



# Human Rights and Anti-Discrimination Commission

*Neither Greater nor Lesser but **EQUAL**: Dignity, Equality and Freedom for all in Fiji*



ANNUAL REPORT

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Neither Greater  
Nor Lesser  
but EQUAL:  
Dignity,  
Equality  
and Freedom  
for all in Fiji

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# Our Responsibilities

## Section 45 (4) of the Fijian Constitution bestows the Commission with the following responsibilities:

- (a) promoting the protection and observance of, and respect for, human rights in public and private institutions, and to develop a culture of human rights in Fiji;
- (b) education about the rights and freedoms recognised in the bill of rights of the Constitution as well as other internationally recognised rights and freedoms;
- (c) monitoring, investigating and reporting on the observance of human rights in all spheres of life;
- (d) making recommendations to Government concerning matters affecting the rights and freedoms recognised in the bill of rights including recommendations concerning existing or proposed laws;
- (e) receiving and investigating complaints about alleged abuses of human rights and take steps to secure appropriate redress if human rights have been violated, including making applications to court for redress or for other forms of relief or remedies;
- (f) investigating or researching, on its own initiative or on the basis of a complaint, any matter in respect of human rights, and make recommendations to improve the functioning of public or private entities;
- (g) monitoring compliance by the State with obligations under treaties and conventions relating to human rights; and
- (h) performing any other functions or exercising any powers as are conferred on the Commission by a written law.

## Section 12 (1) of the Human Rights and Anti-Discrimination Commission Act further prescribes the following powers and duties of the Commission:

- (a) to increase general awareness of human rights, including by making public statements and educating public opinion and public officials, coordinating human rights programs and acting as a source of human rights information;
- (b) to invite and receive representations from members of the public on any matter affecting human rights;
- (c) to consult and co-operate with other persons and bodies concerned with the promotion and protection of human rights;
- (d) to inquire generally into any procedure or practice whether governmental or non-governmental, if it appears to the Commission that human rights are, or may be, infringed thereby;
- (e) to make recommendations to the Government on the desirability of legislative, administrative or other action so as to give better protection to human rights;
- (f) to promote better compliance in Fiji with standards laid down in international instruments on human rights;
- (g) to encourage the ratification of international human rights instruments by the State and, where appropriate, to recommend the withdrawal of reservations entered to those instruments;
- (h) to advise the Government on its reporting obligations under international human rights instruments and, without derogating from the primacy of the Government's responsibility for preparing those reports, to advise on the content of the reports;
- (i) to make recommendations on the implications of any proposed law or any proposed policy of the Government that may affect human rights;
- (j) to investigate allegations of contraventions of human rights and allegations of unfair discrimination, of its own motion or on complaint by individuals, groups or institutions on their own behalf or on behalf of others;
- (k) to resolve complaints by conciliation and to

refer unresolved complaints to the courts for decision;

(l) to advise on any human rights matter referred to it by the Government having regard to the available resources and priorities of the Commission.

(m) to publish guidelines for the avoidance of acts or practices that maybe inconsistent with or contrary to human rights;

(n) to take part in international meetings and other activities on human rights; and to co-operate with other national, regional and international human rights bodies.

(2) The Commission may, from time to time, in the public interest or in the interests of any person or department, publish in any manner it thinks fit reports relating generally to the exercise of its functions or to any particular case or cases investigated under this Act.

(3) The Commission must not investigate (but may comment on) any decision by a court of law. Under section 45 (5) of the Constitution any person has the right to lodge a complaint with the Commission, alleging that a right or freedom in this Chapter has been denied, violated or infringed, or is threatened.

### **Administrative and financial autonomy of the Commission**

Section 45 (8) confers to the Commission the authority to appoint, remove and discipline all staff (including administrative staff) in the Commission. Furthermore 45 (9) provides that the Commission has the authority to determine all matters pertaining to the employment of all staff in the Commission, including—

(a) the terms and conditions of employment;

(b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

(c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and

(d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.

Section 45 (11) requires that the Parliament shall ensure that adequate funding and resources are made available to the Commission, to enable it to independently and effectively exercise its powers and perform its functions and duties. Section 45 (12) explicitly provides that the Commission shall have control of its own budget and finances, as approved by Parliament.

## **Independence of the Commission**

Section 45 (7) of the Constitution provides that “in the performance of its functions or the exercise of its authority and powers, the Commission shall be independent and shall not be subject to the direction or control of any person or authority, except by a court of law or as otherwise prescribed by written law”.

# Vision

Neither Greater Nor Lesser but EQUAL: Dignity, Equality and Freedom for all in Fiji

# Mission

To take a lead role in the promotion, protection and fulfillment of human rights for all in Fiji

To build, strengthen and sustain a human rights culture in Fiji

# Values

The Commission is committed to:

## **Promoting, protecting and fulfilling human rights**

Every person will be treated with dignity, respect and equality. We will apply a gender analysis to all our work.

## **Exercising the Commission's authority and powers independently**

In the performance of its functions or the exercise of its authority and powers, the Commission shall be independent and shall not be subject to the direction or control of any person or authority, except by a court of law or as otherwise prescribed by written law.

## **Promoting access to justice and equal application of the law**

Promote access to justice and equal application of the law including relevant international human rights law

## **Providing a professional, transparent, accountable, ethical, responsive, and effective service**

We will be professional, transparent, accountable, ethical, responsive and effective in all dealings on behalf of the Commission

# Our Strategic Goals

## **Goal 1**

Monitoring, Investigations and Compliance

## **Goal 2**

Litigation and Policy Analysis

## **Goal 3**

Education, Advocacy and Communications

## **Goal 4**

Institutional Strengthening

## Letter to His Excellency the President of the Republic of Fiji

15 June 2019

His Excellency  
The President of Republic of Fiji  
Office of the President  
Government House  
Berkley Crescent  
Suva

Dear Sir,

### **Re: Human Rights and Anti-Discrimination Commission Annual Report 2017**

Pursuant to section 44(1) of the Human Rights and Anti-Discrimination Commission Act 11 of 2009, I am pleased to submit the Commission's Annual Report for the year ending 31 December 2017.

Your Excellency will no doubt appreciate that I was appointed as Chairperson of the Commission on 20 September 2018. Hence, this report is compiled on the basis of records held by the Commission Office, provided by the Director and his staff.

Yours sincerely,

Honourable Mr. Justice Kamal Kumar  
**CHAIRPERSON**

## Letter to the Honourable Prime Minister of the Republic of Fiji

15 June 2019

The Honourable Prime Minister  
Office of the Prime Minister  
4th Floor, New Wing, Government Buildings  
26 Gladstone Road  
Suva

Dear Sir,

**Re: Human Rights and Anti-Discrimination Commission Annual Report 2017**

Pursuant to section 44(1) of the Human Rights and Anti-Discrimination Commission Act 11 of 2009, I am pleased to submit the Commission's Annual Report for the year ending 31 December 2017.

Yours sincerely,

Honourable Mr. Justice Kamal Kumar  
CHAIRPERSON

# The Commission

## Chairperson

Justice Mohammed Ajmeer

He was appointed in 2015 as the chairperson of the Commission. He is a High Court Judge and hails from Sri Lanka.



## Commissioner

Ms Senila Lee Wah

She was appointed in 2015 as a commissioner. She is a social worker and holds membership with several non-governmental organizations. Ms. LeeWah also served on the National Council for Building a Better Fiji-NCBBF in 2008 and is a serving member of the Northern Division Development Board.



## Proceedings Commissioner

Mr. Faiz Khan is the Executive Chairman of Airports Fiji Limited (AFL) and the Pine Group of Companies (PGC). Mr. Khan is also a Director of Fiji Revenue & Customs Services and a Commissioner of the Human Rights Commission.

Mr. Khan graduated from Bond University, Australia in 1999 with Bcom (Acct/Fin); LLB. Mr. Khan has been instrumental in restructuring AFL's and PGC's businesses in making them profitable and sustainable. He has endeavoured to create long term strategic directions in particular through planned capital upgrades and improvements to services.

He believes effective human resource management and team work is a key to success. Mr. Khan also believes in building relationships of mutual benefit with all stakeholders.



## Director

Mr. Ashwin Raj

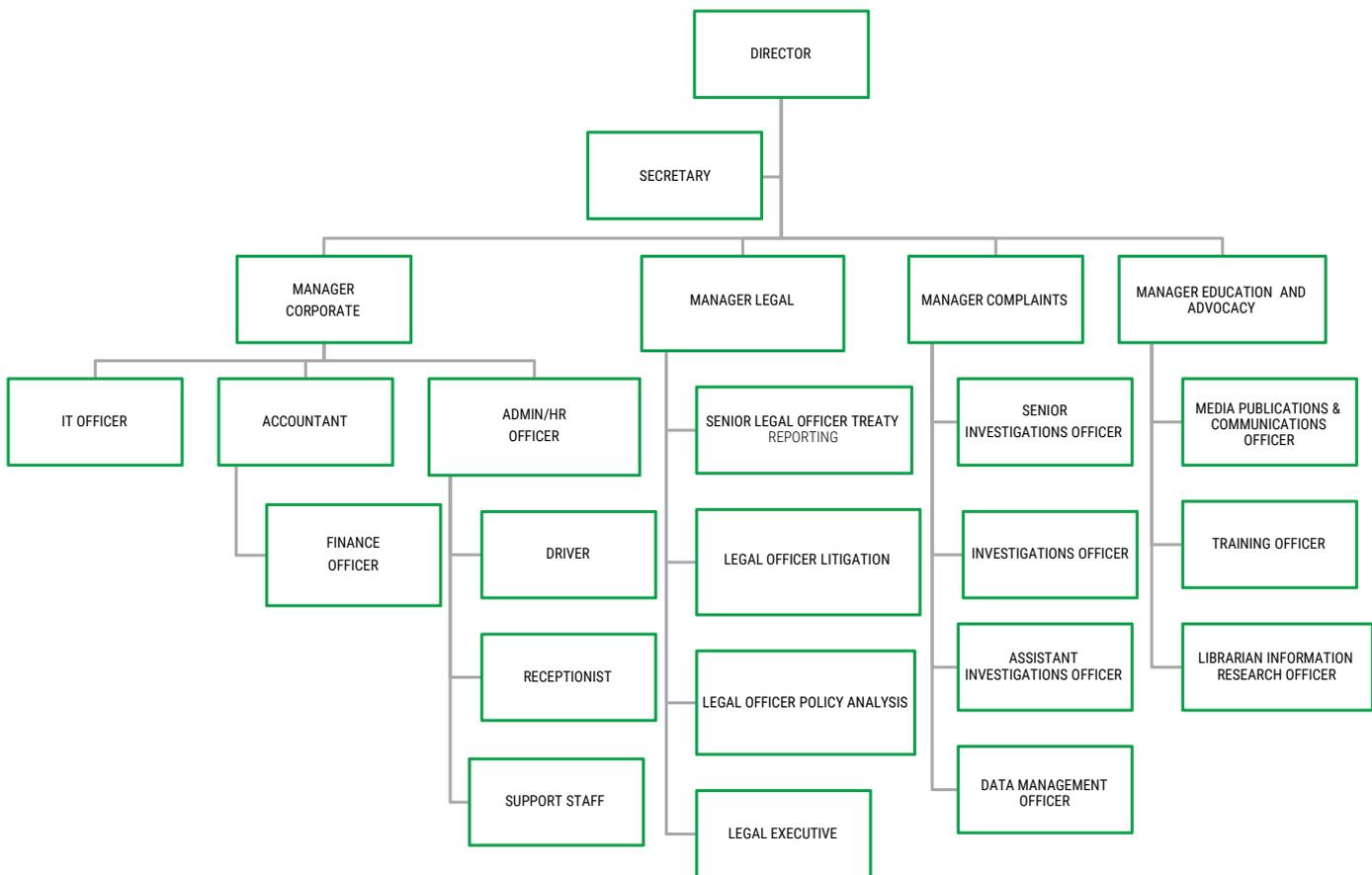
Mr. Raj was appointed in February 2016. An academic by training, Mr. Raj is also the chairperson of the Media Industry Development Authority (MIDA).



# Organisational Structure

The Commission is a national independent statutory body established under the Human Rights and Anti-Discrimination Commission Act of 2009, which exists as the Human Rights and Anti-Discrimination Commission.

The Fijian Constitution empowers the Commission to be independent of any direction or control of any person or authority except by a court of law or a written law.



# Chairperson's Report



I am pleased to present the Human Rights and Anti-Discrimination Commission's Annual Report for the year ending 31 December, 2017 as required by section 44 (1) of the Human Rights

and Anti-Discrimination Commission Act. This Report captures the dispensation of the Commission's constitutional mandate under the Fijian Constitution and its core responsibilities as a national human rights commission.

Pursuant to section 6 (2), the State and every person holding public office must respect, protect, promote and fulfill the rights and freedoms recognised under the Bill of Rights provisions of the Fijian Constitution. As a national human rights institution, the Commission in fulfilling its obligation of promoting the protection and observance of, and respect for, human rights in public and private institutions and to develop a culture of human rights in Fiji, had mapped out robust operational strategies and undertaken multiple activities during the year.

These included: monitoring, investigating and reporting on the observance of human rights in all spheres of life; receiving and investigating complaints about alleged abuses of human rights and taking steps to secure appropriate redress if human rights have been violated, including making applications to court for redress or for other forms of relief or remedies; investigating or researching, on its own initiative or on the basis of a complaint, any matter in respect of human rights, and make recommendations to improve the functioning of public or private entities; and monitoring compliance by the State with obligations under treaties and conventions relating to human rights.

The Commission is also mandated to raise awareness to educate the public about their constitutionally guaranteed rights and freedoms as well as internationally recognised human rights principles and values. In materialising this, the Commission engaged with key stakeholders, development partners, civil society organisations and members of the public including children.

The Commission, through its Director, gave an important undertaking to the Parliamentary standing Committee on Public Accounts that it will facilitate the audit of the back-log of all its financials from 2008 to 2016 by the year 2020. Section 16 (2) of the Human Rights and Anti-Discrimination Commission Act, requires that the accounts of the Commission must be audited by the Auditor-General. The Commission's financials remained unaudited since 2008. The Commission awaits the outcome of this financial audit.

The Commission's Corporate Plan for 2017 is premised on the four broad strategic goals developed in consultation with the Asia Pacific Forum of National Human Rights Institutions (APF). The Commission also strengthened its human resources capacity by appointing staff in key areas.

I would like to express my gratitude to the Fijian Government, our development partners, the United Nations and Development Programme, the Delegation of the European Union for the Pacific, the Office of the High Commissioner for Human Rights Pacific and the Asia Pacific Forum of National Human rights Institutions (APF), for their continued support in promoting human rights in Fiji and empowering the national human rights commission. I express my gratitude to the Director and his team for their commitment and contribution in restoring public confidence in the national human rights institution.

Although the Commission is funded by the State, the Commission, as this report shows, has remained independent of the State in

discharging its mandate. The growing number of complaints lodged with the Commission, the litigation proceedings instituted by the Commission including that against the State, amongst other actors, as well as the public consultations with civil society and Fijians from diverse backgrounds throughout Fiji, is a strong testament to the growing public confidence in the Human Rights and Anti-Discrimination Commission. The Commission has issued public statements on pressing human rights issues and made recommendations to various Parliamentary Standing Committees on legislation that has profound human rights implications.

The Commission will continue to work towards strengthening the human rights landscape in Fiji as well as work towards becoming a fully Paris Principles compliant national human rights institution.

Honourable Mr. Justice Kamal Kumar  
**Acting Chief Justice of Fiji and Chairperson**

# Directors Report



The 2017 Annual Report, and the progress that it charts, attests to the tenaciousness of a national human rights institution that lost its accredited status a decade ago. Even though the Commission has yet to

regain its accreditation as a fully Paris Principle compliant national human rights institution, the Commission continues to dispense with its constitutional obligations.

The Commission has received and independently investigated complaints concerning infractions of human rights guaranteed under the Fijian Constitution. These include infringement of the right to life, freedom from cruel and degrading treatment, right to security and freedom from violence, rights of arrested and detained persons, rights of accused persons, access to courts and tribunals, freedom of association, employment relations, freedom of religion, conscience and belief, access to information, right to equality and freedom from discrimination, ownership of iTaukei, Rotuman and Banaban lands, protection of ownership and interests in land, right to education, right to housing and sanitation, right to adequate food and water, right to social security schemes, right to health, freedom from arbitrary evictions, environmental rights and rights of children.

A total of six applications were filed by the Commission seeking constitutional redress concerning alleged human rights violations. The subject matter of these applications seeking constitutional redress pertained to the rights of children, the right to freedom from cruel and degrading treatment, the rights of arrested and detained persons and the right to freedom from arbitrary evictions. An inquest was also recommended by the Commission into the death of an 18-year-old male who was found dead while in custody at Nakasi Police Station.

The Commission presented its submissions to the Parliamentary Standing Committee on Justice, Law and Human Rights during public consultations held, prior to the enactment of the Parliamentary Powers and Privileges Act.

The Commission has been vociferous in speaking out against various forms of discrimination, which included the Ministry of Health and Medical Services policy on the preclusion of non-heterosexuals from donating blood, incarceration of persons with mental illness and access to justice for vulnerable groups including women, children LGBTI and persons with disability. The Commission also collaborated with other institutions when it came to intersectional forms of discrimination, such as the Fijian Competition and Consumer Commission regarding the right to housing and denial of the said right due to racial and religious vilification.

The Commission has an important mandate to educate the public about their rights and freedoms guaranteed under the Fijian Constitution. In line with this in the year 2017, the Commission engaged with a total of 18,873 Fijians through education/advocacy programmes in schools, informal settlements, villages, rural, remote, maritime communities and cane-belt areas. The Commission engaged with civil society organisations, faith-based organisations, youths and the vulnerable because of their disability, social and economic background, age and sexual orientation.

Such engagements at a grass-roots level deepened the understanding of emerging human rights issues amongst Fijians. Most importantly, Fijians in remote, maritime areas, urban, and semi-urban areas were informed about the services provided by the Commission.

The Commission also constructively engaged with diverse civil society organisations for discussions on significant issues relating to rights of arrested and detained person, bullying in school and use of corporal punishment bordering on violation of rights of children, cruel and

degrading treatment experienced at home, in public places because of one's gender identity, domestic violence, discrimination in the health sector with LGBTQ persons disallowed from donating blood, discrimination faced by persons living with disabilities when accessing public transportation and violation of environmental rights.

The Commission has also publically spoken out against the State in situations where it deemed that the State had failed to fulfil its obligations with respect to human rights treaties and conventions, an example of which was the deportation of an Iranian refugee from Fiji. Conversely, the Commission has also commended the State where human rights strides have been made, such as the legal reforms in relation to the Public Order Act and the Electoral Act as well as the efforts made towards the implementation of the provisions under the UNCAT as evidenced through the First Hour Procedure as well as the receptiveness of the Fiji Police Force and the Fiji Corrections Services- subjecting itself to full scrutiny of the Commission without obstruction, undergoing human rights training.

The Commission secured a budgetary allocation of \$2,403,386 in 2017 to dispense with its constitutional mandate. The Commission strives to build greater ethos of ethics, integrity and accountability and appeared before the Parliamentary Standing Committee on Public Accounts in respect of the Auditor General's Report for the year 2014 and gave an undertaking to facilitate the audit of its financials for the period 2008 to 2016. Building staff capacity was also a focus in the year under review with staff undergoing human rights training to broaden their perspectives and upgrading skills in critical areas such as monitoring of places of detention, and conducting mediation. The Commission will continue to work towards strengthening its institutional capacity

The Commission is committed towards ensuring that it is Paris Principles compliant. It will continue to engage with the Asia Pacific Forum

of National Human Rights Institutions (APF) as well as the Global Alliance of National Human Rights Institutions (GANHRI) to regain its accreditation. I would like to express my gratitude to the APF and GANHRI for its continued support, technical assistance and for providing our Commission with a platform to engage with fellow national human rights institutions. I am also thankful to our development partners, United Nations Development Programme, Office of the United Nations High Commissioner for Human Rights and the Delegation of the European Union for the Pacific for their continued support.

