



STANDING COMMITTEE ON SOCIAL AFFAIRS

Report on the Petition to Remove the Discriminatory Double Penalty System, Ill Treatment, and Illegal Booking on Drivers by LTA Officials



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CHAIRMAN'S FOREWORD

I am pleased to present the Standing Committee on Social Affairs Report on the Petition for Parliament to remove discriminatory double penalty system, ill treatment and illegal booking on drivers by the Land Transport Authority (LTA) Officials.

The Parliamentary Standing Committee under the 2013 Constitution and Parliament Standing Orders aims to enhance transparency and accountability by public agencies and officials.

The report examines oral submission by the Land Transport Authority on their view in regards to the mentioned petition.

The Committee held its first meeting for this issue on 28th March, 2017 and agreed to consult LTA first before get the views of other stakeholders. The responses received from LTA confirmed that the issues raised in the Petition have been addressed. On this regard, the amendment that was made to the Land Transport Act 1998 in 2015 had resolved the whole issue that arises from the demerit points system. Further, the Committee was also informed that Demerit Points are only awarded by the Courts and LTA Prosecutors update records to capture the demerit points that were awarded and these records are maintained in the LTA database.

On this note, the Committee had agreed not to take further action in terms of the consultation of this petition since the issue has been resolved through the amendments that were made to the LTA Act 1998 in 2015.

Overall, the Committee acknowledges the efforts of the LTA in putting in place measures to improve and strengthen the enforcement of its functions and obligation as per legislated under the LTA Act, not only to address the issues that were raised for the de-merit points system but also to other issues that relates to land transport affairs in Fiji.

The Committee appreciate the monitoring that was undertaken by LTA, in terms of ensuring that its divisional staffs have been trained and educated on the amendments made to the LTA Act in 2015 as well as the awareness that were conducted for the stakeholders.

On this juncture, I wish to thank the Honourable Members and the Secretariat Team who were involved in the production of this bipartisan report: my Committee colleagues, Hon. Veena Bhatnagar (Deputy Chairperson), Hon. Salote Radrodro (Member), Hon. Ruveni Nadalo (Alternate Member), Hon. Anare Vadei (Member) and Hon. Alvick Maharaj (Alternate Member).

With these words, I commend this Committee Report to Parliament.



HON. VIAM PILLAY
CHAIRPERSON

INTRODUCTION

Background

Using the legislative powers provided to the Committee, this report examines the Petition tabled by Hon. Aseri Radrodro for Parliament to remove discriminatory double penalty system, ill treatment and illegal booking on drivers by the Land Transport Authority (LTA) Officials.

The Report is divided into three Chapters:

- **Chapter One** covers the role and responsibilities of the Committee and the inquiry process that was undertaken.
- **Chapter Two** focuses on the Petition, the purpose of the Committee's consultations in Suva and the summary of written submission; and
- **Chapter Three** details of the Committee's deliberations and analysis of submission received, by the Committee.

The Standing Committee on Social Affairs

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

The Committee is mandated to examine matters related to health, education, social services, labour, culture, media and their administration.

On 22nd of May 2015, Honourable Aseri Radrodro introduced a Petition for Parliament to consider that the Government to review and rescind its decision to remove discriminatory double penalty system, ill treatment and illegal booking on drivers by the Land Transport Authority (LTA) Officials. The House then resolved that the Petition be committed to the Standing Committee on Justice, Law and Human Rights Standing Committee to examined but due to the Committee's commitment at that time on Bills they were not able to examine the petition.

Further, during the Parliament Sitting on 20th March 2017, the Hon. Speaker resolved that the mentioned petition be referred to the Social Affairs Standing Committee to examine and report back to Parliament.

Procedure and Program

The Committee on its first meeting agreed to invite LTA to present their submission on the petition that was before the Committee. On this regard, the responses received from the LTA confirmed to the Committee that the issue raised has been addressed in 2015 after the amendment was made to the Land Transport Act 1998. The Committee agreed not to take further consultation since the main issue of concern by the petitioners have been addressed in the amended Act.

Committee Members

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

- | | | |
|----------------------------|---|--------------------|
| 1. Hon. Viam Pillay | - | Chairperson |
| 2. Hon. Veena Bhatnagar | - | Deputy Chairperson |
| 3. Hon. Salote Radrodro | - | Member |
| 4. Hon. Anare Vadei | - | Member |
| 5. Hon. Mohammed M. A Dean | - | Member |

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

- | | | |
|---------------------------|---|--|
| 6. Hon. Ruveni Nadalo | - | (Alternate Member for Hon. Mohammed M. A Dean) |
| 7. Hon. Alvick A. Maharaj | - | (Alternate Member for Hon. Veena Bhatnagar) |

PETITION REQUEST TO REMOVE DISCRIMINATORY DOUBLE PENALTY SYSTEM, ILL-TREATMENT AND ILLEGAL BOOKING ON DRIVERS BY LTA OFFICIALS

The Committee had received 1 submission from the Land Transport Authority on Thursday 30th March, 2017.

