Salote Radrodro.

HON. S.V. RADRODRO.- Thank you, Mrs. Rabuka, for your presentation but there is only one issue of concern that I would like to raise in which you had also alluded to in your presentation is the absence of key stakeholders in the consultations on the Bill.

MRS. S. RABUKA.- Yes.

HON. S.V. RADRODRO.- I note that USP and the University of Fiji will also be coming in for public hearing. So, that is the only issue that I would like to raise. Thank you.

MRS. S. RABUKA.- Yes.

MR. CHAIRMAN.- Thank you. Honourable Anare Vadei.

HON. A.T. VADEI.- Thank you, Mrs. Rabuka, for your presentation.

MRS. S. RABUKA.- *Vinaka*

HON. A.T. VADEI.- I have some questions here, first is your quality assurance agencies. Can you brief us on what sort of quality standards they comply to?

The next question is, your assessment standards criteria and levels you are using in the Commission, that means assessment standards and criteria levels - peer assesses, self-assessment and international and regional assessment?

The third question is; the curriculum and examination assessments, what level and standards that the higher education is based on?

The last question is; Section 14 where it prohibits the use of "Fiji" or "National", what are they going to use in the Fiji National University are they going to change Section 14 of the amendment?

MRS. S. RABUKA.- Mr. Chairman, regarding Honourable Radrodro's concern, yes, that same concern was raised earlier at the workshop that was held here. What we are doing now is, after that workshop we have contacted the agencies that we know are involved in this kind of thing, we have to ask them the proper question. At this point, we are just putting our feelers out, we would like to let them know how they would respond to the amendment. I mean, it is a bit late, but we would like to put it out in a very nice way just to get how they would feel about the amendment that is being proposed. So, we are in touch with them and we are still to get any very substantive results or outcomes of that kind of a survey that we are putting out to them.

Secondly, on the question from Honourable Vadei, yes, as a quality assurance agency, whatever operation or activities that we are undertaking, they are all based on the 11 mandated functions of the Commission, and they are all in the law (Clause 7).

You will find from that, that there is a lot that is expected in terms of standards and quality, for instance, in the first function - register and regulate higher education institutions according to the provisions, the words "register and regulate" imply processes of quality assurance, such as you have to know:

- 1) how legally constituted they are (to begin with);
- 2) why and what financial and administrative processes they undertake;
- 3) what policies they have for students' grievances and staff development; and
- 4) their facilities that they have the right facilities.

There are major criteria and out of those criteria, Mr. Chairman, we work out what are called outcomes, so the approach that we have taken is a very outcomes-based approach.

Out of the criteria, each one criteria might lead to about six to 10 outcomes. Those outcomes are then assessed by our representatives of the Commission. There are actually two Committees of the Commission that look after this, I am only focussing here on the Institutional Quality Assurance or Institutional Accreditation. This Committees are the Recognition Committee and the Registration Committee. They are outside people, outside of the Commission, outside of the secretariat, whom we get them to form Committees of about three or four, to actually go out to the institutions and assess these things. So, recognition is a one-off process but registration is a process that has to be renewed and they pay a fee to be renewed for that.

Honourable Vadei has asked some very good questions, yes, we have Internal Quality Assurance (IQA) and External Quality Assurance (EQA) as well. Now, this approach I was talking about for institutional regulation employs the EQA mode because we, from outside of the institution, come in to have a look at what the institution is like. That is on institutional accreditation.

The programmes of the institutions are regulated also by us, in the sense that we accredit them. I do not know whether you know but we have a Fiji Qualifications Framework that is a 10 Level Framework, we borrowed from the Scottish Framework. They have Levels 1 to 12 but we borrowed their Levels 3 to 12 to make up our Levels 1 to 10. We had to get official permission/approval from the Scottish Credit and Qualifications Framework Partnership Board. We had to get that permission from the President.

We have those and all these programmes that are offered by institutions, when an institution is registered by the Commission, all its programmes are given a status that is called a Provisional Registration Status. That does not mean that it has been accredited, those programmes still have to come for accreditation, which is quite a rigorous programmes. At the moment, you might not know, we have what is called a Committee for the Accreditation of University Qualifications. That Committee looks after Levels 7 to 10 which is from Undergraduate Degree up to PHD. That Committee, Mr. Chairman, is made up of the three Vice-Chancellors, an independent Chairman and Dr. John Hare. Mr. Hare is one of the very first Professors at the USP, and Dr. Hare is the Chairman of that Committee. Maybe, I should outline this very quickly.

The Universities nominate people to come on to the various Subject Committees - Oral Surgery, Sustainable Energy, et cetera, and then we put them all together but each Committee is to be composed of four - one Senior Academic from an institution and not from where the application for accreditations are coming from, Senior Academic, Academic from the institution concerned, industry representative and an external member.