I wish to also express my gratitude to the Chairperson and Board members of the Commission as well as the staff of the Commission for their contribution in building a culture of human rights in Fiji.

Ashwin Raj  
**Director**

# 2017 IN REVIEW

The following provides an overview of the key human rights achievements in 2017

## Monitoring Compliance

### Cruel and degrading treatment and the rights of arrested and detained persons

The Commission investigated the death of Vikrant Nand, an 18 year-old, who was found dead while in custody at Nakasi Police Station and made a recommendation for an inquest, pursuant to Inquests Act [Cap 46].

The Commission in collaboration with its development partners, United Nations Development Programme and the European Union, engaged with civil society organisations and diverse communities on the First Hour Procedure and the rights of arrested and detained persons.

#### *Rights of Children*

The Commission investigated 15 complaints of violations of the rights of children under section 41 of the Fijian Constitution. The nature of complaints range from police brutality, abuse by teachers, bullying, parental neglect, child custody matters, children subjected to harmful cultural practices.

The Commission investigated a case of alleged rape involving an inmate at the Labasa Corrections Facility.

The Commission led an investigation into allegations of a female strip-searched by a female police officer in presence of a male officer in market area in Labasa.

The Commission investigated complaints from inmates alleging infliction of torture and solitary confinement by the Fiji Corrections Service.

#### *Access to justice*

The Commission made an intervention in a case in which a particular police station had refused to register a formal complaint from an LGBTI person in an alleged assault case.

## Monitoring Compliance

### **Discrimination on a prohibited ground prescribed under section 26 of the Fijian Constitution**

The Commission in collaboration with the Fijian Competition & Consumer Commission, held meetings and issued a statement regarding a landlord-tenancy issue in relation to alleged discrimination linked to race and ethnicity.

The Commission also called for the setting up of a national helpline to assist the elderly. Also issued a statement on the need to treat the elderly fairly regardless of their age and on other prohibited grounds of discrimination prescribed under section 26 of the Fijian Constitution.

The Commission called for a review of the guideline set by Ministry of Health and Medical Services that homosexuals cannot donate blood to the National Blood Service even if they had only one partner and practiced safe sex. A public statement was issued by the Director of the Commission, describing the policy contrary to the principles of non-discrimination.

The Commission issued a strong statement in relation to the abandonment and incarceration of those with mental illness in police stations and inconsistent with human dignity.

### ***Human Rights of Refugees***

The Commission intervened in the case of an Iranian Refugee, Loghman Sawari seeking a refugee status in Fiji after fleeing from Papua New Guinea. The Director of the Commission in a press conference stated that the deportation of Mr. Sawari raises fundamental questions about Fiji's capacity to balance the imperatives of national security with its international human rights obligations. From the perspective of international human rights law, Mr. Sawari's deportation is contrary to international human rights law and in particular Article 31, Article 32 and Article 33 of the 1951 Convention Relating to the Status of Refugees which Fiji succeeded to in 1972. The Commission through its Director expressed concern that this decision by the Immigration has the possibility of exposing him to inhuman and degrading treatment. The Director implored the Fijian Government to review our immigration and border control laws through the Justice, Law and Human Rights Parliamentary Standing Committee.

# 2017 IN REVIEW

The following provides an overview of the key human rights achievements in 2017

## *Human Rights of Refugees*

Let us not obfuscate from the ugly truth that this is not a Fijian problem alone. The fact is that advanced liberal democracies like Australia have abnegated their responsibilities by incarcerating human beings rendered stateless and displaced by war, discrimination on the basis of ethnic, racial, religious or sexual identity or political opinion in the most deplorable conditions with no regard to human dignity or human rights in places such as Manus Islands. If we are going to occupy an indomitable moral plateau and judge Fiji, then Australia must take responsibility too and stop using the Pacific as its dumping ground. These are human beings and they deserve dignity so stop the people trade!

- Director, Ashwin Raj

## **Article 32 of the 1951 Convention Relating to the Status of Refugees on expulsion provides that:**

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.
2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.
3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Furthermore, **Article 33** on the prohibition of expulsion or return (“refoulement”) provides that:

1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

## Employment Relations

A total of 28 complaints alleging violation of employment relations were received by the Commission in the period under review. The nature of these complaints ranged from workplace bullying, unfair terminations by employers, non-compliance of minimum wage order and ill-treatment of an employee during pregnancy.

## Seeking Redress in Court

Six cases of alleged human rights violation were filed in court for redress. The cases were in relation to Rights of Children, Right to Freedom from Cruel and Degrading Treatment, Rights of Arrested and Detained Persons and Right to Freedom from Arbitrary Eviction.

## Submissions to Parliamentary Standing Committees

Consistent with the constitutional mandate of making recommendations to Government concerning matters affecting the rights and freedoms guaranteed by the Fijian Constitution including recommendations concerning existing or proposed laws, submissions were made to relevant Parliamentary Standing Committees on Bills that explicitly affect human rights such as the Parliamentary Powers and Privileges Bill. A submission was also made to the Public Accounts Committee on the 2014 Auditor General's Report.

## Monitoring Compliance by the State with Obligations Under Treaties and Conventions Relating to Human Rights

The Commission welcomed the amendments made to the Public Order Act as it demonstrates a progressive approach towards delimiting freedoms guaranteed under the Constitution. The Commission also commended the Fijian Government for amendments to the Electoral Act that will engender greater accountability, transparency and access to information. These progressive legal reforms are timely in that it will ensure a robust human rights landscape where every Fijian enjoys freedom of expression, association and the right to political participation as Fiji heads towards the 2018 general election.

# 2017 IN REVIEW

The following provides an overview of the key human rights achievements in 2017

## Education and Advocacy

The Commission reached out to 18,873 Fijians in 2017 through its engagement with diverse groups. A total of 98 schools were visited, engaging 13,193 children, 622 teachers, 4,378 persons during community visit, 290 participants through public consultation, 49 human rights advocates, who received human rights training on a range of issues such as rights of children, right to education, right to health, freedom of speech, rights of arrested and detained persons, Freedom from cruel and degrading treatment, domestic violence, sexual abuse, political right and environmental rights.

A series of six public consultations were held in Central, Western and Northern divisions including Savusavu with diverse groups which comprised of civil society organisations, youth groups, persons living with disabilities including deaf persons, LGBTQ persons and students. Issues discussed ranged from gender-based violence, police brutality, freedom of speech, discrimination faced by LGBTQ communities, right to health in particular accessing contraceptives, bullying in school and cruel and degrading treatment and the rights of arrested and detained persons.

The Commission launched its campaign against racism through a poster with the theme, Unite Against Racism, which was widely disseminated throughout Fiji to mark the International Day for the Elimination of Racial Discrimination which is observed annually on 21 March.

An advocacy video on LGBTQ rights was produced and launched to raise awareness on the discrimination and abuse experienced by the LGBTQ communities when accessing healthcare services, seeking assistance from police, bullying in school, in public places and in their own homes.

International Human Rights Day was celebrated in five locations across Fiji (Levuka, Lautoka, Suva, Labasa and Savusavu) on 10 December 2017 with community advocates on human rights and access to justice engaging with the vulnerable in their respective communities to raise awareness on key human rights issues

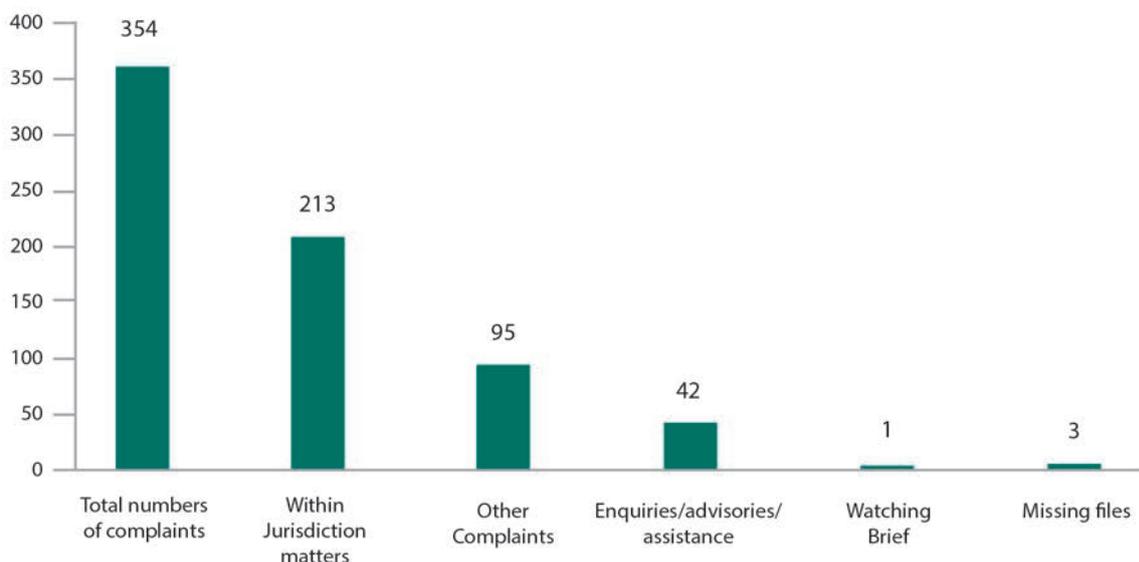
# Goal 1 - Monitoring, Investigations and Compliance

Monitoring, Investigations and Compliance are core functions of the Commission. Section 45 (4) (c) and (e) of the Fijian Constitution and section 12(1) (j) of the Human Rights and Anti-Discrimination Commission Act confers to the Commission the powers to investigate allegations of contraventions of human rights as well as allegations of unfair discrimination either on its own motion or on the basis of a complaint by individuals, groups or institutions on their behalf or on behalf of others.

Section 45(5) of the Fijian Constitution provides that any person has the right to lodge a complaint with the Commission alleging that a right or freedom guaranteed under the Constitution has been denied, violated or infringed, or is threatened. Furthermore, section 45 (4) (e) of the Constitution and section 12 (1) (k) of the Human Rights and Anti-Discrimination Commission Act empowers the Commission to secure appropriate redress if human rights have been violated through conciliation or making application to court for redress or for other forms of relief or remedies.

A total of 324 files were opened in 2017. This included complaints in relation to the alleged breach of the constitutional provisions under chapter 2 – Bill of Rights, breaches of the Crimes Act, court directives to the Commission, requests for judicial redress and amicus applications, enquiries, clients seeking advice and assistance of the Commission as well as matters that were classified as ‘watching brief’ where complainants had copied the Commission in their letter of complaint to other institutions. Upon assessment, it was established that some complaints were inter-sectional in nature. In fact, these complaints had more than one human rights infringement. The total number of complaints received by the Commission in 2017 was **354**.

**Section 45(5) of the Fijian Constitution provides that any person has the right to lodge a complaint with the Commission alleging that a right or freedom guaranteed under the Constitution has been denied, violated or infringed, or is threatened.**



## Tabulation of complaints received in 2017

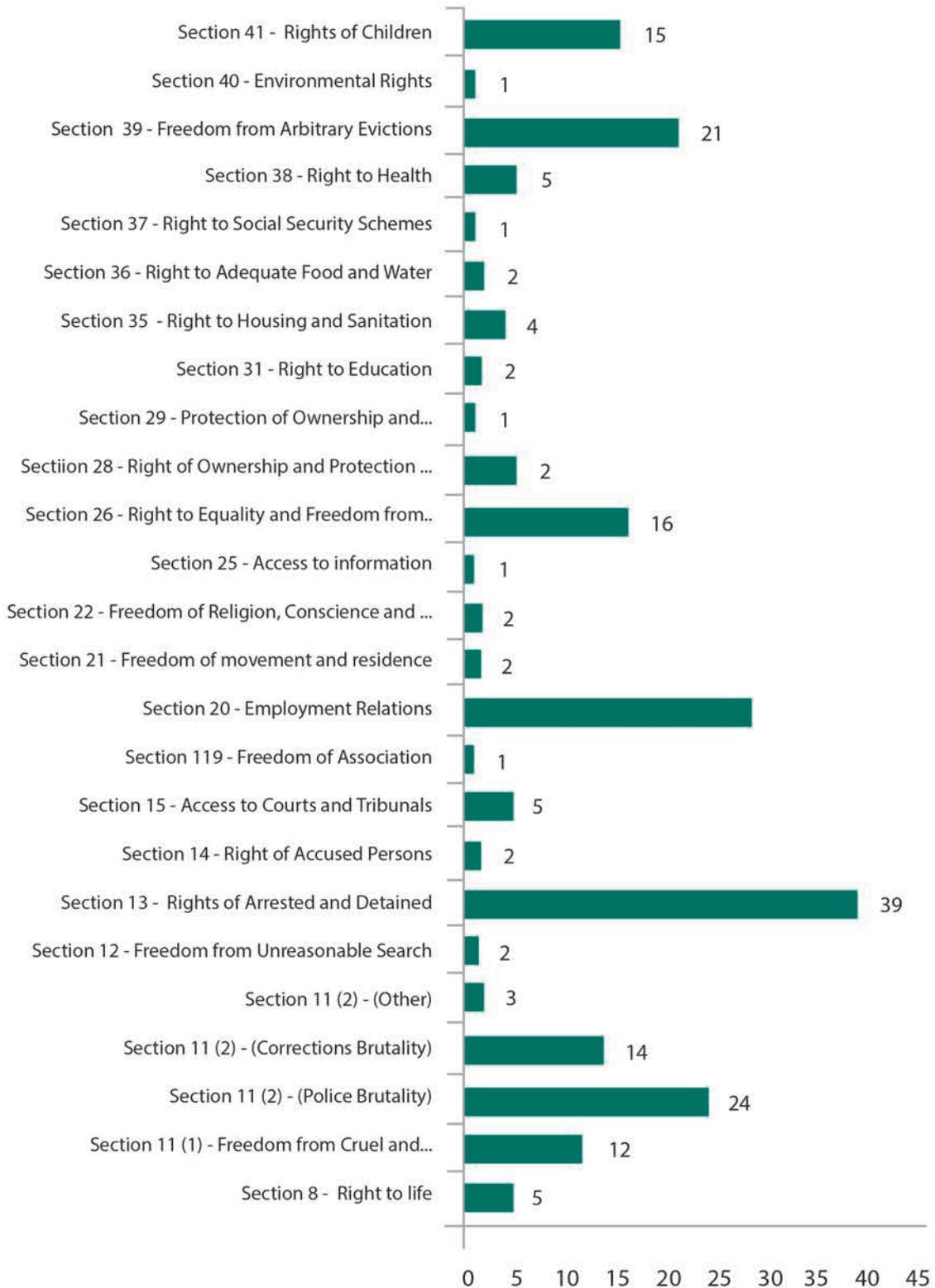
	No of cases
Total number of complaints (includes enquiries, advisories, assistance sought and watching brief)	354
Within Jurisdiction matters (In breach of Constitutional provisions, Human Rights and Anti-Discrimination Act and other human rights related legal provisions)	213
Other Complaints	95
Enquiries/advisories/assistance sought	42
Watching Brief	1
Missing files	3

The number of complaints received by the Commission is indicative of the gradual restoration of public confidence in the national human rights institution since its resuscitation in 2016.

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## Complaints of infraction of rights guaranteed under the Fijian Constitution



## Nature of Complaints:

### Section 8 – Right to Life

The Commission received 5 complaints of alleged breach of section 8 of the Fijian Constitution on the right to life. In one of the cases, a suspect was found dead while in police custody at the Nakasi Police Station. The Commission conducted its independent investigations and pursuant to the Inquests Act [Cap 46] made a request for an inquest. In another case, a complainant alleged that her baby died due to negligence of nurses at a government hospital in the Western Division. The Commission brought the issue to the attention of the Ministry of Health and Medical Services and the complainant chose to file a civil law suit. The Commission also received a complaint from an inmate in a corrections facility who went on hunger strike. The matter was resolved by the Fiji Corrections Service. In another matter, a complainant alleged that his son had passed away at the Korovou Corrections Centre. Official responses were sought from the Fiji Corrections Services, the Fiji Police Force and medical records including death certificate to ascertain the cause of death. The Commission also received concerns against the sale of pesticides by traders from an aggrieved mother who had lost her son to suicide.

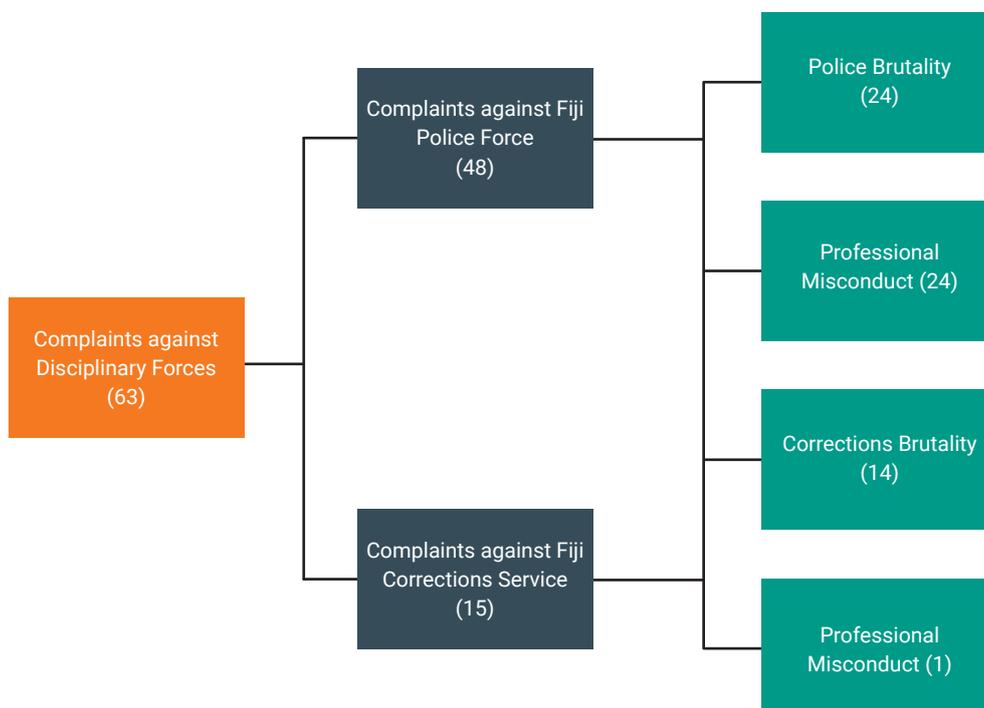
### Section 11 (1) – Freedom from Cruel and Degrading Treatment

The Commission received 11 complaints in breach of section 11(1). In one of the cases, the female complainant was strip-searched by police in the presence of a male police officer. In another case, a complainant alleged cruel and degrading treatment by her in-laws. This attests to the significance of a broader definition of torture in the Fijian Constitution which is not restricted to the state and the public sphere. The Commission also received complaints from inmates alleging solitary confinement without any reason and torture by Corrections Officers. In a similar matter against the Corrections Service, it was alleged that an accused was remanded for 20 days, allowed to shower once a day only, given one meal a day, verbally abused and subjected to sexual harassment.

#### DID YOU KNOW?

Human Rights and Anti-Discrimination Commission Act empowers the Commission to secure appropriate redress if human rights have been violated.

### Complaints against Disciplinary Services



## **Section 11 (2) – Right to Security and Freedom from violence (Police Brutality)**

The Commission received 24 complaints in breach of section 11(2) of the Fijian Constitution. Allegations included assault, including minors during arrest and assault while in custody resulting in physical injuries sustained by complainants.

### **Professional misconduct (Police)**

The Commission received 24 complaints from individuals against the conduct of the Fiji Police Force. The nature of complaints received by the Commission included allegations of police inaction in dealing with complaints including laying charges, delay by the Police in initiating investigations, complaints of bias in the course of investigations, allegations that the police has not released personal items with religious and cultural significance belonging to a complainant kept as an exhibit and harassment by police officers.