Key themes raised in the Submission

This section highlighted what was discussed during the consultation with the Land Transport Authority.

Oral and Written submission received

The purpose of the Committee was to conduct consultation and receiving written and oral submissions to ascertain the position and the views of the relevant Government Departments and the wider population of those that were affected and signed the Petition which was referred to Parliament for the removal of discriminatory double penalty system, ill treatment and illegal booking on drivers by the Land Transport Authority (LTA) Officials.

The Committee's consultation in Suva was conducted to get the Land Transport Authority's view and future plan for the issues raised in the petition. On this regard, the Committee heard one (1) oral and written submission which is summarised below.

Land Transport Authority Submission

It was confirmed by the Land Transport Authority that in July 2015, the Attorney General, Hon. Aiyaz Sayed Khaiyum had tabled a Bill in parliament, Bill No.12 of 2015 which amends the Land Transport Act 1998.

The Committee noted that the amendments made to the Act have addressed the issue of demerit points which was raised in the petition. Further, LTA also confirmed that Demerit Points are only awarded by the Courts. The Committee was also informed that LTA Prosecutors update records to capture the demerit points that were awarded and these records are maintained in the LTA database.

GENDER ANALYSIS

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

In particular, the issue raised in regards to the petition has affected both men and women who work in the taxi business sector. Most importantly, the Committee had seriously considered the issues that were raised in the petition during its deliberation and further during its consultation process enquiry as it affects both women and men who dependent on this business as their source of income. In this regard, the Committee ensures through its assessment process that it collates all information from LTA that proves that the issues that were raised are addressed.

CONCLUSION

The Standing Committee on Social Affairs has fulfilled its mandate approved by Parliament which was to examine the Petition to Parliament for the removal of discriminatory double penalty system, ill treatment and illegal booking on drivers by the Land Transport Authority (LTA) Officials.

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

The responses received from the Land Transport Authority were overwhelming in terms of their responses on the Petition that was tabled in Parliament in 2015.

The Committee has no recommendation as the result of the LTA's response on the issues raised in the petition as it was addressed on the amendments that were made to the Land Transport Act 1998 in 2015. The Committee was primarily focused on the LTA's view on the issue raised against them.

In summary, the Committee after examining the petition and consulted the Land Transport Authority has confirmed that the issues of de-merit points that were raised in the petition have been addressed.

APPENDICES

Appendix 1: List of Acronyms

LTA	Land Transport Authority
SO	Standing Orders of Parliament

Appendix 2: Verbatim Notes

The Committee resumed at 3.37 p.m.

Submittee: Land Transport Authority (LTA)

In Attendance

- | | | | |
|----|----------------------|---|----------------------------------|
| 1. | Mr. Emosi Caniogo | - | Regional Manager Central/Eastern |
| 2. | Mr. Irimaia Rokosawa | - | GM FIA |
| 3. | Mr. Peni Kikau | - | Manager Planning |
| 4. | Mr. Navinesh Chand | - | GM Legal Policy |
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DEPUTY CHAIRPERSON.- Honourable Members, welcome back to the meeting. Today, we have with us the representatives from Land Transport Authority (LTA).

(Introduction of LTA Team)

On behalf of the Honourable Members of the Social Affairs Committee, we welcome you this afternoon and a very good afternoon to you.

Today, we will be hearing a presentation from the LTA Representatives on a Petition that was handed over to our Committee to be looked into. This Petition was submitted by the Honourable Aseri Radrodoro on behalf of the people of Labasa, actually 100 drivers of Labasa who had actually signed the Petition. This Petition relays the grievances of taxi drivers and citizens who are concerned, and would like the demerit point system applying to taxi drivers to be abolished.

Actually, what they are seeking or asking for is, and I quote:

“We, the undersigned, citizens of Fiji, petition in the Parliament of Fiji that the demerit point system be abolished and the penalty form of fine are maintained to benefit the State.

We further seek that a Parliament public inquiry is conducted in Labasa to allow drivers to give statements in their free will without any fear which could be done in the later stage, but today we want a clarification from the LTA Officials whether the demerit point system is abolished or is it still in place? And any other relevant information is most welcome.”

So I give the floor to the representatives from LTA for your presentation.