External members come from anywhere in the world, even as far as United Arab Emirates where we have had people from there, but we have been very fortunate because we do not have to pay for these people, even for these external evaluators but they make up this Committee. They look at the applications which come from FNU, whoever is offering a Degree upwards to PHD. They have a look and then they make a recommendation back to that Committee of Vice Chancellors that is chaired independently by Dr. Hare at this point.

The Committee will then make a decision and all of those will still go back to the Commission and the Commission will endorse. Those programmes would become accredited at whatever level. It might happen, Mr. Chairman, that a Level nominated by an institution may not really be a Bachelors Programme.

That Committee might find out; "No, it is short of the relevant credits that it should have" or "It is short of whatever else" so the power is in the Commission to put that programme at the right level so that Level 7 is really a Level 7.

Mr. Chairman, I may just end with this, according to the question by Honourable Vadei, we also have something for the institutions. We have worked with the institutions themselves on what we have termed as "External Evaluation and Review." Therefore, institutions engage in this internal IQA. They work out their system of IQA and they evaluate or self-evaluate their own performance, and then our people (external people/providers) will go into (my staff are not involved) the institution and more or less validate the process that has taken place.

I am very pleased Mr. Chairman that this question has been asked on quality assurance because this whole law will not be of very much use if it is not translated properly into work on the ground, so that is what we are doing at the moment. As I had stated earlier in one of our slides, we have become members of those two international networks, and our role is all to do with quality assurance. I might also mention here, Mr. Chairman, we ourselves (the agency, the secretariat of the Higher Education Commission) were externally reviewed last year (2015) by this Asia Pacific Quality Network. All our processors, including the law and everything were externally reviewed, and they have given us a rating of substantial compliance, which is like second from the top. There are four ratings, I think, and when they gave us that, it means that we have achieved the minimum requirement to be registered in the Asia Pacific Quality Register.

So, I might as well mention that in relation to this but we are very very much concerned about quality assurance at all levels. Like I had said earlier, all the processes of institutions, we are working to regulate basically in terms of applying our quality assurance processes there.

MR. CHAIRMAN.- Thank you, Madam. Honourable Mohamed Dean.

HON. M. DEAN.- Thank you, Madam. Actually, I am an Educationist by profession myself, and I see this is a very good Bill in terms of achieving that quality of education we want designated here in our nation. I only have one issue with the Bill and even when the SG's Office representative were here, I was not much convinced with what they told me in regards to my issue which is in regards to the penalties. I believe the Commission now has the power to take legal proceedings against those corporate bodies or organisations or Directors, and this is referring to Part 3 - Establishment and Recognition of universities including degree-awarding institutes of technology. This also implies to the institutions which will be foreign in nature. Suppose you come across a Director of an institution who has breached the conditions as per outlined there in the Bill, does the Commission has any extradition agreement with the relevant government ministries which look into this matter because I think you will need that if for some reason, you come across a perpetrator from an overseas institution?

MRS. S. RABUKA.- Mr. Chairman, I apologise, we do not yet have any such provision to link us to the relevance state authority where extradition is concerned. We do not yet have that but the penalties here, of course, none of them has received any consideration of change. They are remaining as they are, and I think they are quite clear to the institutions. That is all I can say. They know what their bounds are and particularly on this one, the restriction and operation but I must also say here, Mr. Chairman, that we have closed several institutions when we started off in 2010. They were particularly small outfits, who were here more just to make money up in Toorak, some places where it was obvious that they were here only to make money. They did not have the relevant documents that we go for and we quality assure them, they had none of those. So, we have closed those institutions and I do not have the exact number, I think they number up to almost 10.

HON. M. DEAN.- Actually that was my issue because we have plenty online courses being available which might slip under the radar of the Higher Education Commission and let us say, if they come under your radar for some reason monitoring and all that, then this kind of provisions will apply, that you need to impose penalties and all that. Also, since the Commission now has this power as per this Bill, I

think this agreement of extradition is very important. Obviously we will know if there is an institution from Australia online, so we know that individually we cannot get hold of the institution. Perhaps, we need to rely on the Australian Government to assist us in taking this institution into account for breaching the provisions of our Bill. That was only my contribution and concern.

Thank you.

MR. CHAIRMAN.- Thank you Honourable Member. Honourable Veena Bhatnagar.

HON. V. BHATNAGAR.- Thank you, Mrs Rabuka, for your presentation. The amendments are pretty clear now and a little doubts here and there are already cleared through the questions actually. I want to ask about the quality assurance or the assessment and evaluation which has been answered very well. So, thank you very much.