## **Section 11 (2) – Right to Security and Freedom from violence (Corrections Brutality)**

The Commission received 14 complaints from inmates at various correction facilities claiming brutality by correction officers. The nature of brutality included physical assaults. Consistent with the requirements set out under section 32 of the Human Rights and Anti-Discrimination Commission Act, the Commission has brought these allegations to the attention of the Commissioner of Corrections and requested for independent investigations while the Commission conducted its own independent investigations to ascertain the veracity of these claims. The Commission is required by the Fiji Corrections Services to make a written request for visitation to respective correction facilities.

### **Professional misconduct (Corrections)**

The Commission received a complaint of professional misconduct against Fiji Corrections Services in a matter where an inmate alleged that the negligence of correction officers resulted in the delay in dispatch of his appeal papers which consequently resulted in the inmates appeal being struck-out.

## **Section 11 (2) – Right to Security and Freedom from violence (Others)**

The Commission received three complaints from individuals in a state of incarceration. In all cases, it was alleged that the complainants were assaulted by fellow inmates.

### **Section 12 – Freedom from unreasonable search and seizure**

The Commission received two complaints in breach of section 12 of the Fijian Constitution. In the first case, it was alleged that the complainant was searched without any reason. In the second matter, it was alleged that the complainant's family was harassed by the Drug Unit of the Fiji Police Force at the Sigatoka Police Station and that the complainant's house was searched by plain-clothed officers without a search warrant. The complainant's wife was allegedly sworn at and strip-searched by officers in their house. It was further alleged that the complainant's baby was also strip-searched and money to the sum of \$200.00 went missing after the raid by Police.

### **Section 13 – Rights of Arrested and Detained Persons**

The Commission received thirty nine complaints in breach of section 13 of the Fijian Constitution. In most cases, the complainants raised the deplorable condition of cell blocks. Other matters included the relatives of arrested and detained persons being denied visitation rights, obstruction of requests made to the Commission to visit inmates at Correction Centres, next of kin not informed of the complainant's arrest, complaints of being detained for more than 48 hours, suspects abused by fellow inmates while in police custody, inmates detained at Correction Centres not provided meals as well. Referrals were also made to the Commission by the Office of the Attorney General in relation to allegations of human rights abuse at the Natabua Corrections Centre.

### **Section 14 – Rights of accused persons**

The Commission received two complaints in relation to section 14 of the Fijian Constitution. It was alleged that the accused persons were detained for more than 48 hours in both matters.

## Section 15 – Access to Courts of tribunals

The Commission received five complaints in relation to section 15 of the Fijian Constitution. Nature of complaints included complainants approaching the Commission for legal representation, concern over counsel's failure to appear in Court as well as allegations that the Legal Aid Commission declined a complainant's application for legal representation.

## Section 19 – Freedom of Association

The Commission received a complaint where the complainant alleged that the police closed a meeting on the grounds that they did not possess the necessary permits.

## Section 20 – Employment Relations

The Commission received twenty eight complaints in relation to the breach of section 20 of the Fijian Constitution. Allegations included termination from employment, a public servant allegedly paid only 50% of salary owed to him since 2012, unfair terminations from employment, harassment, failure of an employer to reinstate an employee after the dismissal of a case against the employee by the Court, employers not abiding by the minimum wage order, employees receiving injuries during working hours, advertisement of complainants photograph in the newspapers by employer, non-provision of protective clothing and equipment, ill-treatment by employer during pregnancy and workplace bullying.

## Section 21 – Freedom of movement and residence

The Commission received two complaints in breach of section 21 of the Fijian Constitution. It was alleged that the complainant was terminated from service and told not to set foot in Levuka by the Police. In a separate matter, a Turaga ni Koro obtained a Domestic Violence Restraining Order, which the complainant alleged imposed restrictions on their daily lives.

## Section 22 – Freedom of Religion, conscience and belief

The Commission received two complaints in breach of section 22 of the Fijian Constitution. It is alleged that an inmate was denied his right to religion. In another matter, it is alleged that the Prisons Chaplain

stopped some Church elders from conducting church service at the Prisons. Foreign nationals serving terms also raised concerns with the Commission during prison visits about non-provisioning of a designated place of worship. These concerns were intimated to prison authorities and adequately addressed.

## Section 25 – Access to information

The Commission received a complaint in breach of section 25. The complainant alleged that the Housing Authority failed to provide accurate information in relation to a house she had bought.

## Section 26 – Right to equality and freedom from discrimination

The Commission received fifteen complaints in relation to a breach of section 26 of the Fijian Constitution. In most cases, the complainants alleged that they were discriminated against on the basis of their sexual orientation, denial of the right to education based on adverse criminal record, allegations of denial of visitation rights by the Women Corrections Centre to a mother due to her adverse criminal record, racial remarks made against suspects while in police custody. In another matter a complainant alleged that he was accused of having a sexual relations with a person of same sex by his landlord and a customer alleged that she was declined a credit card by her bankers due to the age.

## Section 28 – Rights of ownership and protection of iTaukei, Rotuman and Banaban lands

The Commission received five complaints in breach of section 28 of the Fijian Constitution. In most of the cases it was alleged that customary lands were being sold without the knowledge or consent of the landowners. The Commission was also in receipt of a complaint against a legal counsel whose failure to act in the best interest of the client resulted in the customary lands belonging to the complainant being sold to a third-party; and a complainant alleged that a piece of land parcel classified as cemetery reserve was transferred to a company.

## Section 29 – Protection of ownership and interests in land

The Commission received a complaint in breach of section 29. It was alleged that the neighbour of the complainant erected a structure for the purposes

of operating a community hall. A portion of the structure was allegedly encroaching on the driveway of the complainant making it unsafe for him to access his place of residence.

### **Section 31 – Right to education**

The Commission received two complaints in relation to the breach of section 31 of the Fijian Constitution. A complainant alleged that he was denied the right to education due to his adverse criminal conviction and age. The Commission also received a complaint that a state-funded school was charging levy when the state was providing grant to schools.

### **Section 35 – Right to housing and sanitation**

The Commission received four complaints in breach of section 35 of the Fijian Constitution. An individual sought the Commission's assistance with approaching the Department of Social Welfare for assistance with housing. The Commission was also approached by individuals seeking an extension of time to vacate after being issued with Court Orders to vacate. An individual also alleged that the Ministry of Lands was not issuing him with a lease.

### **Section 36 – Right to adequate food and water**

The Commission received two complaints in breach of section 36 of the Fijian Constitution. An individual approached the Commission, requesting for groceries and shelter. A church member also approached the Commission after the electricity and water supply to the church was disconnected.

### **Section 37 – Right to social security schemes**

The Commission received a complaint in breach of section 37 of the Fijian Constitution where an applicant's application for education funding was rejected by the Fiji National Provident Fund.

### **Section 38 – Right to Health**

The Commission received five complaints in breach of section 38 of the Fijian Constitution. A parent alleged that a school canteen in Nadi was selling unhealthy food. In other matters, a complainant alleged that the cost of dialysis in Fiji is high, concerns were raised that a patient was allegedly over-dosed with medication.

The Commission also received complaints of medical negligence at the hands of health professionals. In one case, medical negligence led to the death of a baby in a public hospital. An individual also alleged that his application for medical treatment abroad was declined by an insurance broker.

### **Section 39 – Freedom from arbitrary evictions**

The Commission received twenty one complaints in breach of section 39 of the Fijian Constitution. Nature of complaints included property disputes within families resulting in arbitrary evictions, allegations against iTLTB, Ministry of Lands, and Fiji Roads Authority of threatening tenants with evictions. The Commission also received complaints by tenants allegedly locked out of their flats by landlords as well as allegations that 'village headman' threatened a villager with eviction.

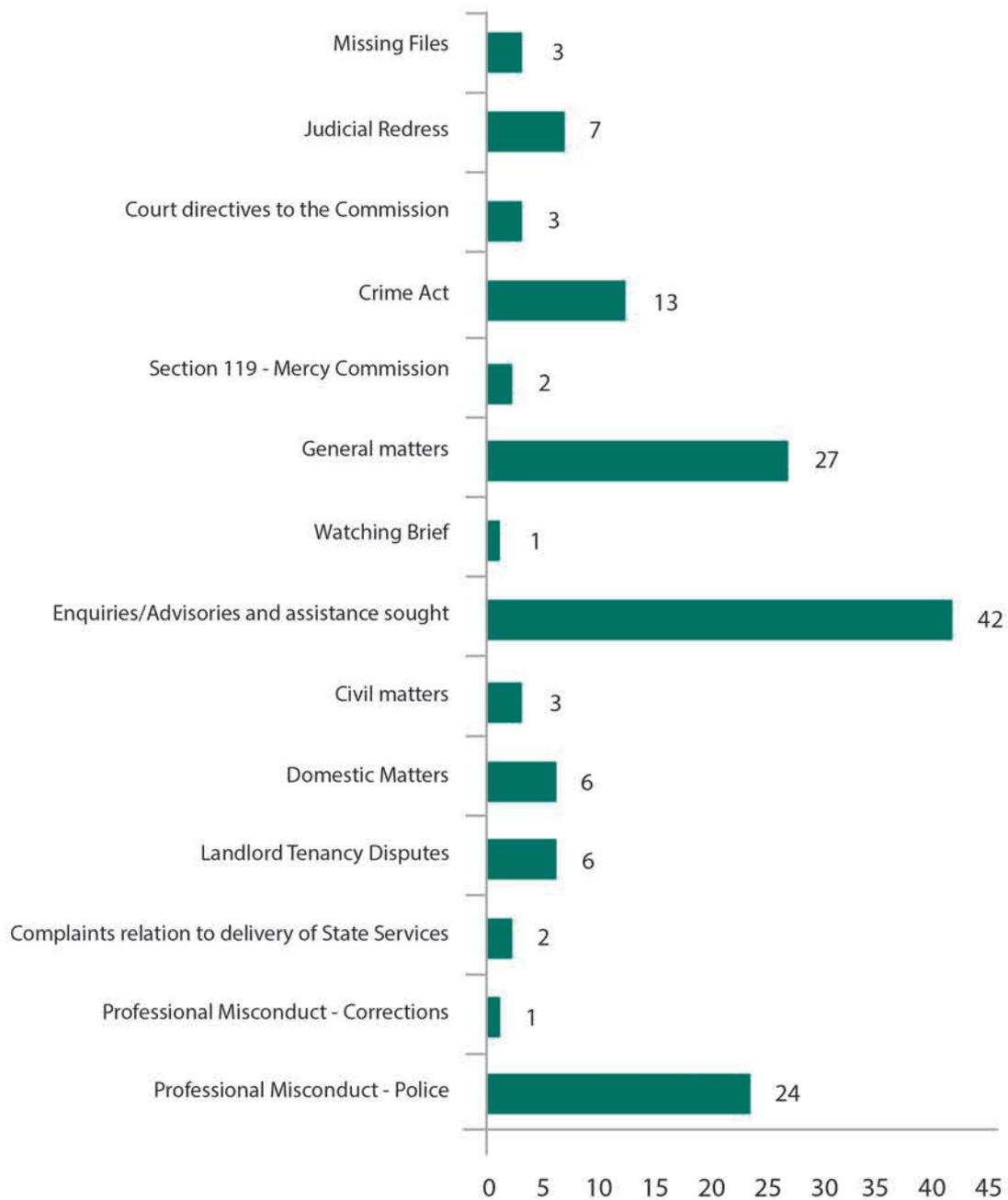
### **Section 40 – Environmental Rights**

The Commission received a complaint in relation to a breach of section 40 of the Fijian Constitution where the complainant alleged that the Fiji Electricity Authority caused an oil spillage which was harmful to the environment.

### **Section 41 - Rights of Children**

The Commission received fifteen complaints in relation to section 41 of the Fijian Constitution. Nature of complaints pertain to child custody, police brutality on teenagers, a case of bullying and assault at a prominent boarding school, allegations of abuse by teachers, suspension of students from school for being in possession of drugs, parental neglect as well as children subjected to harmful cultural practices. The Commission also received a complaint that three police officers allegedly assaulted a 15 year old child with special needs. In another incident, a 3-4 year old child was physically assaulted by her father. The incident was witnessed by the Commission Director and the matter was subsequently reported to Police.

## Illustration of other complaints received by the Commission



The Commission received three official directives from the Lautoka High Court in three separate cases to inspect and report on the conditions of the Natabua Remand Centre. Officers from the Commissions complaints section conducted the inspection. A report on the findings of the Commission was filed at the Lautoka High Court.

### **Amicus / Constitutional Redress requests**

The Commission received seven requests from inmates for assistance with filing judicial redress applications as well as making representation in the High Court on behalf of inmates as Amicus Curie. The Commission received requests from inmates who were not satisfied with the decision of the Court to assist them seek a review of their sentence.

### **Section 119 of the Fijian Constitution and matters within the jurisdiction of the Mercy Commission.**

The Commission received two complaints from inmates. In the first case, it was alleged that the complainant was serving an additional 8 months in prison. In the second matter, the complainant requested for a review of his sentence.

### **Crimes Act**

The Commission received thirteen complaints from individuals which fell under the ambit of the Crimes Act. The nature of these allegations included disputes between neighbours, allegations of assault, cases of fraud in the private sector, allegations of unauthorised withdrawal of funds by state agencies, cases of sexual assault, arson by employees as well as theft of personal property. The Commission also received a complaint from a resident at the Thurston Street in Suva alleging that sex workers were conducting business in front of a church and his place of residence. In a separate matter, the Commission received a complaint from an inmate alleging that he was assaulted and raped by Correction Officers. The Commission initiated an investigation into the allegations and the matter was subsequently referred to the Legal Department of the Commission for litigation.

### **Complaints in relation to the delivery of state services**

The Commission received two complaints from

individuals alleging poor delivery of state services. These included a complaint against a public hospital allegations included a complaint about a surgery conducted at a public hospital in the Northern division as well as a complaint of false promises made by state actors. It was alleged that the Fiji Roads Authority failed to construct road access for the villagers of Wainilotulevu as promised.

### **Landlord/Tenancy Disputes**

The Commission received six complaints of disputes between landlords and tenants. The nature of complaints entailed allegations of poor condition of rental flats, criminal intimidation by tenants, illegal occupation of flats as well as disconnection of water supply and electricity by landlords.

### **Cases of domestic disputes received by the Commission**

The Commission received six complaints that were in relation to family disputes, maintenance, reconciliation following the issuance of Domestic Violence Restraining Order (DVRO) and non-provisioning of parental-support.

### **Civil matters brought before the Commission**

The Commission received three complaints that, upon assessment, were classified as civil matters. The nature of these complaints included allegations of civil disputes already before Courts and compensation sought for sustaining injuries at work.

### **Enquiries, Advisories and Assistance sought from the Commission**

The Commission received forty two enquiries, advisories and requests for assistance. The nature of these advisories included land issues, rights of sex workers, child custody, unfair conduct of financial institutions, issues in relation to the Domestic Violence Restraining Orders, advice in relation to members of the public sustaining injuries while travelling in public service vehicles, evictions proceedings, maintenance issues, superiors asking subordinates for personal

mobile numbers in workplace settings and assistance sought by the residents of housing and relief trust.

Assistance of the Commission was also sought with facilitating the surrender of a suspect to the Police.

In other matters, individuals sought the assistance of the Commission with claiming property shares, interviewing suspects in custody, legal representations as well as requests to the Commission to visit inmates at Correction Centres.

### Watching Brief

Complaints for which individuals copied the Commission in their letters of complaint to independent institutions of justice were classified as watching brief. These matters were not directly referred to the Commission barring one which entailed the inhumane treatment of an individual by Police. This matter was dealt with by the private solicitors of the aggrieved.

### General matters

The Commission received twenty seven complaints classified as general matters due to the nature of the allegations. These complaints included advertisement of notices on the employment status of former employees, taxi permit renewal matters, unauthorised use of images for promotional purposes, complaint in relation to houses infested with termites, non-approval of application by the Department of Immigration, non-approval of tourist visas by consulates as well as a complaint against the professional misconduct of financial institutions coercing individuals to endorse summons while on sick leave.

YOU  
ARE

Neither Greater  
Nor Lesser  
but EQUAL:  
Dignity,  
Equality  
and Freedom  
for all in Fiji

## Goal 2: Litigation and Policy Analysis

Pursuant to section 45 (4) (d) of the Fijian Constitution, the Commission is mandated to make recommendations to Government concerning matters affecting the rights and freedoms recognised under the Bill of Rights, including recommendations concerning existing or proposed laws. As per section 45(4)(e) of the Constitution, the Commission is also responsible for receiving and investigating complaints in relation to alleged abuses of human rights and takes steps to secure appropriate redress if human rights have been violated, including making applications to court for redress or for other forms of relief or remedies.

In materialising this, the Director made two submissions to parliamentary committees in 2017 while five cases of alleged human rights violations were taken to court for redress. The cases were in relation to rights of children, freedom from cruel and degrading treatment, rights of arrested and detained persons and freedom from arbitrary evictions.

### Parliamentary Submissions

#### Submission to the Parliamentary Standing Committee on Public Accounts on 28 March in relation to the findings of the 2014 Report of the Auditor General

Under Section 12 on Accountability, Transparency, Human Rights and Anti-Discrimination Commission of the report, section 12.1 states that:

*“The audit of the 2014 financial statement of the Accountability, Transparency, Human Rights and Anti-Discrimination Commission resulted in the issue of an **unqualified audit report**”.*

While the Commission welcomes the findings of the 2014 financial audit that there are no anomalies in the operations audit of the Commission, it equally acknowledges the Auditor General’s findings that in the absence of a Chairperson, Commissioners and a substantive Director, the Commission has not undertaken a Financial Audit since 2008.

Section 45(2) of the Human Rights Commission

Act expressly provides that “with the prior written approval of the Minister, any Commissioner may from time to time, by writing under his or her hand, delegate to any employee of the Commission any of the Commissioner’s powers under this Act, **except this power of delegation and the power to make any report under this Act**”. Furthermore, pursuant to part 15 of the Human Rights Commission Finance Manual, the responsibility of the preparation of financial reports is assigned to the Director, the Deputy Director and Accountant. Procedurally, the Deputy Director is responsible for coordinating the preparation of a monthly management report outlining the performance of the Commission including the formulation of a financial performance report. The Accountant of the Commission is required to submit a financial performance report including (i) actual revenue collected against forecast (ii) actual expenditure to date against budget for each activity/output and each SEG (iii) actual expenditure to date and commitments against budget for each output/activity and each SEG.

Since 2008, however, the Commission has been functioning without a Chairperson and Commissioners. The Commission was without a Director and Deputy Director in 2009. The Principal Legal Officer assumed the responsibilities of the Officer-in-Charge in 2009 until 2011 when the Accountant took over the responsibilities of the Officer-in-Charge. It is imperative to note that since 2008, the officers of the Commission have failed to comply with the requirements of the Finance Manual. The Commission, however, has had periodic Operation’s Audit conducted by the Auditor General. The last Operations Audit was conducted in 2014 and the next is scheduled for later this year.

Pursuant to section 45 (2) of the Fijian Constitution, the President on the advice of the Constitutional Offices Commission appointed a Chairperson and four Human Rights Commissioners in May 2015. In February 2016, the Board appointed a substantive Director.

Following these appointments, the Commission conducted a full ‘board of survey’ in 2016 verifying the existence and physical health of all assets dating back to 1999. The Board of Survey reported missing items for which the Commission had instituted disciplinary proceedings including the termination of contract of service for three staff. Furthermore, the Commission had also conducted an Audit of

the complaints department in 2016 which revealed understatement of complaints received by the Commission. Assistance was also sought from the Fiji Revenue and Customs Service to audit the Commission's accounting software. The Commission, therefore, has made serious efforts in strengthening institutional governance since the appointment of the Commissioners and the Director.