MR. N. CHAND.- Thank you, Deputy Chairperson and the Honourable Members of the Standing Committee; it is indeed a privilege and an honour for the LTA Officials to appear before this Standing Committee to provide the explanation that is sought on the Petition filed by the Honourable Member.

Deputy Chair, firstly, the Petition seeks a clarification as to why there is double standard applied or as to why there is a demerit point in place when for that matter, any motorist is already penalised by the fixed penalty that is already provided for in the Land Transport Act 1998.

Madam, we would like to inform you that this matter has already been addressed by the Parliament of Fiji and this matter has already been dealt with. Basically, this issue that is before the Standing Committee is a non-issue; however, we will elaborate further as to how this has been dealt with by Parliament.

The actual Petition, Deputy Chair, was submitted dated 20th May, 2015, however a Bill was presented in the same year to Parliament on 15th July, 2015. In the July Bill, the Bill has sought to make amendments to the Land Transport Act 1998, seeking to abolish the demerit points and only allowing the Courts of Fiji, normally the Magistrates Court to deal with the demerit points.

If I may have the opportunity to refer to the Explanatory Note to the Amendment Bill 2017, the Bill was proposed by the Honourable Attorney-General and Minister for Justice. In the Explanatory Notes, it states that the Bill seeks to amend the Land Transport Act 1998 *inter alia* makes provisions for awarding of the demerit points for certain offences under the Act. These demerit points, however, maybe awarded by LTA or by the Courts in addition to the penalty fines. As such, there is a need for the Act to be amended to ensure that where a fixed penalty is to be paid for an offence, demerit points are not awarded by the Authority.

Accordingly, the Bill that was presented sought to essentially remove the issuance of demerit points by the Authority and limits the awarding of the demerit points to be done by the Courts alone. Thereafter, Deputy Chair, the President has assented the Land Transport (Amendment) Act 2015 on 14th July, 2015 where provisions of the Act has been amended to remove the awarding of the demerit points by LTA, only limiting it to be awarded by the Courts.

Further to that, in the recent Bill that has been proposed by the Honourable Attorney-General and Minister for Economy and put before Parliament (Bill No. 8 of 2017), which was passed and is

awaiting enactment, in the Explanatory Notes of the Bill, it also says that for the current amendments on the red light or speed cameras also says that should there be any issue of awarding the demerit points and should the LTA see it just to allow for a demerit point, the Authority must make necessary application to the Courts and seek the Court to fairly and impartially award the demerit point. So at the moment, Deputy Chair, the LTA after the enactment of the initial Bill in 2015 has passed that the law has not been awarding any demerit points and apart from that, the LTA has very rarely (if any) has ever awarded demerit points to the drivers.

We basically believe that this issue has been brought up prior to the amendments to the law, however, two years down the lane, laws have been amended and the LTA currently does not have powers to award demerit points. Should the LTA in any time requires or thinks that there needs to be prescriptive laws in requiring demerit points to be awarded, the LTA under the Amendment in 2015 is required to submit appropriate applications to the Minister to allow the Minister for Infrastructure and Transport to make regulations for the demerit points. At that juncture there is no regulations as such, prescribing for the award of the demerit points.

In a nutshell, Deputy Chair, those are the submissions with respect to the issue that has been raised in the Petition, and we humbly submit that these are non-issues which have already been dealt with by Parliament.

DEPUTY CHAIRPERSON.- Thank you, Mr. Chand, for your presentation and your clarifications on the issue. I would like to give this opportunity to the Honourable Members if they have any questions.

Thank you Honourable Members there being no questions and this being a non-issue, we close the chapter here.

HON. A.T.VADEI.- When did they enforce this Act?

MR. N. CHAND.- 14th July, 2015.

HON. A.T.VADEI.- Yes, that is the enforcement date. So when did you really do the actual work, on the same date?

MR. N. CHAND.- Yes.

HON. A.T.VADEI.- So there was no grace period before that?

MR. N. CHAND.- I do not think so there has been any demerit points that has actually been awarded by LTA previously.

HON. A.T.VADEI.- How about those people who have already paid their fines before the enactment?

MR. N. CHAND.- For any of those people who may have been issued with the Traffic Infringement Notice by the LTA and may have paid their fines, they were not awarded demerit points.

DEPUTY CHAIRPERSON.- Thank you, Honourable Vadei and thank you once again, Mr. Chand. I have a small question, I believe, because when I was going through the Petition, there was also some concerns about the LTA Officers. So how are the amendments enforced on a divisional level?

MR. N. CHAND.- I believe in the Petition, the issues that were raised, Deputy Chair, were with respect to the manner in which the LTA Officials, especially the Enforcement Officers deal with the issue when they are actually confronting a motorist. I believe that all our Officers who deal with the members of the public have a certain MQR to meet to become road safety enforcement officers. Apart from that, they go through a very rigorous training, both legal training and the enforcement training, and they are constantly monitored by the Policy Managers.