MRS. S. RABUKA.- Thank you very much indeed, Madam.

MR. CHAIRMAN.- Thank you Honourable Members, on behalf of the Committee, Madam, I would like to thank you very much for the presentation. If there is any other, may be clarifications or issues that needs to be cleared in future, we will liaise with you through our secretariat if the need arises or for any other further clarifications.

HON. A.T. VADEI.- I have a concern of quality assurance that you have mentioned because I am coming from the standards background because I was the Director, Measurements and Standards way back in the Ministry of Industry and Trade. How will the public know that, that institution is quality assured?

MRS. S. RABUKA.- We actually issue a certificate that has our seal on it. Every now and again, we put this out. We do not do it all that often but when there are a few that have been registered, we put this out in the paper. However, before that still on quality assurance and accountability, in the process of registering we would receive an application and then we would go out into the media - in the papers. We put out a 21 days' notice so that anyone who is aggrieved or is not happy with that institution can have the opportunity to let us know about whatever that they have against the institution.

For your information, Mr. Chairman and Honourable Members, the University of Fiji has recently received its registration. The University of the South Pacific is already registered with us, they received it much earlier. The FNU because of its size, we are still working with them but it is coming on well and they should be getting that may be this year or next year, but that is as far as our three universities are concerned.

We now have 29 registered institutions out of 73 known. There may be some more out there operating without our knowledge but of the 75 known institutions, 73 have already been recognised. There are two processes - recognition comes first, registration comes after. Recognition is one off and we have certain criteria for them to meet to be able to be recognised, so 73 out of the 75 but out of that same 75, there are 29 that are now registered. That one is coming a bit slowly, it is because of the process itself, it is quite rigorous.

MR. CHAIRMAN.- Thank you, Madam. Are there any other issues?

HON. A.T. VADEI.- (Inaudible)

MRS. S. RABUKA.- Religious institutions, yes, I think the Davuilevu one has been registered.

HON. A.T. VADEI.- There is a new Dean there now.

MRS. S. RABUKA.- Yes we have met.

The PTC is the same and they have what is called SPATS. It is the association they used to accredit themselves but the good thing is, Mr. Chairman, the South Pacific Association of Theological Schools (SPATS) have now come to us and they have had a look at the criteria, the benchmarks that we are working with, and they have realigned their criteria so that we work together. However, according to this Promulgation, they have to come to us, so they go through recognition registration as it is, but that is mainly for their programmes. That is where SPATS comes in.

Mr. Chairman, if I may, I have also been asked to present something on the Fiji National Research Council Bill. I have to admit here that we never knew about that, everything was worked out at the Ministry of Education on that. I quickly looked through that Bill this morning from the website that you gave and I was able to get the Bill itself.

MR. CHAIRMAN.- Actually, Madam, we have been already briefed by the PS Education.

MRS. S. RABUKA.- Thank you very much for that. Well, I think the Commission will certainly like to make some comments on that. I can see already there are places where we will want to make comments.

Thank you very much indeed it was a pleasure to present to you all this morning, Honourable Members. *Vinaka Vakalevu* and all the best.

MR. CHAIRMAN.- Thank you, Madam, once again on behalf of the Committee, I would like to thank you.

The Committee adjourned at 12.20 p.m.

**APPENDIX 4: PUBLIC NOTICE ADVERTISEMENTS CALLING FOR
PUBLIC SUBMISSION ON THE HIGHER EDUCATION
(AMENDMENT) BILL 2016**



PARLIAMENT OF THE REPUBLIC OF FIJI

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



Standing Committee on Social Affairs

Calling for Written Submissions from the Public

The Standing Committee on Social Affairs has been established pursuant to Standing Orders (SO) 109 of the Standing Orders of the Parliament of Fiji, comprising of 5 Members. As per SO 110 (1) (a), the Standing Committee on Social Affairs is currently examining the **Higher Education (Amendment) Bill 2016** and the **National Research Council Bill 2016**.

The copies of the Bills are available on the Parliament website www.parliament.gov.fj under the heading "Bills" or by clicking on the following links for each Bill:

1. <http://goo.gl/xbqjNw>
2. <http://goo.gl/lpDI45>

The Committee is calling for written submissions from interested persons or organizations wishing to express views on the two Bills, by writing submissions addressed to:

The Chairman
Standing Committee on Social Affairs
PO Box 2352
Government Buildings
SUVA

as soon as possible **but no later than Monday 23rd May, 2016.**

Please note that **written submission** can be send by email savenaca.koro@govnet.gov.fj but for those parties who are interested in giving **Oral submission** can contact the Committee Secretariat, Mr. Savenaca Koro on telephone 3225695.