## Way Forward

In order to comply with the national legislations on financial accountability, the Commission will appoint a qualified internal auditor on project term who will undertake the responsibility of preparing the financials and submission to the Office of the Auditor General. The appointment will be made by June 2017. The timelines are as follows:

Year	Targets
2008 financials	30 November 2017 – submit to Board 15 December 2017 – submit to OAG
2009 financials	08 June 2018 – submit to Board 29 June 2018 – submit to OAG
2010 financials	30 November 2018 – submit to Board 21 December 2018 – submit to OAG
2011 financials	12 April 2019 – submit to Board 26 April 2019 – submit to OAG
2012 financials	09 August 2019 – submit to Board 30 August 2019 – submit to OAG
2013 financials	06 December 2019 – submit to Board 20 December 2019 – submit to OAG
2014 financials	10 April 2020 – submit to Board 01 May 2020 – submit to OAG
2015 financials	07 August 2020 – submit to Board 28 August 2020 – submit to OAG
2016 financials	04 December 2020 – submit to the Board 22 December 2020 – submit to OAG

Furthermore, the Commission has formulated a financial manual. By 2020, the Commission envisages to fully implement a standardised financial reporting

mechanism compliant with International Financial Reporting Standards and national legislations.

## 12.2 Statements of Receipts and Expenditure

### Commission's Comments

The Commission made a budget submission of \$1,285,070.00 in 2014. Only \$550,000.00 was approved by the Government which was sufficient to cater for operational expenses.

Following the appointment of the Commission Board in May 2015 and its substantive Director in February 2016, the Government approved 100% of the Commission's budget requisition of \$1,492,000.00 for the financial year 2016/17.

The Commission concurs with the findings of the Auditor General that in 2014 there was an increase in operating grants and transfers by \$137,500.00. This is a result of full disbursement of budgeted funds to the Human Rights and Anti-Discrimination Commission. The budgeted fund was not fully disbursed to the Commission in 2013.

## 12.3 Appropriation Statement

### Commission's Comments

The re-deployment of \$735,070.00 from the Commission's budget resulted in the Government disbursing \$550,000.00 to the Commission under Special Expenditure Grouping (SEG 6) – one line budget.

Following the announcement of the 2014 Budget by the Minister of Finance, the Commission had to re-strategize its objectives to ensure that the proposed expenditure did not exceed the budgetary allocation of \$550,000.00. Complaints investigations & resolutions and education advocacy were prioritised as targets for 2014.

### Grants to the Commission

Pursuant to section 45(11) of the Fijian Constitution which provides that "Parliament shall ensure that adequate funding and resources are made available to the Commission, to enable it to independently and effectively exercise its powers and perform its functions and duties". Subsection (12) further provides

that “The Commission shall have control of its own budget and finances, as approved by Parliament”.

The Commission submitted quarterly returns to its line Ministry – the Office of the Prime Minister to secure disbursement of grants to the Commission. The returns included:

- Quarterly Acquittal Returns
- Activity/Achievement Report and
- Quarterly Operational Plan

The Human Rights and Anti-Discrimination Commission is fully committed to the principles of good governance, accountability and transparency and will ensure that the Commission will undertake a financial audit for the period 2008-2016 as outlined in its submission to the Parliamentary Standing Committee on Public Accounts.

## Submission on Parliamentary Powers and Privileges, Bill No 28 of 2016

### Clause 24 of the Parliamentary Powers and Privileges Bill under scrutiny

18 May 2017

In his submission to the Parliamentary Standing Committee on Justice, Law and Human Rights, the Director submitted that the contention over Clause 24 on defamation underscores an inherent tension within human rights between freedom of expression and the right to reputation.

Freedom of expression does not confer an unlimited right to make statements that adversely affects another’s reputation. Conversely, the right to reputation does not warrant an unconditional and complete protection against all critical statements precisely because of the nature of the institution in which such statements are made and the subject position one occupies.

Balancing the two seemingly diabolically opposed but mutually constitutive rights, the Director submitted, will be critical in ensuring that there is no chilling effect on our ability to exercise freedom of expression whether they are members of parliament with various ideological or political dispositions, the media or ordinary citizens while also protecting the right to

reputation. “Preferential framing”, where one right trumps over the other, as one of the legal scholars in the columns of American University International Law Review astutely reminds us is a fundamental problem given the indivisibility of human rights. The doctrine of “Praktische Konkordance [practical concordance]” emanating from the jurisprudence of the German Constitutional Court on balancing these two rights, he has argued, is instructive.

Section 17 of the Constitution while affirming freedom of expression also provides for justifiable limitations of these rights. In particular, the Director made reference to section 17 (3) of the Fijian Constitution which expressly provides that to the extent that is necessary, a law may limit, or may authorize the limitation of the rights and freedoms mentioned in subsection 1 in the interests of –

(b) the protection or maintenance of the reputation, privacy, dignity, rights or freedoms of other persons including-

(i) the right to be free from of hate speech whether directed against individuals or groups;

(ii) the rights of persons injured by inaccurate or offensive media reports to have a correction published on reasonable conditions established by law.

Furthermore, section 17(3)(d) also states that a law may limit rights and freedoms mentioned in subsection 1 in the interests of preventing attacks on the dignity of individuals, groups of individuals or respected offices or institutions in a manner likely to promote ill will between ethnic or religious groups or the oppression of or discrimination against any persons or groups of persons. The principles enunciated and the limitations set out under section 17 of the Constitution are not a state of exception.

The Director also submitted citing literature on the jurisprudential development in cases of defamation before the European Court for Human Rights showed that the Court recognises that the right to reputation as not merely a private interest but that the right to protect one’s reputation constituted an essential element of the right to respect for one’s private life conferring the two Convention rights equal value and equally underscoring the important role of an independent Court . into account of both human rights on an equal footing and balancing

public's interest in being informed and the right to reputation.

One of the fundamental questions that needed to be asked in relation to clause 24 is about the enforcement agency for this Bill and precisely which authority would decide on the conviction? Is it the parliament that will convict under section 24 or is it the High Court? What are the fundamental rights to appeal? Where does one appeal if conviction is done by Parliament? Is it the High Court or the Court of Appeal? Can accused persons make statements through their lawyers at committee hearings? The ambivalence arises precisely because clause 7 provides that the parliament and its committees have the same powers as the High Court to summon witnesses and compel the production of documents as required for proceedings.

There would be an obvious conflict of interest and a possible abuse of power if the institution or individual whose rights and reputation has been under attack were the one that is also deciding on the penal liabilities. Furthermore, the adjudicating authority needs to develop a legal reasoning that is clear, consistent and transparent with thresholds in establishing the limits of acceptable criticism – in other words- delineating what constitutes a grave transgression and what is within the permissible bounds of the law as a legitimate act of democratic dissent. A clear distinction also needs to be made between statements made in relation to an individual's dignity and those that might harm the nation at large.

Citing the jurisprudence on freedom of expression, the Director submitted that there was a need to develop clear, transparent and consistent tests to examine statements that are considered to have the effect of “defaming”, “demeaning” or “undermining” the institution of Parliament, the Speaker or its committees. These tests should at the very least consider the following:

- (1) the content
- (2) the context
- (3) the tone
- (4) the form of statement
- (5) impact of the statement as there might be statements that could be construed as polemical but not necessarily beyond the normal acts of provocation whether it be a member of opposition or the media.

on the Director also stressed the need to develop

tests that disambiguate facts from value judgment as well as tests that determine what constitutes “general interest” or “public interest” in the context of a contestation over claims that a certain statement is deemed to have the effect of “defaming, demeaning or undermining” or indeed may not be the case because it is in the “general interest” of the public to know. The adjudicating authority must also consider whether rights were exercised in a responsible manner with responsibilities prescribed by law such as the code of ethics.

The **principle of equality before the law** means that the laws pertaining to defamation, freedom of expression and the right to reputation would apply consistently to all in Parliament regardless of their status. In any adjudication of defamation, particular attention must also be drawn to additional rights under the law. The Fijian Constitution under section 17(3)(c), for instance, limits freedom of expression in the interests of preventing the disclosure, as appropriate, of information received in confidence. There needs to be greater discussion about the scope and the intent of clause 24 in relation to the protection of whistleblowers.

Director stated that it was essential to strike a balance between the conflicting legitimate interests involved between freedom of expression and protection of reputation and to determine what legal standards should be applied. This would be integral in protecting fundamental rights and freedoms guaranteed not only under the Fijian Constitution but international human rights law.

### **Statement of the Human Rights and Anti-Discriminations Commission in Response to the Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Fiji**

The visit by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance is particularly significant given the primacy of race in Fiji's political history. Either as colonialism's patrimony or as a technique of governmentality deployed in the post-independence political itinerary in the struggle between parity and privilege, the ‘floating signifier’ of race remains thoroughly etched in our political consciousness as

evidenced by the recent debate over whether Fiji has a history of institutionalized racism and the ensuing proliferation of hate speech in the social media. The Human Rights and Anti-Discrimination Commission welcomes both the visit of the Special Rapporteur as well as his independent report.

The report of the Special rapporteur underscores the fundamental role of the Commission in providing the institutional framework for combating racism and discrimination that not only provides policy guidance to Government but also in monitoring compliance by the State with its treaty obligations under CERD, educating the public about human rights and freedoms as well as receiving and investigating complaints and providing assistance and guidance to victims of alleged acts of racism and discrimination. The Commission fully concurs with the recommendations of the Special Rapporteur that the Commission must be strengthened to meet the requirements of the Paris Principles and regain its accreditation status with the Global Alliance of National Human Rights Institutions (GANHRI). To this end, the Commission is working towards its accreditation under the guidance of the Asia-Pacific Forum of National Human Rights Institutions (APF) as well as the Global Alliance of National Human Rights Institutions (GANHRI) and will submit its application for accreditation this year.

In welcoming the recommendation by the Special Rapporteur that the Commission must be accorded with the necessary resources to ensure that it can function properly and secure the necessary confidence and legitimacy of relevant actors, the Commission submits that the independence of the Commission is constitutionally guaranteed under section 45(7). Furthermore, pursuant to section 45 (11) of the Constitution, the Commission is adequately funded to discharge its constitutionally mandated roles, responsibilities and functions. To this end, it is imperative to note that the Commission has control of its own budget and finances as approved by Parliament.

For a national human rights institution whose accreditation has been suspended since 2007 and was dormant for nearly a decade, the Human Rights and Anti-Discrimination Commission has in the past year alone very publicly demonstrated its independence, commitment to upholding human rights and holding institutions to account. Indeed in the face of the most virulent attacks by political parties on the national

human rights institution for supporting a principled position that the Fijian Government took at the Human Rights Council against institutionalized racism, the Commission has intrepidly spoken out against racism culminating in the launch of the “Unite Against Racism” Campaign. Furthermore, the Commission has made policy level recommendations to the Parliamentary Standing Committee on Justice, Law and Human Rights in balancing freedom of expression and parliamentary powers and privileges and the right to be free from hate speech on prohibited grounds of discrimination set out under section 26 of the Constitution.

Hate speech in the guise of freedom of expression is not within the permissible narrative of the law. Both the Fijian Constitution and international law expressly prohibit hate speech. Neither should one right be preferentially framed to the detriment of another given the indivisibility of human rights and freedoms as well as the intersectional nature of discrimination. This was indeed affirmed by the UN High Commissioner for Human Rights in a statement issued on the International Day for the Elimination of Racial Discrimination this year where the Commissioner said:

*“...States have no excuse for allowing racism and xenophobia to fester, much less flourish. They have the legal obligation to prohibit and eliminate racial discrimination, to guarantee the right to everyone, no matter their race, colour, national or ethnic origin, to equality before the law. States should adopt legislation expressly prohibiting racist hate speech, including the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, and threats or incitement to violence. It is not an attack on free speech or the silencing of controversial ideas or criticism but recognition that the right to freedom of expression carries it with special duties and responsibilities”.*

The Commission recognizes the importance of education and advocacy in combating discrimination as well as in light of the recommendations of the Special Rapporteur on the right to education and is working with the Ministry of Education in embedding human rights education into the school curriculum. The Commission has also fulfilled its constitutional mandate in the following areas:

- Monitoring places of detention
- Addressing police brutality/independent investigations against Police
- Enforcement of the Convention Against

- Torture
- Human trafficking
- Role of amicus
- Freedom of expression and Freedom of Assembly
- Equality before the law and prohibited grounds of discrimination
- Human rights in times of natural disasters
- Rights of foreign nationals under detention
- Right to housing and freedom from arbitrary evictions
- Encouraging the State to show leadership in securing human rights internationally
- Submission to various Parliamentary Standing Committees

In taking full cognizance of the Special Rapporteur's recommendation on the importance of disaggregated data to measure progress made on the elimination of racism and racial discrimination while recognizing the potential for such data in reproducing a racialist episteme, the Commission welcomes the recommendation to include other markers of difference such as gender, age, sexual orientation, geography, income, access to social and economic services to fully appreciate the intersectional nature of discrimination and indivisibility of rights in combating racism and elects to adopt the alternative recommendation of approaching an independent research institution such as the Scanlon Foundation to undertake a national survey on discrimination.

The Commission welcomes the Special Rapporteurs recommendation that Government should promptly sign and ratify key international instruments and commends the Fijian Government for ratifying the Convention on the Rights of Persons with Disabilities and the Commission will continue to encourage Government to ratify other key international instruments such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights as well as the Convention against Discrimination in Education and the International Convention on the Rights of all Migrant Workers and Members of their Families. The Commission further undertakes to lead consultations and make recommendations on the passing of legislation specifically dealing with racial discrimination.

There are no human rights without human dignity and racism and racial discrimination is an assault on human dignity. The Commission recognizes

the need to create an ethos of constructive engagement with all stakeholders with disparate political proclivities and ideological dispositions in evacuating race from the vicissitudes of racism. To this end, the Commission welcomes the constructive report of the Special Rapporteur.

## Litigation and Constitutional Redress Applications

### Right to Freedom from Cruel and Degrading Treatment & Rights of Arrested and Detained Persons

The Proceedings Commissioner on behalf of [XXX] & The Proceedings Commissioner on behalf of the Human Rights & Anti-Discrimination Commission v The Attorney General of Fiji & The Commissioner of Fiji Police – Civil Action No HBC 249 of 2017

In this matter, [XXX], a 10 year old child was arrested without a warrant and his mother was not allowed by the arresting officer to accompany him to the police station. Whilst at the police station, [XXX] was physically assaulted by the arresting officer.

During the hearing, the Commission highlighted the following violation of [XXX's] Constitutional Rights that were sought as Declarations in the Notice of Motion:

- a. Freedom from Cruel and Degrading Treatment (Sections 11(1)&(2))
  - i. 11(1) which deals with the right to freedom from torture, whether physical mental or emotional and from cruel, inhumane or degrading treatment;
  - ii. 11(2) which deals with the rights to be free from any form of violence from any source, at home, school, work or in any other place.
- b. Rights of Arrested & Detained Persons (Section 13(1) in particular)
  - iii. 13(1)(d) which deals with the rights not to be compelled to make any confession or admission that could be used in evidence against that person);
  - iv. 13(1)(j) which deals with the conditions of detention that are consistent with

human dignity;

- c. Rights of Children (Section 41) in particular:
- iv. 41(1)(d) which deals with the rights to be protected from abuse, neglect, harmful cultural practices, any form of violence, inhumane treatment;
  - v. 41(1)(e) which deals with rights not to be detained except as a measure of last resort.

The Court found that [XXX] sustained injuries while in the custody of the police. The medical report attached to the Affidavit in Support of the Motion revealed that there were *tender on anterior abdominal wall and tender on right anterior thigh*.

The only argument put forward by the Respondents against the application was that there was an alternative remedy available to [XXX] and therefore he was not entitled to file for Constitutional Redress. This alternative remedy argument is based on Section 44(4) of the Constitution and is often used successfully by the Respondent in almost all the Constitutional Redress applications.

However, a significant statement by the Court which countered the alternative remedy argument above can be found in paragraph 19 of the judgment which is reproduced below:

*“...This is a country where the government is very much concerned about child rights. The person who arrested the child and assaulted him was an officer appointed to safeguard the rights and security of the people of this country. If the Court ignores severity of a matter of this nature and refused the application on the ground that the applicant has an adequate remedy it will open floodgates to people, especially the law enforcement officers to harass helpless citizens. For these reasons I am of the view that this is not a matter which the Court can refuse on the ground of availability of an adequate alternative remedy”*

After considering the facts and the circumstances of this case the Court declared that [XXX's] rights guaranteed by sections 11(1), 11(2) and 13(1)(d) of the Constitution were violated and accordingly ordered the Respondents to pay [XXX] the sum of \$25,000.00 and \$2,000.00 as costs of the application.

In relation to Article 41(d)(e), the Court found that there were no violation for the reason that the detention was only for few hours and he was then

taken for medical examination by another officer.

**Right to Freedom from Arbitrary Eviction ( Section 39) & Rights of Children (Section 41) -** The Proceedings Commissioner on behalf of [XXX] & The Proceedings Commissioner on behalf of the Human Rights & Anti-Discrimination Commission v [XXX] – Civil Action No HBM 51 of 2017

This matter arose from a rental dispute which led the landlord (the Respondent) to lock out [XXX] (the Applicant) and her family from the property.

The Respondent purportedly exercised his rights under the Distress for Rent Act to lock out the Applicant and her family.

It was highlighted by the Commission during the Hearing that there was a violation of Section 39 of the Constitution which states that ‘every person has the right to freedom from arbitrary evictions from his or her home or to have his or her home demolished, without an order of the Court made after considering all the relevant circumstances’.

The Court was of the view that Distress for Rent was not executed according to the requirement of the Distress for Rent Act. The Court had this to say:

*“...The manner in which re-entry was exercised was arbitrary as it was exercised in degrading and in human manner total disregard to vulnerable groups such as children, elderly as well as women. Such an act was done when a child was alone also a factor to be considered for arbitrary eviction. It was an embarrassing situation for a parent to find alternate accommodation in the night and also on a weekend.*

*The manner in which the said right to re-entry was exercised was arbitrary considering the time of the entry and also that there was only a child at home. Evicting a child from a house when that child was alone in the house around 5-6 pm itself was an inhuman and deplorable act that would make the re-entry as well as exercise of purported distress unlawful. Leaving a child without any supervision of an adult around 5-6 pm after even without informing the adults, was a total disregard to safety of the child and this a violation of Section 41(1)(d) of the Constitution and also failure to consider interest of child was also a violation Section 41(2) of the Constitution.”*

The Respondent was ordered to pay \$25,000.00 as compensation to the First Applicant and the Distress for Rent was stayed permanently.

The Respondent appealed the above order of the High Court. Although the Court of Appeal dismissed the appeal in its judgment delivered on 30th November 2018, it reduced the compensation to \$7,500.00.

**Right to Freedom from Cruel and Degrading Treatment & Rights of Arrested and Detained Persons** - The Proceedings Commissioner on behalf of [XXX] & The Proceedings Commissioner on behalf of the Human Rights & Anti-Discrimination Commission v The Attorney General of Fiji & The Commissioner of Fiji Corrections Service – Civil Action No HBC 356 of 2017

[XXX] was in remand and was alleged by the Respondents to have requested for contrabands from one of the Fiji Corrections Service officer and sent threatening text messages. He was transferred to Naboro Maximum Prison and was detained with two other convicted prisoners in the same cell. He claimed to have been sexually assaulted by the two convicted prisoners in the same cell.

During the Hearing, the Commission highlighted the following violation of [XXX's] Constitutional Rights that were sought as Declarations in the Notice of Motion:

- a. Freedom from Cruel and Degrading Treatment (Section 11(1))
  - ii. 11(1) which deals with the right to freedom from torture, whether physical mental or emotional and from cruel, inhumane or degrading treatment.
- b. Rights of arrested and detained persons (Section 13(1)(e))
  - iii. 13(1)(e) which deals with the right to be held separately from persons who are serving a sentence, and in the case of a child, to be kept separate from adults unless that is not in the best interests of the child.
  - iv. 13(1)(j) which deals with conditions of detention, adequate accommodation, nutrition and medical treatment.

On the evidence the Court found that [XXX's] right under section 13(1)(e) was violated when he was

detained with the two convicted prisoners.