However, if there has been any issues that may have been raised with respect to the manner in which or how the Officers would have actually approached the motorist or for that matter, the members of the public using vehicles on any of the Fijian roads, we wish to inform this Committee that very recently (two weeks ago), the LTA Board has realigned the entire nation's enforcement.

Currently, the realignment has happened to say that all Enforcement Officers throughout all districts, all divisions, all regions and all the major flagship areas are now reporting to a National Manager Enforcement to ensure that there is a synchronised system and to ensure that there is a standardised and a level playing field of standards within the Enforcement Officers all across the country. So that is how the LTA has addressed this as a proactive measure.

Apart from that with respect to the issues that were raised back in 2015, all our Officers are well trained and, of course, if there are any allegations with respect to the manner in how the Officers behaved, the LTA is amenable to receive these complaints and they are willing to deal with these under the Human Resource Policy that has also been approved by the LTA Board.

DEPUTY CHAIRPERSON.- Honourable Maharaj.

HON. A.A. MAHARAJ.- Madam Chairperson, through you, this might be a side question, actually not directly related to the Petition; what happens to the points that were demerited prior to 14th July, 2015? For example, if I was sitting on 6/10, was I actually reverted back to 10 on the 14th or I am still sitting on 6 because it is something that has not been repealed, it is just being transferred from LTA to the Courts? What is the stand at the moment?

MR. N. CHAND.- Thank you, Sir. As far as the LTA Officers are concerned, there has been no issuance of the demerit points, even before the amendment of the Act. However, I would like to inform the Committee that the Land Transport Authority Act is also being used correspondingly with the Municipal Councils and also the Fiji Police Force, who are also using the traffic dockets that are used by LTA. And they are authorised inducted officers of the Authority, who can exercise the powers under the Act.

In doing so, we have seen that there are demerit points awarded but the manner in how it operates is that, you are awarded a demerit point, should you fail to pay your fines, and of course, should you fail to pay your fine, the matter is then within a specified period referred to court, so in any way the discretion to award the demerit point has always been with the Courts.

DEPUTY CHAIRPERSON.- Any other questions?

HON. A.T.VADEI.- Deputy Chair, the demerit point is still there but it is the prerogative of the Court not from LTA?.

DEPUTY CHAIRPERSON.- That was what was said by Mr. Chand in his presentation. Thank you Honourable Vadei.

Honourable Members, there being no more questions from the floor, I thank you, Mr. Chand and your team. I believe your presentation was actually enlightening.

Once again, I would like to thank you, a big *vinaka vakalevu* to you all.

The Committee adjourned at 3.51 p.m.

Appendix 3: Submission by the Land Transport Authority



STANDING COMMITTEE ON SOCIAL AFFAIRS

Demerit Points

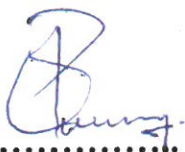
CHRONOLOGICAL ORDER OF EVENTS

- 20.05.2015: Petition submitted by Hon A Radrodro
- July 2015: Bill No.12 of 2015 to amend the Land Transport Act 1998 by Hon A. Sayed Khaiyum
- July 2015: Act No.6 of 2015 to amend the Land Transport Act 1998

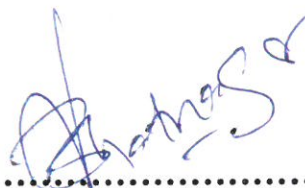
DEMERIT POINTS

- Demerit Points are only Awarded by the Courts
- LTA Prosecutors update records to capture the demerit points awarded
- Records are maintained in the LTA database (LTA Soft)

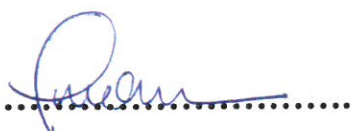
**SIGNATURES OF MEMBERS OF THE SOCIAL AFFAIRS STANDING
COMMITTEE**



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Hon. Viam Pillay
(Chairperson)



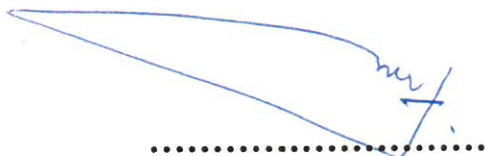
.....
Hon. Veena Bhatnagar
(Deputy Chairperson)



.....
Hon. Salote Radrodro
(Member)



.....
Hon. Anare T. Vadei
(Member)



.....
Hon. Ruveni Nadalo
(Alternate Member for Hon. Mohammed M. A Dean)