The Court commented at paragraph 8 of the judgment as follows:

*“...in the Constitution there are no provisos to section 13(1)(e) which say that under certain circumstances these provisions can be ignored or violated. In my view under no circumstances the remand prisoner can be detained along with convicted prisoners. As submitted by the learned counsel for the applicants a person is presumed to be innocent until he is proven guilty. Remanding a person who is suspected of having committed a crime is not a punishment. Such a person is detained to assist the investigations and to facilitate the proper administration of justice.”*

The applicant was awarded \$500.00 as compensation and \$500.00 as costs of the application.

The Court, however, refused relief sought by the Commission under Articles 11(1) and 13(1)(j) of the Constitution.

**Access to Courts or Tribunals (Section 15(10))** – [XXX] v Legal Aid Commission & Ors – Civil Action No HBM 24 of 2017

[XXX] was charged in the Nadi Magistrates Court for Disorderly Conduct in the Police Station. He applied for constitutional redress in the Nadi Court for violations of his Constitutional Rights relating to sexual harassment and not being produced in Court on a certain date.

The Court ruled that it does not have the jurisdiction to hear redress application as the High Court was the appropriate forum. [XXX] sought Legal Aid representation to assist him in the filing of the redress application but was denied the same by the Legal Aid.

He applied for redress in person in the High Court claiming that his right to legal representation was denied by the Legal Aid which breached section 15(10) of the Constitution. Section 15(10) states that *“The State, through law and other measures, must provide legal aid through the Legal Aid Commission to those who cannot afford to pursue justice on the strength of their own resources, if injustice would otherwise result.”*

The Commission intervened into the proceedings as amicus.

The Respondents filed a Strike Out application under Order 18 Rule 18(1)(a)(b)(d) on the grounds:

- a. that the application does not disclose any

reasonable cause of action,

- b. it is scandalous, frivolous or vexatious; and
- c. it is an abuse of process of the Court.

The Court found that there was an alternative remedy available to [XXX] where he could have filed for Judicial Review against the decision of the Legal Aid in refusing [XXX's] request for legal representation. On this basis the Court was of the view that the redress application was an abuse of process and thereby dismissed the application.

The Court also found that there was no reasonable cause of action as [XXX] had filed the redress application under the assumption that the Magistrate had made an order for the Legal Aid to file a redress application on behalf of [XXX].

**Rights of Arrested and Detained Persons** - The Proceedings Commissioner on behalf of [XXX] & The Proceedings Commissioner on behalf of the Human Rights & Anti-Discrimination Commission v The Attorney General of Fiji & The Commissioner of Fiji Corrections Service – Civil Action No HBM 144 of 2017.

This matter was settled out of Court in the sum of \$40,000.00.

**Section 45(5) of the Fijian Constitution provides that any person has the right to lodge a complaint with the Commission alleging that a right or freedom guaranteed under the Constitution has been denied, violated or infringed, or is threatened.**

## Goal 3: Education, Advocacy and Communications



Human Rights and Anti-Discrimination Commission Director, Ashwin Raj addressed close to 100 women participants from the Eastern division about their right to economic participation.



Human Rights and Anti-Discrimination Commission Director, Ashwin Raj, Hon. Chief Justice, Anthony Gates, UN Resident Representative, Osnat Lubrani, Solicitor-General, Sharvada Sharma and Regional Representative of OHCHR, Dr Chitra Massey, at the reception of the Children in Conflict with the Law training for the judiciary, media and national human rights commission.



Stakeholders at the train the trainers' workshop to develop resources for Community Advocates for Human Rights and Access to Justice. L-R: Lindi Coetzee, Legal Educator from South Africa, Acting Director of the Legal Aid Commission (LAC), Shahin Ali, Director Human Rights and Anti-Discrimination Commission Ashwin Raj, Programme Manager, Access to Justice, Rule of Law and Human Rights, Christine Fowler and Legal Officer, Legal Aid Commission, Jo Nacola.

The Human Rights and Anti-Discrimination Commission is mandated under the Fijian Constitution to promote and develop a culture of human rights. Pursuant to section 45 (4) (a) and (b), the Commission conducted a number of advocacy initiatives throughout Fiji with diverse communities.

The Commission reached out to **18,873** Fijians in 2017 through advocacy programmes in schools, villages, informal settlements and communities and by engaging with civil society organisations, non-governmental organisations, faith-based organisations, youth groups and development partners to promote human rights education, in particular, reaching out to the vulnerable in remote and maritime areas.

One of the key activities carried out in 2017 was a series of public consultations engaging students, youths, persons living with disability, LGBT persons, religious and community leaders, sex workers, civil society organisations, women, and the elderly on human rights issues affecting them. Participants were provided a safe space to discuss their human rights concerns as well as made suggestions to the Commission about how the Commission could strengthen its public engagement and empower the public to better understand human rights issues. The Commission in collaboration with its development partners, United Nations Development Programme, Pacific Office (UNDP) and the Delegation of the European Union for the Pacific (EU), conducted a total of six public consultations. These included central, western and the northern division, taking human rights education directly to 290 persons. Of the 290 participants, 12 were persons with disabilities, consisting of 3 females and 9 males. There were 176 youth participants who represented a diverse group. In addition, the HRADC-UNDP/EU collaboration provided human rights advocacy training to 49 Fijians who had been working closely with vulnerable groups at grassroots level. These human rights advocates underwent training on the universal principles of human rights, as well as an orientation into the Bill of Rights of the Fijian Constitution. The Commission engaged the participants in robust discussions about how they could assist their community members to access the services provided by the Commission, in particular, lodging complaints about alleged human rights violations.

The Rights, Empowerment, and Cohesion for Rural and Urban Fijians (REACH) initiative aims to promote peace building, social cohesion and inclusiveness by awareness raising on the social,

economic and legal rights enshrined in the Fijian Constitution. The education and advocacy team of the Commission visited rural, remote and maritime areas under this initiative.

Human rights advocacy continued in schools throughout Fiji with the education/advocacy team visiting both urban and rural schools, educating students and teachers about their constitutional rights and as well as engaging in discussions about corporal punishment, bullying, sexual abuse, child rights, principles of non-discrimination, use of social media and hate speech, and the right to education.



Women's empowerment, social protection and human rights also remained a focus area in 2017. The Commission engaged with various women's groups and held discussions ranging from Fiji's obligations under the Convention on the elimination of all forms of discrimination against women to the rights guaranteed under the Fijian Constitution. Some of the issues raised during discussions included the right to education, privacy, domestic violence, cruel and degrading treatment, how to make an application for a Domestic Violence Restraining Order (DVRO) as well as accessing contraceptives at public healthcare facilities. Mainstream media and social media platforms were also used by the Commission informing and educating Fijians on emerging human rights issues.



## Engagement with Civil Society and Non-Governmental Organisations

These consultations have engendered a greater ethos of constructive engagement between the Commission and civil society as well as the general public which culminated in the celebration of International Human Rights Day.





Director HRADC Ashwin Raj, Country Director and Head of Pacific Regional Policy and Programme, Bakhodir Burkhanov and European Union Ambassador to Fiji and the Pacific, H.E Andrew Jacobs at the Access to Justice workshop in Suva



Interactive discussions on the Bill of Rights, Waterfront, Lautoka



Panelists at the Access to Justice workshop. ( L-R: Country Director and Head of Pacific Regional Policy and Programme, Bakhodir Burkhanov, Director HRADC Ashwin Raj, European Union Ambassador to Fiji and the Pacific, H.E Andrew Jacobs, Chief Justice, Judge Anthony Gates, Commissioner of Police Brigadier-General Sitiveni Qiliho and Director of Public Prosecutions, Christopher Pride.

## Public Consultations

The Commission held its first public consultation with civil society organisations in collaboration with UNDP and the EU on 17 February 2017, to raise awareness on the First –Hour- Procedure and video recording of caution interviews and Fiji’s obligations

following the ratification of the Convention against torture and other cruel inhuman or degrading treatment or punishment (UNCAT).

32 participants participated in the workshop, representing different organisations. These included: SEEP (Social Empowerment Education Programme); FDPF (Fiji Disabled Peoples Federation); FWRM (Fiji Women’s Rights Movement); CCF (Citizens Constitutional Forum); NCWF (National Council of Women Fiji); DIVA (Diverse Voices and action for Equality Fiji); Marketing and Communication Mentor (Fiji at Australian Volunteers International); APT (Association for the Prevention of Torture); FWCC (Fiji Women’s Crisis Centre); Fiji Police Force; SSVM (Soqosoqo Vakamarama); FNCDP (Fiji National Council for Disabled Persons); YC4MH (The Youth Champs 4 Mental Health); PYFFI (The Provincial Youth Forum of Fiji Islands); PCP (Pacific Centre for Peace Building); NYC; Dialogue Fiji; New Fiji; and Rainbow Pride Foundation.

The workshop was facilitated by the Access to Justice, Rule of Law and Human Rights program of the UNDP Pacific Office, Professor David McQuoid-Mason, President of the Commonwealth Legal Education Association at the University of KwaZulu-Natal in South Africa; and Jenny Bjerlestam, a UNDP Legal Aid specialist.

The UNDP country director, Mr. Bakhodir Burkhanov expressed gratitude to the Human Rights and Anti-Discrimination Commission for bringing all stakeholders together. This gathering, he said was an important dialogue that is meant to enable civil society to contribute views, ideas and solutions to strengthening access to justice in Fiji.

The workshop was instrumental in not only creating awareness but also afforded civil society an opportunity to make recommendations about vulnerable groups and those with special needs as well the human rights priorities of civil society organisations.

Total No of Participants	Gender
32	<ul style="list-style-type: none"> <li>18 Females</li> <li>14 Males</li> </ul>

## Key issues raised during the Access to Justice consultation with civil society organisations:

- The monitoring of detention facilities of suspects and convicts.
- Review of the Standard Operating Procedures of the Fiji Police Force.
- HRADC to embed human rights education in the school curriculum.
- Support outreach initiatives which empower communities such as the REACH Project.
- A greater focus is placed on mental health and the welfare of suspects in custody. It was suggested by the participants that police undergo training by specialised NGOs.
- Human rights trainings to be prioritized at grassroots level outside Suva in the most rural and remote communities
- Gender sensitive training for Fiji Police Force and health care professionals as well as greater discussion on village by-laws.
- Role of the media in promoting human rights as well as greater discussion on press freedom.
- Inclusion of sign language interpreters to assist the deaf community in accessing services such as news on television and a national dialogue on the rights of the LGBTI community
- The rights of indigenous people including their cultural rights were identified as a human rights key priority as there was no identified CSO or NGO organisation representing this cohort or their issues.
- Need for discussions on human rights in an intersectional context.

## Fiji Access to Justice Project: Workshop - Awareness-Raising and Discussion with Youths

A one-day workshop was conducted by the Commission in partnership with UNDP with 61 participants at Water Front Hotel in Lautoka on 3 July. Participants were mainly youths representing different CSOs and NGOs. The participants were

from the Western Division. The focus of the workshop was to build an understanding of the principles of equality, dignity and non-discrimination, access to justice and the rights guaranteed under the Fijian Constitution.

Total No of Participants	Gender	Age Group
61	<ul style="list-style-type: none"> <li>• 34 females</li> <li>• 21 males</li> <li>• 6 LGBTQ persons</li> </ul>	<ul style="list-style-type: none"> <li>• 45 participants belonged to the age group, 18 to 35 years</li> <li>• 16 participants were 36 years plus</li> </ul>

Some of the key human rights challenges identified by participants included: lack of awareness and information on human rights, unemployment, marginalization of youth voices and their under-representation, lack of access to medical services including reproductive health, stigma and discrimination, bullying, limited access to justice and freedom of expression, cultural and traditional barriers to human rights, lack of employment opportunities due to discrimination on the grounds of gender and disability, lack of economic security, respect for elders, rights of arrested and detained persons, impact of financial constraints on right to education, access to medicine, forced labour, human trafficking slavery and abuse.

## Recommendations to the Commission:

- Decentralization of Commission services
- Conduct, and increase human rights training in primary and secondary schools
- Provide resource materials and financial assistance to help youth promote human rights
- Training youth to become human rights trainers
- Presence of HRADC facilitators during youth-led awareness workshops
- Introduction of a toll-free human rights helpline

## Awareness Raising and Discussion with NGOs/CSOs



A similar workshop was held with 42 participants from NGOs and CSOs at the Water Front Hotel Conference Room in Lautoka on 4 July 2017 in collaboration with UNDP. The objective of the workshop was to raise awareness on access to justice, human rights and the role of the national human rights commission.

Total No of Participants	Gender
42	<ul style="list-style-type: none"> <li>• 20 Females</li> <li>• 15 Males</li> <li>• 4 LGBTQ persons</li> <li>• 3 persons did not wish to indicate their gender</li> </ul>

Key human rights concerns raised at the consultation included: the relationship between the State and civil society and the need for open dialogue, need for greater youth empowerment initiatives, need for local government to be more responsive and visit communities, right to information, inclusion of non-binary gender, difficulties faced by LGBT communities in registering NGOs, and lack of trained personnel within NGO community to conduct human rights training. The Director of the Commission called on the participants to access the services of the Commission to seek advice or lodge complaints if they were facing human rights issues. Participants were also given advocacy materials including a poster articulating the rights of arrested and detained persons and on the campaign against racism.

## Public consultations and advocacy in Labasa and Savusavu

As part of a series of workshops on human rights principles and values and access to justice, two public

consultations were also held in Labasa and Savusavu from 26-27 July. Participants includes youths from the northern division as well as CSOs, NGOs, persons with disability, LGBT persons, and women and children as well as representatives from the Ministry of Youth and Sports, the Department of Women, and the Cakaudrove Provincial Office. A total of 102 participants attended the public consultations.

Location	Total No of Participants	Gender
Labasa	66	<ul style="list-style-type: none"> <li>• 47 Females</li> <li>• 16 Males</li> <li>• 3 LGBT</li> </ul>
Savusavu	36	<ul style="list-style-type: none"> <li>• 22 Females</li> <li>• 12 Males</li> <li>• 2 LGBT</li> </ul>

The Commission Director led the discussion by introducing the Bill of Rights provisions in the Fijian Constitution and the significance of the principles of equality and non-discrimination. Participants were also informed about the role and mandate of the national human rights commission and how to access the Commission's services, lodge complaints and seek remedies. The Commission encouraged members of the public to report human rights violations and that the law empowered them to lodge a complaint on behalf of others as well. This was well received by the participants given that the Commission does not have an office in the Northern division.



Director, HRADC with youths in Labasa

Key human rights issues identified by participants in Labasa during the consultations included: lack of awareness about human rights, the application of the Bill of Rights provisions of the Constitution and the role human rights plays in enabling people to fully develop and contribute to society; cultural,

social, religious beliefs and norms that often clash with human rights and restricts imposed on freedom of expression in these settings; lack of information about human rights in rural and remote communities; fear particularly amongst the LGBT community that exercising their rights may lead to further discrimination.

In order to address some of the human rights challenges they also proposed the need for a directory of NGOs and other partners that work directly with communities and could assist in the promotion of human rights related activities; the Commission to produce human rights advocacy materials in the vernacular, the need to embed human rights education into the school curriculum; engagement with faith based organisations; the need for women's groups to work with the Commission particularly in rural areas; invite the Commission to rallies organised by communities; the need to work closely with the Fiji Police Force, Legal Aid Commission and other Government Ministries such as Education, Youth and Sports, Health and Medical Services in addressing human rights issues and the need to conduct 'talanoa' with community leaders on human rights.

### Public consultations and human rights advocacy in Savusavu

Key human rights issues raised at the consultations included: discrimination on the grounds of sexual orientation, gender, expression, age, educational background, and ethnicity; cultural, religious values/beliefs and other social barriers that restrict LGBT communities from fully exercising their rights and have equal opportunity to participate in the economy and secure gainful employment;; unable to enjoy full freedom of speech and expression in a village and religious setting; lack of understanding towards what is human dignity; that while women take up positions of leadership they still find that exercising human rights is not easy and that their rights are restricted in many ways; lack of government services and limited employment opportunities; inability to lodge complaints about human rights violations prior to 21 September 2013.

Participants also underscored the importance of collaborating with the HRADC in creating safe spaces for LGBT community; to be part of the "Unite Against Racism" campaign and the promotion of the Fijian Constitution including robust discussions on the rights guaranteed under the Constitution and the



### Human Rights Awareness-raising with Youths in Central Division

53 youths representing diverse communities participated in the public consultation to enhance their understanding on the constitutional mandate of the Commission at a workshop organised by the Commission in collaboration with UNDP/European Union. Director of the Commission highlighted the role of the Commission in promoting human rights as well as implored that it is vital for youths in Fiji to know and understand their rights under the Fijian Constitution.

Total No of Participants	Gender
53	<ul style="list-style-type: none"> <li>• 25 Females</li> <li>• 23 Males</li> <li>• 5 LGBT</li> </ul>

## Key human rights concerns raised by youths:

- Discrimination against the LGBT community (Section 26 of the Fijian Constitution on the right to equality and freedom from discrimination). Lack of adherence to human rights by the police (Section 13 of the Fijian Constitution on the rights of arrested and detained persons)
- Bullying in schools
- Sexual harassment
- Freedom from unreasonable search and seizure (Section 12 of the Fijian Constitution)
- Right to gainful employment, unfair wages and the Fiji National Provident Fund (FNPF) not being deducted (Section 20 of the Fijian Constitution on Employment relations and Section 33 of the Fijian Constitution on the right to work and a just minimum wage)
- Infraction of the right of persons with disabilities to access public transportation (Section 42 of the Fijian Constitution on the rights of persons with disabilities). Limited or no access to information for persons with disabilities including the lack of sign language interpreters (Section 25 of the Fijian Constitution on access to information and Section 42 of the Fijian Constitution on the rights of persons with disabilities).
- Companies dumping waste into streams used by communities thus depriving them of clean water, safe and source of food. (Section 36 of the Fijian Constitution on the right to adequate food and water and Section 40 of the Fijian Constitution on the right to environment)
- Child abuse (Section 41 of the Fijian Constitution on rights of children)
- Lack of awareness on the rights of children guaranteed under the Fijian Constitution (Section 41 of the Fijian Constitution on the rights of children)
- Domestic violence (Section 11 (2) of the Fijian Constitution on the right to to security of the person, which includes the right to be free from any form of violence from any

source, at home, school, work, or in any other place.)

- Restrictions on freedom of assembly (Section 18 of the Fijian Constitution on freedom of assembly)
- Restrictions imposed on personal liberty in the context of village-by laws (Section 9 of the Fijian Constitution on the right to personal liberty)
- Restrictions on freedom of speech (Section 17 of the Fijian Constitution on Freedom of speech, expression and publication).
- Traditional, cultural and religious barriers to the right to vote and participate in politics (Section 23 of the Fijian Constitution on political rights).

A four-day workshop was held from 6- 10 November, 2017 to train community advocates for human rights and access to justice at the Warwick.

49 participants representing 25 different organisations received training on how they could act as community advocates for human rights and access to justice in their own communities. The community advocates included HRADC staff and commissioner, the Legal Aid Commission (LAC) staff and representatives from NGOs/CSOs, members of youth groups, members of faith-based organisations, Law students, and some Government representatives. Participants from NGOs/CSOs included members of the NGO Coalition for Human Rights.

The workshop was facilitated by Ms. Lindi Coetzee, Senior Law Lecturer at Nelson Mandela University in Port Elizabeth, South Africa. She is an experienced legal educator and is the National Coordinator at Street Law, South Africa. Director, HRADC and Acting Director Legal Aid Commission also assisted in the facilitation of the workshop.

Total no of Participants	Gender
49	<ul style="list-style-type: none"> <li>• 24 Females</li> <li>• 18 Males</li> <li>• 7 LGBT</li> </ul>

## Engagement with Office of the UN High Commissioner for Human Rights (OHCHR)

The Commission collaborated with the Office of the UN High Commissioner for Human Rights (OHCHR) on four major initiatives: workshop on media and reporting on human rights; workshop on rights of the child and criminal justice system; human rights training with Fiji Police Force and Fiji Corrections Service and training on monitoring places of detention.



Participants with Ms. Christine Fowler – former Programme Manager, UNDP

## OHCHR provides training on Monitoring Places of Detention

HRADC staff participated in a capacity-building workshop on monitoring places of detention in May, 2017. The workshop was conducted by Ms. Shivani Varma, human rights officer based in OHCHR office in Bangkok. The workshop was in collaboration with OHCHR and focused on enhancing skills to conduct visits to Correction facilities, assess treatment and conditions in detention, in particular, by way of strengthening interviewing and investigative skills to respond to challenges surrounding conditions and treatment in detention centers.

## Media and Human Rights

The Commission was part of the OHCHR, Media Industry Development Authority (MIDA) and UNESCO workshop on 'Reporting on Human Rights' with the Fijian mainstream media. The Director addressed the news reporters participating in the workshop on the importance of reporting human rights issues, the constitutional safeguards on freedom of speech, publication, thought, and opinion including freedom of the press, the justifiable limitations in law

including the right to be free from hate speeches.



The Human Rights and Anti-Discrimination Commission has come under attack in the columns of The Fiji Times following the launch of its campaign against racism. The above cartoon published by the The Fiji Times on 8 April 2017 depicts the Commission as a salmon being devoured by a major political party. While this was clearly an attack on the national human rights commission, it also attests to the robustness of the freedom of expression and the press in Fiji.



## Rights of the Child and the Criminal Justice System

Members of the mainstream media and the HRADC staff were part of a two-day training on *Rights of the Child and the Criminal Justice System* in April, 2017 in Suva. The workshop was jointly hosted by HRADC, Office of the High Commissioner for Human Rights (OHCHR) and the Media Industry Development Authority (MIDA). The media was reminded of the sensitivities surrounding reporting court stories particularly when children are victims as well as perpetrators of sexual violence and assault. Media representatives were also engaged in interactive sessions with HRADC staff on the role of the Commission.

The Director of the Commission also addressed members of the judiciary on the application of international law and the Fijian Constitution by drawing reference in particular to Section 41 of the Fijian Constitution and the Convention on the Rights of the Child (1989); UN Standard Minimum

Rules for the Administration of Juvenile Justice - The Beijing Rules (1985); UN Nations Guidelines for the Prevention of Juvenile Delinquency-The Riyadh Guidelines (1990); UN Rules for the Treatment of Women- Prisoners and Non-custodial Measures for Women Offenders The Bangkok Rules (2010); The UN Rules for the Protection of Juveniles Deprived of their Liberty; UN Standard Minimum Rules for Non-custodial Measures-Tokyo Rules (1990) and the UNHCR Guidelines on Determining the Best Interests of the Child (2008)

## Human Rights Training with Fiji Police and Fiji Corrections Service

The Commission joined the Office of the High Commissioner for Human Rights and the International Committee of the Red Cross (ICRC) to provide three human rights training sessions to the Fiji Police Force in particular on rights of arrested and detained persons in 2017..

The Director also conducted a session on human rights challenges in prisons with the Office of the High Commissioner for Human Rights at the Korovou Prison Complex on 16th October 2017.

## Advocacy in Schools and Communities

### Public Outreach Programmes

The Commission reached out to 18,873 Fijians in 2017 through its various awareness programmes. A total of 98 schools were visited, engaging 13, 193 children, 622 teachers, 4, 378 persons during community visits, 290 participants through public consultations, and 49 human rights advocates.

### Human Rights Education in Schools



Commission Manager Education/Advocacy, Laisiasa Rogoyawa conducts human rights education in schools

The Commission's 2017 Annual Corporate Plan placed an emphasis on the importance of human

rights awareness in schools, both primary and secondary schools covering semi-urban, rural and remote and maritime schools as well as working towards embedding human rights education in the school curriculum, conducting training for teachers and establishing a 'Human Rights Corner' in pilot schools across the country.

The school visits were also used as a platform to train teachers on basic human rights principles with the expectation that they would then incorporate the core-human rights values such as equality and dignity in their teaching lessons.

The Commission held discussions with the Ministry of Education on embedding human rights education in the Social Science curriculum as an examinable subject.

Key human rights issues raised both by students and teachers included: use of corporal punishment in schools, rights of children, village by-laws, substance abuse in school, definition of discrimination, what is a bill of rights, and the right to education.

## Schools visited by the Commission in 2017

Date	School
20/01/17	Gospel Primary School
24/01/17	Nakasi High School
25/01/17	Jai Narayan College
27/01/17	Stella Maris Primary School
30/01/17	St. John's Primary School
31/01/17	Bainivalu Memorial Primary School
02/02/17	Marist Primary School
09/02/17	Vutia District Primary School
10/02/17	Ratu Sauvoli District Primary School
15/02/17	Marcellin Primary School
17/02/17	Vutia District Primary School
21/02/17	Marist Convent Primary School
21/02/17	CMF Primary School
22/02/17	Marcellin Primary School
22/02/17	Deenbandu Memorial Primary School
01/03/17	Waidalice District School
01/03/17	Korovou Primary School
06/03/17	Deebhandu Memorial Primary School
07/03/17	Lawaki District School
20/03/17	Jasper Williams Primary School
20/03/17	Jasper Williams Primary School
20/03/17	Lautoka Zhong Hua School

21/03/17	Baulevu High School
21/03/17	Koroqaqa Primary School
22/03/17	Dilkusha Girls Primary School
30/03/17	Vugalei District Primary School
03/04/17	Vunimono Primary School
18/04/17	Bulileka College Labasa
21/04/17	Central College Lautoka
21/04/17	Arya Samaj Primary School
10/05/17	Lautoka Muslim Primary School
10/05/17	Jasper Williams High School
10/05/17	Lautoka Central Primary School
10/05/17	Lautoka Primary School
18/05/17	Uluibau District Primary
24/05/17	Uluivalai Secondary School
25/05/17	Wainunu Adventist Primary School
26/05/17	Kubulau District Primary School
30/05/17	Rakiraki District School
30/05/17	Nakauvada High School
16/06/17	Rt. Latianana College
06/06/17	Lomary Secondary School
07/06/17	Ballantine Memorial School
08/06/17	Lami High School
08/06/17	Suva Adventist High
08/06/17	Maloku District Primary School
08/06/17	Suva Adventist High School
08/06/17	Yasana-i-ra District Primary School
10/06/17	Tovu District Primary School
12/06/17	Onolevu District School
13/06/17	Vatoa District Primary School
14/06/17	Matuatabu Primary School
15/06/17	Naikelayaga Primary School
16/06/17	Namuka District Primary School
17/06/17	Oneata District Primary School
19/06/17	Ratu Finau College
21/06/17	Vanuavatu District School
22/06/17	Cicia High School
22/06/17	Mabula District School
23/06/17	Tuvuca District School
26/06/17	Adi Maopa Secondary School
26/06/17	Adi Maopa Primary School
27/06/17	Naitauba Primary School
28/06/17	Tavua District Secondary School
28/06/17	Tavua College
13/07/17	Vatukuola Secondary School
13/07/17	Balata High School

13/07/17	Tavua Muslim Primary School
19/07/17	Ba Sangam College
19/07/17	DAV College
19/07/17	AD Patel College
20/07/17	Ba Santan College
20/07/17	Kamil Muslim College
20/07/17	Nukuloa College
03/08/17	Ratu Kaduvulevu School
18/09/17	Motusa Primary School
19/09/17	Malha'ha Primary School
20/09/17	Gurunank Primary School
20/09/17	Paptea Primary School
21/09/17	Sumi Primary School
22/09/17	Rotuma High School
28/09/17	Nadarivatu Primary School
28/09/17	Nadarivatu High School
04/10/17	Naduri Primary School, Seaqaqa Primary School, Korotolutolu Primary School and Nabala Secondary School
05/10/17	Naduri Primary School, Qamusea Primary School and Nabala Secondary School
05/10/17	Solove Primary School
06/10/17	Naduri Primary School, All Saints Secondary School and Nabala Secondary School
07/10/17	Cadranasiga Primary School
13/11/17	Gospel High School
20/11/17	Yet Sen Secondary School
22/11/17	Suva Adventist College

### Reaching out to the most vulnerable through the Rights Empowerment And Cohesion (REACH) For Rural and Urban Fijians project



Director, HRADC with Hon. Minister for Women, Children & Poverty Alleviation, the Charge d' Affaires of the Embassy of Japan in Fiji, the Country Director and Head of Regional Policy and Programme UNDP, and the Deputy Director of the Legal Aid Commission at a joint press conference.

## Excerpts from the Press Conference:

The task that lies before the Human Rights and Anti-Discrimination Commission is an urgent one. It is imperative that every Fijian, irrespective of geography, race, ethnicity, religion, gender, sexual orientation gender identity and expression, age, socio-economic background, ideological dispositions and political proclivities knows that they have the right to have rights. Furthermore, every Fijian has the right to know exactly what these rights are and how to access institutions to be able to materialise those rights as well as where to seek redress when those rights have been impinged upon.

There needs to be greater awareness on the interdependent and indivisible nature of these rights and its only when the national human rights institution makes a concerted effort to reach out and listen to the voices of the ordinary will it begin to appreciate the intersectional nature of discrimination and violations of fundamental rights and freedoms that our people face.

The REACH initiative has created the conditions of possibility for various interlocutors such as the Ministry of Women, Children & Poverty Alleviation, the Legal Aid Commission, the Fiji Police and the Human Rights and Anti- Discrimination Commission to take their services to the most rural and remote communities. The Commission expresses its gratitude to the people of Japan for their generosity, the UNDP for its leadership and our allies at the Ministry of Women, Children & Poverty Alleviation and the Legal Aid Commission in realising this project. The REACH initiative is a concrete expression of the good that can be achieved when we put people before politics.



REACH stakeholders at a workshop on service delivery

Under this project, the Education/Advocacy team of the Commission visited remote communities to raise awareness on the role of the Commission, the Bill of Rights provisions enshrined in the Fijian Constitution,

how to lodge complaints or seek remedies for human rights violations.

Much of the discussions during these visitations centered on: village by-laws, access to clean drinking water, right to education, adoption rights, divorce, land leases, rights of the LGBTQ persons, rights of persons living with disabilities, right to health and how to access Government services, and the rights of indigenous communities to minerals and other natural resources.



Date	Human Rights Awareness
March	<ul style="list-style-type: none"> <li>• 2 villages in the Rewa Province addressing 80 participants</li> <li>• 2 villages in Namosi Province addressing 110 participants</li> </ul>
May	<ul style="list-style-type: none"> <li>• 10 villages on Motoriki Island in the Lomaiviti Group and awareness was also conducted at the only primary school on the island</li> <li>• 9 villages/communities in the districts of Wainunu and Kubulau in the province of Bua covering 3 major schools in the area namely Uluivalili Secondary School, Wainunu SDA Primary School and Kubulau District Primary School</li> </ul>
June	<ul style="list-style-type: none"> <li>• Lau Province, covering 15 Islands from Moala, Totoya, Ono-i-lau, Vatoa, Ogea, Kabara, Namuka-i-lau, Oneata, Lakeba, Vanuavatu, Cicia, Tuvuca, Vanuabalavu, Naitauba, and the trip ended in Yacata Island. Schools in these 15 villages were also visited</li> </ul>
July	<ul style="list-style-type: none"> <li>• 9 villages on Beqa Island</li> </ul>
August	<ul style="list-style-type: none"> <li>• 7 villages in Verata, Tailevu</li> <li>• 8 islands in the Lau group with the team from Ministry of Women Children and Social Welfare including school visits.</li> <li>• 8 villages/communities in the Ra Province</li> </ul>
October	<ul style="list-style-type: none"> <li>• The Commission also joined the road show organised by Ministry of Women Children and Poverty Alleviation in Naduri Macuata covering 22 villages and 12 schools</li> </ul>
December	<ul style="list-style-type: none"> <li>• 15 villages and communities in Ba Province</li> </ul>



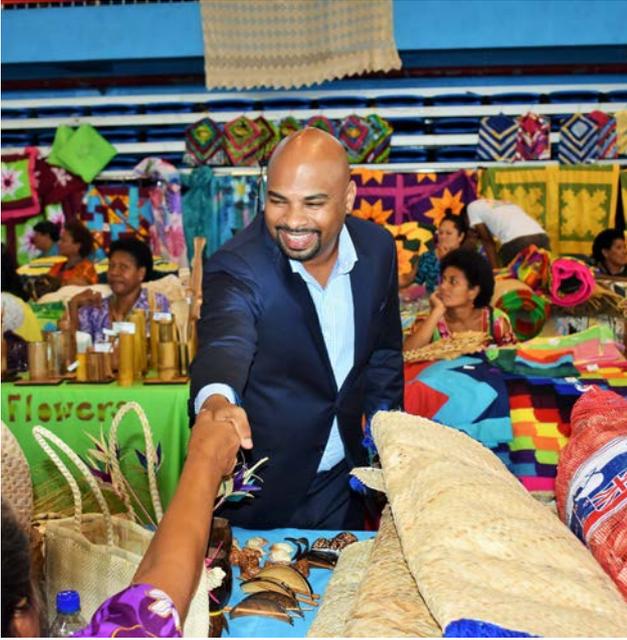
## Community visitation under the REACH initiative

Date	Province	Community/Village
28/3/17	Rewa	Narocivo and Lokia
29/3/17	Namosi	Wainilotulevu
30/3/17	Namosi	Wainievu
17/5/17	Lomaiviti	Navuti, Nasauvuki, and Dromuna
17/5/17	Lomaiviti	Nasesara, and Wawa
18/5/17	Lomaiviti	Niubasaga and Savuna
18/5/17	Lomaiviti	Uluibau and Naicabecabe
19/5/17	Lomaiviti	Yanuca
24/5/17	Cakaudrove	Tuvurara Settlement
25/5/17	Bua	Nakabuta Settlement
26/5/17	Bua	Raviravi, Namalata, Kiobo, Navatu, Nabalabala, Nakorovou and Kilaka
24/7/17	Rewa	Raviravi, Rukua, Nawaisomo, Naseuseu, Naceva, Dakuibeqa, Dakuni, Lalati, and Soliyaga
09/8/17	Tailevu	Sawa, Uluiloli, Navunimoli, and Naloto
10/8/17	Tailevu	Kumi, Ucunivanua and Naivuruvuru
16/8/17	Lau	Cakova
17/8/17	Lau	Tovu
18/8/17	Lau	Daku-i-loa
19/8/17	Lau	Tubou
20/8/17	Lau	Levukana
21/8/17	Lau	Salia
21/8/17	Ra	Bainisoqosoqo
21/8/17	Ra	Vunikavikaloa
22/8/17	Ra	Narau
22/8/17	Lau	Tuvuca
22/8/17	Ra	Madhuvani Settlement
23/8/17	Ra	Drauniivi Settlement
23/8/17	Lau	Sawana
23/8/17	Ra	Caboni Settlement
24/8/17	Ra	Wailevu Settlement
24/8/17	Ra	Nanuku Settlement

25/8/17	Ra	Dugapatu Settlement
29/8/17	Ra	Veidradra
29/8/17	Ra	Nasau
30/8/18	Ra	Nayavuiria
30/8/17	Ra	Navuniivi
18/9/17	Rotuma	Losa
19/9/17	Rotuma	Malahaha District
20/9/17	Rotuma	Noatau Village
21/9/17	Rotuma	Pepjei District
25/9/17	Rotuma	Itumuta District
25/9/17	Rotuma	Savlei Village
26/9/17	Rotuma	Motusa Village
26/9/17	Rotuma	Salvaka Village
27/9/17	Rotuma	Lopta Village
27/9/17	Rotuma	Oniafa District
27/9/17	Rotuma	Juju District
4/10/17	Macuata	Buavou, Nabukadogo, Namama, Naduri, Niurua, Naividamu, Raviravi, Naqumu, Korovuli, Korolevu, and Nasea
5/10/17	Macuata	Yalava, Naiqaqi, Sasa, Nasuva, Navakasobu, Niurua, Korovuli
6/10/17	Macuata	Buavou, Nabukadogo, Lomaloma, Cawaro, Seaqaqa, Yalava, Nadogo, Kia, Tabia, Korotubu, and Naodamu Housing
7/10/17	Macuata	Nakalou, Naividamu, Raviravi, Nakanacagi, Druadrua, Nabavatu, and Vunisea
12/12/17	Ba	Koroqaqa, Nailaga, Votua, Natutu, and Nawaqarua
13/12/17	Ba	Sorokoba, Sasa, Natanuku, Vadravadra, Nataaicake and Togalevu
14/12/17	Ba	Tauvegavega, and Maururu Settlement
15/12/17	Ba	Veisaru and Namada

**It is imperative that every Fijian, irrespective of geography, race, ethnicity, religion, gender, sexual orientation gender identity and expression, age, socio-economic background, ideological dispositions and political proclivities knows that they have the right to have rights.**

## 2017 Women's Expo



Director at the 2017 Women's Expo, Suva

More than a hundred women from the maritime zone of the Eastern division received face-to-face basic training on principles of non-discrimination and human rights at the awareness-raising and service delivery event in the run-up to the 2017 National Women's Expo.

The Director of the Commission addressed the women on issues of domestic violence, sexual abuse, rights of children, principles of equality and inherent human dignity and the right to economic participation.

## Macuata Women receive human rights training



The Commission also had an awareness session with the women in Macuata in September. Key human rights concerns raised by the women of Macuata included domestic violence, right to education, right to health, rights of children and access to justice.

## World Elderly Abuse Awareness Day workshop



Director, Ashwin Raj with participants at the Elder Abuse Awareness Forum, organised by the Australia-Pacific Technical College on 14 June

The Director has called for the setting up of a national helpline to assist the elderly.

*"The elderly in our society are equal in dignity and rights and deserve to live a life free of abuse. Older persons have the right to social and economic rights, to remain integrated in society and participate in national development to access social and legal services, and be able to exercise human rights and fundamental freedoms when residing in home care facility or shelter including the right to privacy and the right to make decisions about the quality of their life."*

Director, HRADC

## Engagement with Leadership Fiji

The Commission Director conducted a session on human rights and media for Leadership Fiji in March for the mainstream media on balancing freedom of expression with the right to be free from hate speech.

## Fijians celebrate International Human Rights Day

The International Human Rights Day was celebrated in five locations across Fiji in 2017. Advocacy activities were undertaken in Labasa, Levuka, Savusavu, Suva and Lautoka. The initiative was jointly supported by the Commission and UNDP and European Union. The celebration was led by community advocates for human rights in their respective communities, raising awareness on human rights issues, and services provided by the Commission.



The Fiji Disabled People's Association members also participated in the celebrations



Panel: Ms. Ikponwosa Ero, United Nations Independent Expert on the Enjoyment of Human Rights by Persons with Albinism : Mr. Joshko Wakaniyasi, President, Fiji Disabled People's Federation and Founding Member, Spinal Injuries Association of Fiji : Mr. Sylvain Savolainen, Member, Human Rights Commission of the Geneva Bar Association and Partner, Mentha Avocats, Switzerland : Mr. Ashwin Raj, Director, Human Rights and Anti-Discrimination Commission

## 19th Attorney-General's Conference

The Director of the Commission was a co-panelist with the visiting United Nations Independent Expert on the Enjoyment of Human Rights by Persons with Albinism, Ms. Ikponwosa Ero, on the subject: See the Able not the Label, Albinism and disability rights at the 19th Attorney-General's Conference. People with albinism face multiple forms of discrimination globally. More awareness is required in this area to ensure that persons with albinism are afforded equal protection and the right to live with dignity.

The Director was also part of another panel on Regulating cyberspace and criminal culpability.

## Advocacy Material

### Campaign against racism

The Commission embarked on a major campaign against racism with the launch of the *Unite Against Racism, It Stops With You* poster on 21 March to mark the International Day for the Elimination of Racial Discrimination. The poster emphasises that all human beings are born free and equal in dignity and rights. While Fiji has strong human rights laws to address

discrimination, it also has a legacy of institutionalised racism. This is why the Fijian Constitution guarantees the right to equality and freedom from discrimination.

In its efforts to promote the principles of equality and non-discrimination, the Commission in collaboration with UNDP also produced "All human beings are born free and equal" stickers which were widely distributed in schools throughout Fiji. The annual calendar produced by the Commission and widely disseminated was also based on the principles of non-discrimination.

## Launch of LGBTQ Advocacy Video



Director, Ashwin Raj, former Commissioner, Selina Leewah and Regional Representative of the OHCHR in the Pacific, Ms Chitra Massey launched the LGBTQ video at a press conference

A one-minute video was produced as a resource material to promote LGBTQ rights in Fiji. The video raises crucial questions about why LGBTQ persons face discrimination when accessing health services, in schools, at workplace, in public, in prisons and in their own homes. The video was launched on 17 May to mark the International Day against Homophobia, Transphobia and Biphobia (IDAHOT). The video was widely advertised on television and in the local cinemas and the initiative was commended by the Asia Pacific Forum for the NHRIs at the Sexual Orientation, Gender Identity and Sex Characteristics (SOGISC) in the Pacific consultation held in Samoa in June.

## Increasing Visibility

The media plays a fundamental role in raising awareness of human rights and promoting greater visibility. The Commission engaged all media platforms (print, radio, television, social media) in its efforts to generate greater awareness. 2017 saw vigorous media engagement on issues such as the rights of refugees in relation to an Iranian national, the alleged rape of an inmate at a Correctional Centre, the sexual assault of a female by a female police officer in a public place, bullying in school, rights of ethnic minorities, legislation against racism and hate speech on public places, the proposed regulation of social media, discrimination against people with HIV, and blood donation by LGBT persons, police

# ity through Media

in building awareness about human rights and the work of the Commission. The Commission uses – print, broadcast and digital (social media) – to facilitate discussions about human rights.

It has focused on pressing issues such as the rights of women and children, the rights of persons with disabilities, the rights of persons seeking refugee status in Fiji; the rights of persons in detention facilities, allegations of strip search of persons in the presence of male police officers, the rights of the LGBTQ persons, campaign against prohibited grounds of discrimination, the rights of persons in the health sector in relation to police brutality, and the rights of children.

## Building staff capacity

### Knowledge Exchange visit to South Africa

The Commission and the Legal Aid Commission were part of a study tour to South Africa from 12 to 26 August. The study tour was sponsored by UNDP



The Commission staff were part of a training in Apia, Samoa in June on “Promoting and Protecting Human Rights in Relation to Sexual Orientation, Gender Identity and Sex Characteristics (SOGISC)” in the Pacific. The training was facilitated by the Asia Forum of National Human Rights Institutions and hosted by the Samoa’s Office of the Ombudsman.

and hosted by Professor David McQuoid-Mason of the Centre for Socio-Legal Studies, University of KwaZulu-Natal, and Durban. The tour was invaluable for the Fijian delegation as they learned about how the two institutions, the South African Human Rights Commission and Legal Aid Commission in

South Africa served the South Africans to access justice and seek redress for human rights violations. The delegation visited the following institutions: Office of the Public Protector; the University of KwaZulu-Natal’s Centre for Socio-Legal Studies its Street law program and its Law Clinic; the Centre for Community Justice and Development; the Community Law and Rural Development Centre; and the Legal Resources Centre.

### Sexual orientation, Gender Identity and Sex Characteristics (SOGISC) Consultation

The Commission staff were part of a training in Apia, Samoa in June on “Promoting and Protecting Human Rights in Relation to Sexual Orientation, Gender Identity and Sex Characteristics (SOGISC)” in the Pacific. The training was facilitated by the Asia Forum of National Human Rights Institutions and hosted by the Samoa’s Office of the Ombudsman.



Director HRADC is welcomed by the Chairperson of the South African Human Rights Commission, Professor Bongani Christopher Majola, Commissioner Mohammed Ameerma, and human rights educator, Professor David McQuoid-Mason in the presence of another Commissioner, Johannesburg, South Africa

## Newspaper Coverage - 2017

Date	Article title	Fiji Times	Fiji Sun
11/01/17	FHRC Team visits Labasa	✓	
24/01/17	Probe into alleged rape	✓	
		✓	
25/01/17	Incarcerated Vulnerable		✓
27/01/17	Commission investigated alleged rape of female inmate		✓
	Prison Kitchen Used As Contraband Exchange Spot		
30/01/2017	We are keen to meet Iranian Refugee: Raj		✓
01/02/2017	Strip Search	✓	
	Couple claim they were stripped naked during naked		
02/02/17	Illegal entry –Iranian national seeks safe haven in Fiji	✓	
03/02/17	Show compassionate to the mentally challenged	✓	
03/02/17	‘Threat’ of illegal entry	✓	
05/02/17	UNHCR expresses concern over Sawari case	✓	
05/02/17	NGO coalition condemns deportation	✓	
06/02/17	Couple taken in by Police	✓	
07/02/17	Attack on gay men condemned –Raj says the LGBT community deserves to live with the same kind of human dignity that is affordable to every Fijian		✓
08/02/17	Victims won’t report because they won’t be heard : Nabulivou		✓
08/02/17	Let’s support Ashwin Raj and give LGBT community respect its entitled to under Constitution		✓
10/02/17	Raj welcomes amendments to Public Order Act	✓	
11/02/17	Commission welcome amendments to Public Order Act	✓	
13/02/17	HRADC investigates alleged student beating at QVS		✓
13/02/17	Commission welcomes legal Reforms		✓
16/02/17	Early access to justice crucial for the vulnerable	✓	
16/02/17	Training ensures Access to Justice		✓
17/02/17	Police custody training aims to raise standards	✓	
01/03/17	When top Fijians at UN meet		✓
18/03/17	Vitriolic, racist, sexist: Raj calls out Khan critics		✓
23/02/17	Khan repeated what PM said in past about racism	✓	
23/02/17	Raj Condemns alleged child bashing incident		✓

05/03/17	Fijian envoys at Un talks	✓	
21/03/17	Human Rights commission receive pathologist report	✓	
17/03/17	Fiji Human Rights Commission supports Government move		✓
18/03/2017	Vitriolic, Racist, Sexist: Raj Calls Out Khan Critics		✓
18/03/2017	The issue of racism and ingrained attitude	✓	
19/03/17	Racism and willful forgetfulness		✓
21/03/17	Unite against racism		✓
21/03/2017	Human rights commission receive pathologist report	✓	
21/03/2017	Unite Against Racism Campaign , launched recently by the Commission on 21 March 2015 - International Day for the Elimination of Racial	✓	✓
24/03/2017	Unite Against Racism Campaign, launched recently by the Commission on 21 March 2015 - International Day for the Elimination of Racial	✓	
22/03/17	HRDC sights report	✓	
22/03/17	Commission eyes inquest in the death of man in Police custody		✓
25/03/17	Media crime	✓	
29/03/17	FHRADC Director Ashwin Raj makes his submission to the Public Accounts Committee at Parliament	✓	
29/03/17	Raj: Internal Auditors to be appointed for Commission		✓
01/04/17	Commission looks into complaints	✓	
03/04/2017	NFP calls for Human Rights director's resignation	✓	
04/03/17	Rights of children	✓	
04/04/17	Raj: 'Credence to hate speech'	✓	
04/04/17	Rights of children	✓	
04/04/17	Raj, Prasad clash over hate speech on social media		✓
04/04/17	Big focus on child's rights in justice system		✓
05/04/17	Child articulates events once reassured, says CJ		✓
05/04/17	Human rights workshop	✓	
06/04/17	We want a United QVS		✓
07/04/17	Quit, SODELPA tells Ashwin Raj	✓	
07/04/17	Calls for Raj to step down	✓	
07/04/17	Human rights head hits out at Rabuka's claims		✓
11/04/17	Workshop on reporting child issues	✓	
12/04/17	Raj: Blood donation guide 'highly discriminatory'		✓
12/04/17	Be mindful when writing on child abuse cases, journalists told		✓
13/04/17	Reach program launches mobile service	✓	

24/04/17	Ministry Seeks Legal Advice On Blood Donation		✓
14/05/17	Raj responds :NFP leader using media decree to cloud issues		✓
18/05/17	Raj : Accept children irrespective of sexual orientation	✓	
19/05/17	Proposed law 'Must be well thought out'	✓	
15/06/17	Helpline plea for senior citizens	✓	
16/06/17	Aged care victim	✓	
16/06/17	Treat elderly with respect and dignity Reach Initiatives assists in accessibility to Govt services		✓
28/06/17	Raj: All rights observes in SODELPA youth leader arrest		✓
05/07/17	Raj: Youths vital in Human rights discussions		✓
09/07/17	Youth in Everything	✓	
10/07/17	Strengthening human rights commission	✓	
19/07/17	Raj Condemns Police		✓
20/07/17	Rights Vital for all	✓	
22/08/17	Commission working on assault claims <a href="http://www.fjitime.com/story.aspx?id=413408">www.fjitime.com/story.aspx?id=413408</a>	✓	
03/08/17	Discrimination and Times Rental/Discrimination <a href="http://www.fjitime.com/Archives/ArticleIndex">www.fjitime.com/Archives/ArticleIndex</a>	✓	
05/08/17	Alleged eviction threat violation of human rights, says Ashwin Raj <a href="http://fjijun.com.fj/2017/.../alleged- eviction- threat- violation- of- human- rights- says- ashwin- ...">fjijun.com.fj/2017/.../alleged- eviction- threat- violation- of- human- rights- says- ashwin- ...</a>		✓
31/08/17	Human rights means inclusive spaces : Raj <a href="http://fjijun.com.fj/2017/08/31/human-rights-means-inclusive-spaces-raj/">fjijun.com.fj/2017/08/31/human-rights-means-inclusive-spaces-raj/</a>		✓
06/09/17	Inequality in Fiji has dropped :A-G <a href="https://fjijun.com.fj/2017/09/06/inequality-in-fiji-has-dropped-a-g/">https://fjijun.com.fj/2017/09/06/inequality-in-fiji-has-dropped-a-g/</a>		✓
06/09/17	Reporting on human rights A-G: Some journalists lack understanding <a href="http://www.fjitime.com/story.aspx?id=415275">www.fjitime.com/story.aspx?id=415275</a>	✓	
08/09/17	Raj responds to Prasad claims <a href="http://fjijun.com.fj/2017/09/08/reply-raj-responds-to-prasad-claims/">fjijun.com.fj/2017/09/08/reply-raj-responds-to-prasad-claims/</a> Ashwin Raj takes on Biman Prasad <a href="http://fjijun.com.fj/tag/biman-prasad/">fjijun.com.fj/tag/biman-prasad/</a>		✓ ✓
20/09/17	Seminar connects vendors, financiers <a href="http://www.fjitime.com/story.aspx?id=417013">www.fjitime.com/story.aspx?id=417013</a>	✓	
28/09/17	Right to strike Ajmeer : No Human Rights breach in new contracts <a href="http://www.fjitime.com/story.aspx?id=417989">www.fjitime.com/story.aspx?id=417989</a>	✓	
02/10/17	Industrial strike must be a measure of last resort <a href="http://fjijun.com.fj/2017/10/02/industrial-strike-must-be-a-measure-of-last-resort/">fjijun.com.fj/2017/10/02/industrial-strike-must-be-a-measure-of-last-resort/</a>		✓

24/10/17	Commitment to investigate workshop shows Police dedication :UK Envoy <a href="https://fjijisun.com.fj/.../commitment-to-investigative-workshop-shows-police-dedicati...">https://fjijisun.com.fj/.../commitment-to-investigative-workshop-shows-police-dedicati...</a>		✓
24/10/17	Training for Police detectives <a href="http://www.fjitimes.com/story.aspx?id=421152">www.fjitimes.com/story.aspx?id=421152</a>	✓	
24/10/17	Cyberbullying needs to stop : Raj <a href="http://www.fbc.com.fj/fiji/55899/cyberbullying-needs-to-stop-raj">www.fbc.com.fj/fiji/55899/cyberbullying-needs-to-stop-raj</a>	✓	
23/11/17	Good Media relations <a href="http://www.fjitimes.com/story.aspx?id=424869">www.fjitimes.com/story.aspx?id=424869</a>	✓	
24/11/17	Fake social media accounts an issue : Raj <a href="https://m.facebook.com/story.php?story_fbid=1342861975835672&amp;id...">https://m.facebook.com/story.php?story_fbid=1342861975835672&amp;id...</a>	✓	
28/11/17	19 <sup>th</sup> Attorney-General's Conference 2017 <a href="http://www.ag.gov.fj/docs/Programme2017-281117.pdf">www.ag.gov.fj/docs/Programme2017-281117.pdf</a>		✓
02/12/17	Northerners celebrate World Human Rights Day <a href="http://www.fjitimes.com/story.aspx?id=426110">www.fjitimes.com/story.aspx?id=426110</a>	✓	
03/12/17	Celebrations Human Rights Day observed in Levuka <a href="http://fjijisun.com.fj/2017/12/04/celebration-human-rights-day-observed-in-levuka">fjijisun.com.fj/2017/12/04/celebration-human-rights-day-observed-in-levuka</a>		✓
04/12/17	Week-long campaign builds up to Human Rights Day <a href="http://www.fjitimes.com/story.aspx?id=426314">www.fjitimes.com/story.aspx?id=426314</a>	✓	
05/12/17	Villagers learn about rights <a href="http://www.fjitimes.com/story.aspx?id=426351">www.fjitimes.com/story.aspx?id=426351</a>	✓	
11/12/17	Awareness on access to justice <a href="http://www.fjitimes.com.fj/story.aspx?id=427056">www.fjitimes.com.fj/story.aspx?id=427056</a>	✓	
11/12/17	Human Rights Day <a href="http://www.fjitimes.com/story.aspx?id=427055">www.fjitimes.com/story.aspx?id=427055</a>	✓	
11/12/17	NGOs mark human rights <a href="http://fjitimes.com/story.aspx?id=426951">fjitimes.com/story.aspx?id=426951</a>	✓	
11/12/17	Social Media abuse questioned <a href="https://fjijisun.com.fj/2017/12/11/a-g-social-media-abuse-questioned/">https://fjijisun.com.fj/2017/12/11/a-g-social-media-abuse-questioned/</a>		✓
28/12/17	NFP wants Raj out <a href="http://www.fjitimes.com/story.aspx?id=428812">www.fjitimes.com/story.aspx?id=428812</a>	✓	
05/01/17	Commission awaits evidence of brutality <a href="http://www.fjitimes.com/story.aspx?id=429657">www.fjitimes.com/story.aspx?id=429657</a>	✓	

## Radio/Television

02/02/17	Human Rights Commission condemns statements from political parties. Director of the HRADC says he wishes to remind the FLP and all other political parties there was institutionalized racism in Fiji	CFL
03/02/17	Human Rights Laws Breached	Fiji TV
03/02/17	Iranian refugee deported	FBC
03/02/17	Iranian refugee in Fiji escorted to Nadi airport	FBC
03/02/17	Iranian refugee in tears onboard	Fiji TV
15/02/17	Strengthening Fiji's criminal justice system with the 'First Hour Procedure'	FBC
16/02/17	Human Rights Commission aims to end bullying in boarding schools	CFL
16/02/17	Police supports FHRADC against torture	
16/02/17	QVS Assault case calls for human rights awareness in schools	Fiji TV
17/02/17	First-Hour Procedure – Chief Justice/HRADC/NGOs	Fiji TV
17/02/17	Fiji breached Human Rights law – Raj	FBC
21/02/17	Rights of the Arrested Persons (Aaina Show)	FBC
22/02/17	Rights of the Arrested Persons (Aaina Show)	FBC
18/03/17	There was institutionalized racism in Fiji and Khan did not use the word caste – Raj Ashwin Raj clarified that the Permanent Representative to the UN	FBC CFL
18/03/17	Biman Prasad demands an explanation while Ashwin Raj considers action against NFP	CFL
22/03/17	Autopsy report handed to magistrate	FBC
29/03/17	Human Rights and Anti-Discrimination Commission has nothing to hide - Raj	CFL
03/04/17	4 The Record Unite Against Racism, launched recently by the Commission on 21 March 2017 - International Day for the Elimination of Racial	FBC
03/04/17	Regulate social media comments	FBC
04/04/17	Regulations to control social media mooted in Fiji	FBC
04/04/17	Strengthening Children's Rights in Fijian courts	FBC
07/04/17	Fiji Human Rights chair rejects resignation calls Fiji Human Rights Director Ashwin Raj says he will continue to speak against racism and other forms of discrimination	FBC
11/04/17	Discrimination at the National Blood Service says Raj	FBC
12/04/17	REACH mobile services bus commissioned	Fiji TV
13/04/17	Exclusion from donating blood 'offensive and discriminatory': NGO	FBC
14/04/17	Controversy in Fiji over ban on blood donations from gay men	CFL/FBC
24/04/17	REACH Project served 2388 individual so far	FBC/Fiji TV
02/05/17	Unreported cases of Child abuse	Fiji TV

18/05/2017	Discrimination still exists despite Constitution Human Rights Commission commends police Clear definitions into the bill will build confidence on the people –Raj	FBC
18/05/17	Video Launched LGBTI	FBC/Fiji TV/CFL
28/06/17	Detained SODELPA Youth Leader's constitutional rights being followed - Raj	FBC/CFL
03/07/17	Youth Forum	FBC/Fiji TV
04/07/17	Meeting with Youths	FBC
04/07/17	HRADC welcomes special rapporteur Report	FBC
06/07/17	Reach projects –empowering educate and advocate	FBC
07/07/17	LGBTI Homeless safe homes	Fiji TV
19/07/17	Commission director Ashwin Raj confirms receipt of complaint from LGBTI community  Human Rights Commission commends Police for prompt action in LGBTI assault case	FBC
29/08/17	HRADC welcomes Special Rapporteur report – FBC News <a href="http://www.fbc.com.fj/fiji/52269/hradc-welcomes-special-rapporteur-report">www.fbc.com.fj/fiji/52269/hradc-welcomes-special-rapporteur-report</a>	FBC
03/10/17	Strike action will impact all Fijians : Raj <a href="http://www.fbc.com.fj/fiji/55209/strike-action-will-impact-all-fijians-raj">www.fbc.com.fj/fiji/55209/strike-action-will-impact-all-fijians-raj</a>	FBC
03/10/17	Parties encouraged to act in good faith in bargaining for a collective agreement <a href="http://fijivillage.com/news/Parties-encouraged-to-act-in-good-faith-in-bargaining-for-a-collective-agreement-29kr5s/">http://fijivillage.com/news/Parties-encouraged-to-act-in-good-faith-in-bargaining-for-a-collective-agreement-29kr5s/</a>	CFL
24/10/17	Cyber bullying needs to stop : Raj <a href="http://www.fbc.com.fj/fiji/55899/cyberbullying-needs-to-stop-raj">www.fbc.com.fj/fiji/55899/cyberbullying-needs-to-stop-raj</a> Fake-social media accounts an issue –RAJ <a href="http://www.fbc.com.fj/fiji/55907/fake-social-media-accounts-an-issue-raj">www.fbc.com.fj/fiji/55907/fake-social-media-accounts-an-issue-raj</a>	FBC
01/12/17	Commission marks Human Rights Day <a href="http://www.fbc.com.fj/fiji/35331/-commission-marks-world-human-rights-day">www.fbc.com.fj/fiji/35331/-commission-marks-world-human-rights-day</a>	FBC
08/12/17	Human Rights Day celebrations with the Fiji Disabled People's Association World Human Rights Day FNCDP celebrates early Human Rights Day <a href="http://www.fbc.com.fj/fiji/57504/fncdp-celebrates-early-human-rights-day">www.fbc.com.fj/fiji/57504/fncdp-celebrates-early-human-rights-day</a>	FBC
10/12/17	SBS RADIO Australia program Australia Interview on Human Rights Day <a href="https://www.sbs.com.au/yourlanguage/hindi">https://www.sbs.com.au/yourlanguage/hindi</a>	SBS Radio
12/12/17	Raj lodges complaint against SODELPA candidate –hate speech <a href="http://www.fbc.com.fj/fiji/57636/ashwin-raj-lodges-complaint-against-sodelpa-candidate">www.fbc.com.fj/fiji/57636/ashwin-raj-lodges-complaint-against-sodelpa-candidate</a>	FBC

13/12/17	<a href="http://www.fbc.com.fj/fiji/57651/refrain-from-online-racism-and-hate-activities-raj">Refrain from online racism and hate activities: Raj – FBC News www.fbc.com.fj/fiji/57651/refrain-from-online-racism-and-hate-activities-raj</a>	FBC
19/12/17 20/12/17	Speak Your Mind Hate Speech on Social Media <a href="https://www.youtube.com/watch?v=aqui15-4SC0#action=share">https://www.youtube.com/watch?v=aqui15-4SC0#action=share</a>	FBC

## EDUCATION AND ADVOCACY STATISTICS FOR 2017

Month	No Village/Schools/Community			Number Of Students		Number Of Teachers		Number Of Participants	
	Schools	Communities	Villages	Male	Female	Male	Female	Male	Female
January	6	0	0	3,060		110		60	
February	9	0	0	2,913		101		0	
March	10	0	4	619		62		135	
April	4	0	0	745		71		0	
				Sub-total 7,337		Sub-total 344		Sub-total 195	
				33	37	1	1	0	0
May	12	2	17	575	724	14	15	229	179
June	26	2	0	639	819	47	65	0	0
July	8	0	9	579	630	14	14	87 AP	
								68 CHP	
August	0	8	21	30	32	0	0	221	135
September	8	5	10	419	396	33	39	191	418
October	11	0	29	169	155	3	3	177	253
November	4	4	0	575	724	14	15	399	379
December	0	10	9	0	0	0	0	388	534
Sub-total	98	31	99	3,019	3,517	126	152	1,605	1,898
				6,536		278		3,503	
				<b>18,193</b>					
<b>Human Rights Advocacy Warwick Hotel</b>				<b>49</b>					
<b>LGBTIQ Community (Human Rights Awareness 2017)</b>				<b>186</b>					
<b>Public Consultation (6 Sessions)</b>				<b>290</b>					
<b>TOTAL</b>				<b>18,873</b>					

\*Total Students – 13,873

\*Total Teachers – 622

\*Total Adult Participants – 4,378

# Goal 4 – Institutional Strengthening

## Primary Functions

The primary role of the Corporate Section is to provide effective and efficient administrative support and direction to all sections of the Commission. The Corporate section consists of Finance, Administration, Information Systems and Technology and the Human Resources division. This includes project management, training and development needs and analysis, occupational safety and security compliance, registry, communications, logistics, office accommodations and human resource management. The Corporate Section is currently led by Manager Corporate (Acting) Parmeshwaran Prasad and supported by Accountant (Acting) Varanisese Dominiko, Receptionist/Administration Assistant Manu Pulotu and Driver/Messenger Marika Tabaki.

## Finance

### Measurement System

Cash basis of accounting is adopted for all financial transactions and the accounting records are maintained using the Commission's accounting policies, and international financial reporting standards (IFRS).

## Audit

### Financial Audit

Section 16 (2) of the HRADC Act requires that *the accounts of the Commission must be audited by the Auditor General*. It is imperative to note that the Commission financials remained unaudited since 2008. The Commission Director, Manager Corporate (Acting) and Accountant (Acting) appeared before the Parliamentary Standing Committee on Public Accounts on 28 March 2017 to explain the findings of the Auditor General in his 2014 Report to Parliament. The Commission in its presentation submitted that the Commission will have the backlog of all its accounts from 2008 to 2016 prepared and audited by 22 December 2020.

Following a meeting between the Commission Director, the Solicitor General, the Auditor General and the Manager Corporate (Acting) on the 1st of June 2017, it was agreed that the Commission outsource the task of preparing its financials. It was envisaged that all pending financial statements will be ready in eight (8) months from the date of initiation. The Commission is in the process of acquiring quotations from accounting firms for the preparation of its financial statements for an audit by the Office of the Auditor General.

### Audit of accounting software

The Commission, on its own initiative, invited officers from the Fiji Revenue and Customs Authority to audit its accounting payroll software to ensure its consistency with the taxation laws of Fiji.

### Audit of assets, plant and equipment (BOS)

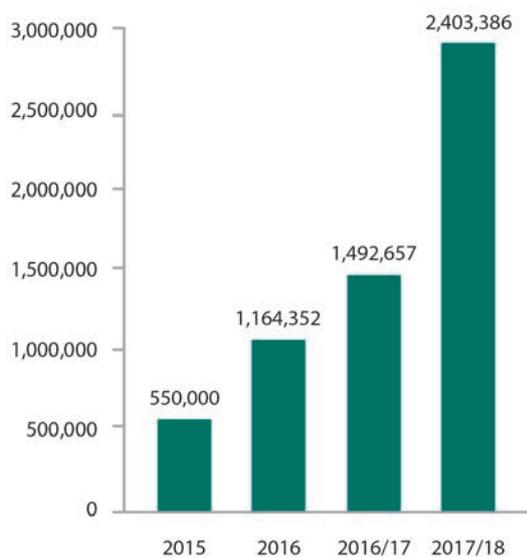
The Board of Survey (BOS) is an annual administrative exercise undertaken to determine the functionality and physical identification of all assets, plant and equipment of an organization. Section 10.4.1 of the Commission's Financial Manual requires that the *'Director or the Deputy Director shall nominate two stocktake officers to undertake an annual stocktake of fixed assets and expendable items at a specified date'*. It is imperative to note that this exercise was last undertaken by the Commission in 2009. The Manager Corporate (Acting) on the 15 March 2016, soon after the appointment of the Director brought this anomaly to the Director's attention. On 29 April 2016, the Director, through a 'terms of reference' for an audit directed the Manager Corporate (Acting) and his team to commence audit of all Commission assets. The audit took eight (8) months to conclude. The findings of the audit were independently verified by an IT consultant. The asset audit concluded that assets in excess of \$40,000.00 went missing. The Report was presented to the Commission Board who directed that the matter be reported to the Fiji Police Force. An official complaint was lodged with the Criminal Investigations Department of the Fiji Police Force.

### 2017/18 Budget Submission

The Corporate section formulated the 2017/18 State Grant Budget Submission, requesting for an increase of approximately \$900,000.00. The Commission

secured 100% of its submission from the State. The budget is released to the Commission on quarterly disbursements upon submission of acquittals and quarterly progress reports. The allocation of the Commission budget is consistent section 45(11) of the Fijian Constitution which states that “Parliament shall ensure that adequate finding and resources are made available to the Commission, to enable it to independently and effectively exercise its powers and perform its functions and duties.

## Grant Allocation



The Commission is currently using a Mazda BT50 ‘twin cab’ four-wheel and a Kia Optima, sedan car for all logistical needs. The existing fleet is able to cater all logistical needs of the Commission.

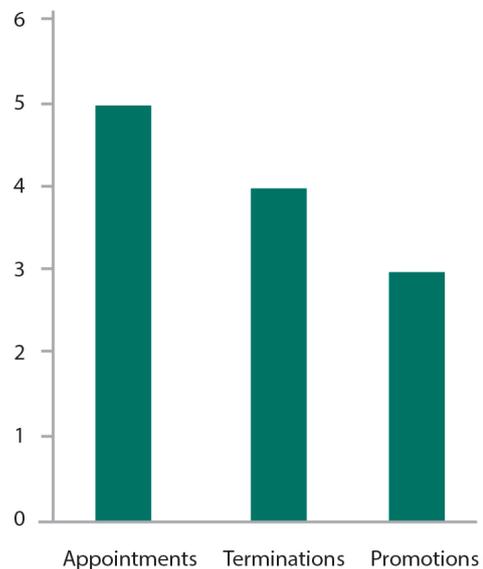
## Statement of Expenditure for the period January to December 2017

Expenditure Grouping	Total Expenditure
Personal Emoluments	\$640,382.92
Allowance	\$36,984.80
FNPF	\$63,910.01
Wages	0
FNPF	0
Relieving Staff	0
Overtime	0

Travel	\$44,977.75
Subsistence	\$6,883.00
Telecommunications	\$23,722.60
Vehicle – Fuel/Oil	\$7,788.97
Maintenance of office equipment	0
Water & Sewerage	\$1,379.88
Books, Periodicals, publications	\$11,364.24
Stationery/Printing	\$46,090.04
Electricity	\$18,865.17
Incidentals	\$7,436.63
Postage	\$1,077.28
Legal Costs	\$1,030.64
Bank Charges	\$340.10
Subs to International Human Rights Commission	0
HRC Expenses	\$236,753.45
Training	\$16,082.24
Computers & Equipment	\$45,423.49
Motor Vehicle	0
VAT Input	\$36,927.35
<b>Total</b>	<b>\$1,247,420.56</b>

## Human Resources

### 2017 Staff Turn-Over



## Appointments

The Commission Board, in consultation with the Director, made the following appointments in 2017.

1. **Waisale Tokalau** joined the Commission on 30 January 2017 as Senior Legal Officer. Mr. Tokalau was formerly employed by the Ministry of Employment.
2. **Mithleshni Gurdayal** joined the Commission on 30 January 2017 as Communications, Knowledge Management and Media Officer. Ms. Gurdayal was formerly employed by the Consumer Council of Fiji.
3. **Irene Yuen** joined the Commission on 27 February 2017 as Training Officer. Ms. Yuen was formerly employed by the Ministry of Employment.
4. **Shobna Devi** joined the Commission on 1 March 2017 as Senior Investigations Officer. Ms. Devi was formerly employed by the Fiji Womens Crisis Center.
5. **Gitanjali Pillay** joined the Commission on 3 April 2017 as Manager Complaints and Resolutions. Ms. Pillay was formerly employed by the Consumer Council of Fiji.

## Promotions

1. **Executive Officer Administration & Human Resources** Parmeshwaran Prasad was appointed to acting Manager Corporate on 26 January 2017.
2. **Finance Officer Varanise** Dominiko was appointed as Acting Accountant on 26 January 2017.
3. **Multi-media Officer Laisiasa Rogoyawa** was appointed as Acting Manager Education and Advocacy on 28 November 2017.

## Staff Training & Development

In its effort to address human capital skill deficiencies as well as improve the quality of its service delivery to the public, the Commission secured \$80,000 in its 2017/18 Budget. On a need-case basis, the following staff benefited from the following professional development opportunities.

1. Director Ashwin Raj travelled to Sydney, Australia to undertake Mediation training at the Australian Disputes Centre in July

2017. The Director further received a United Nations Development Programme funded (Knowledge exchange programme) trip to South Africa in August 2017.

2. Communications Officer Mithleshni Gurdayal travelled to Samoa to participate in the Asia Pacific Forum organised training on LGBTI Rights in June 2017. Mithleshni Gurdayal also travelled with the Director to South Africa on the United Nations Development Programme funded trip in August 2017. (Knowledge exchange programme).
3. Senior Investigations Officer Shobna Devi travelled to Samoa to attend a training on LGBTI Rights in June 2017.
4. Manager Complaints Gitanjali Pillay attended training in Mediation with the Director in July 2017 at the Australian Disputes Center. She also attended a KOICA funded training on 'Human Rights Policies Development in Seoul, Korea in July 2017.
5. Senior Legal Officer Waisale Tokalau attended a KOICA funded training on 'Human Rights Policy Development' in Seoul, Korea in July 2017.
6. Receptionist/Typist Manu Volavola is currently undertaking a Diploma in Office Administration at the University of the South Pacific with the Commission sponsoring six units.
7. Accountant (Acting) Varanise Dominiko has completed a Diploma in Accounting from the University of the South Pacific.
8. Manager Corporate (Acting) Parmeshwaran Prasad has recently completed a Post Graduate Certificate in Human Resource Management and Post Graduate Diploma for General Managers in Business Management at the University of the South Pacific. Mr. Prasad is also a recipient of tuition fee sponsorship of six units from the Commission.

## International engagements

Pursuant to section 12 (1) (n) of the Human Rights and Anti-Discrimination Commission Act, the Commission is required *to take part in international meetings and other activities on human rights; and to cooperate with other national, regional and international human rights bodies.* In materialising this provision

of the Human Rights and Anti-Discrimination Commission Act no. 11 of 2009, the Commission Director participated and represented the Commission in the following international engagements:

1. 23/02/17 to 16/03/17 - Director attended 34<sup>th</sup> session of the Human Rights Council Meeting in Geneva – Switzerland.
2. 08/09/17 to 21/09/17 – Director attended 36<sup>th</sup> Session of the Human Rights Council Meeting in Geneva – Switzerland.
3. 27/11/17 to 01/12/17 – Director attended 22<sup>nd</sup> session of Asia Pacific Forum Annual General Meeting and Biennial Conference in Bangkok, Thailand.

## Administration Section

### Corporate Plan

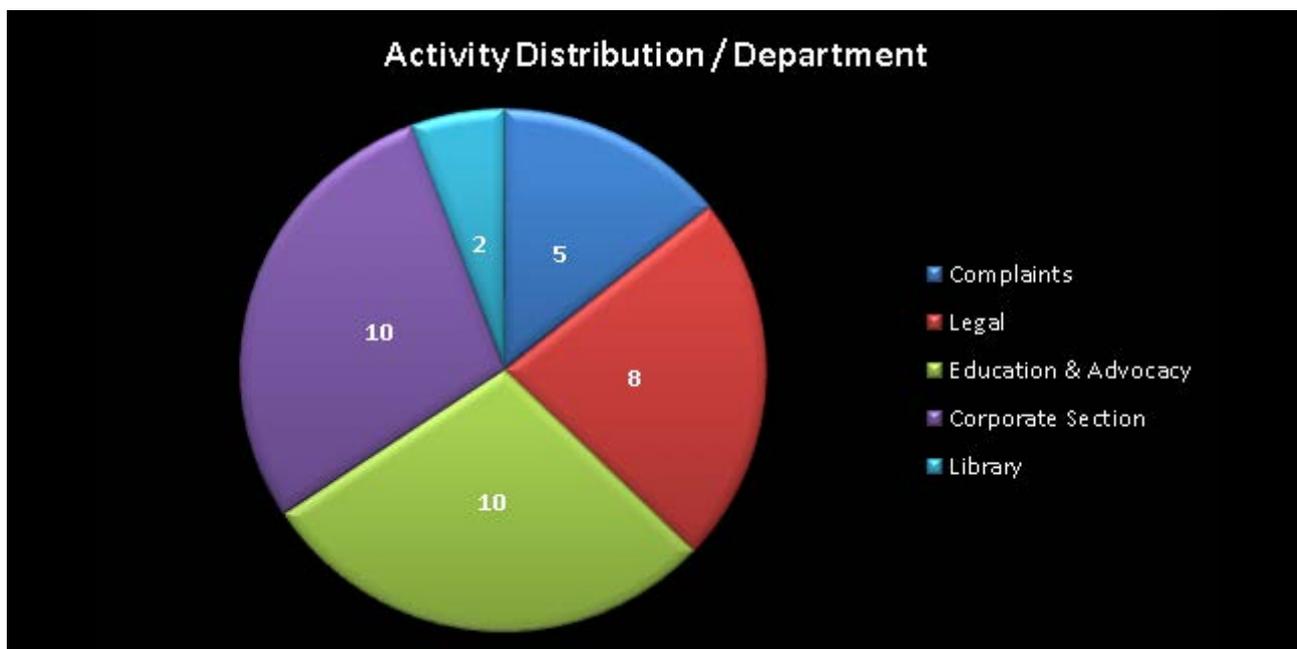
The section formulated the 2017/18 Annual Corporate Plan in consonance with the four (4) key pillars identified in the Commission's Strategic Plan 2016-2019: 1. Monitoring and Compliance, 2 – Research, Investigations and Policy Guidance, 3- Promotion and Advocacy and 4 – Institutional Strengthening. Each department was allocated activities derived from the imperatives of the Bill of Rights stated in the Fijian Constitution as well as key human rights challenges facing Fiji. Summary of activity allocation is detailed below:

In its efforts to improve the security of the office, its staff, assets, plant and equipment, the Commission installed CCTV cameras at strategic locations within the Commission premises. All personal computers were upgraded and to promote the ethos of accountability, the Commission introduced Biometric Access Control Systems in tandem with the manual staff attendance register.

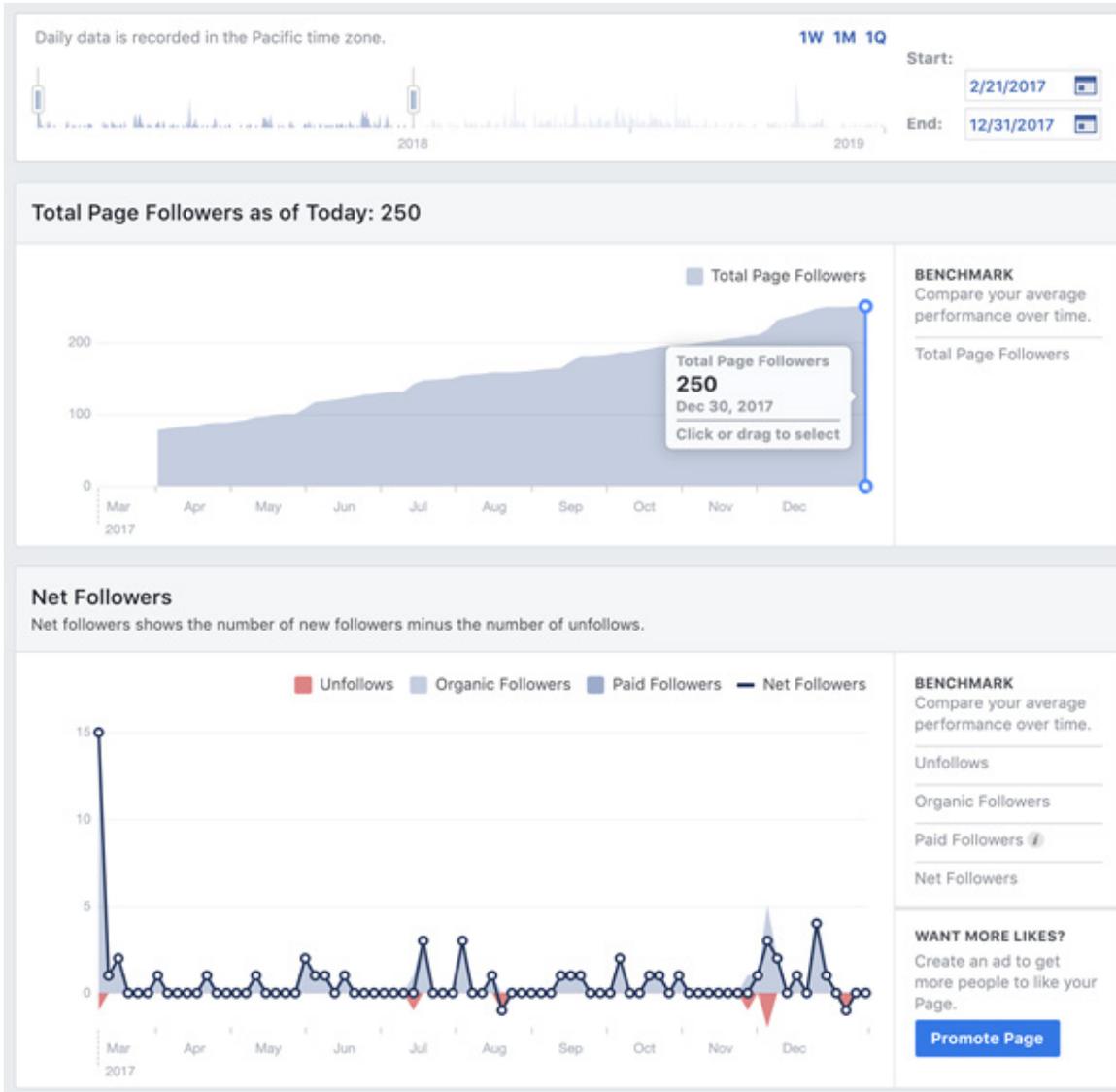
In the absence of the Information Systems and Technology Officer, the Corporate Section manages and provides necessary technical support in the form of end-user support (hardware integration), PABX telephone defect isolation and support as well as net connectivity support.

Technical problems outsourced included:

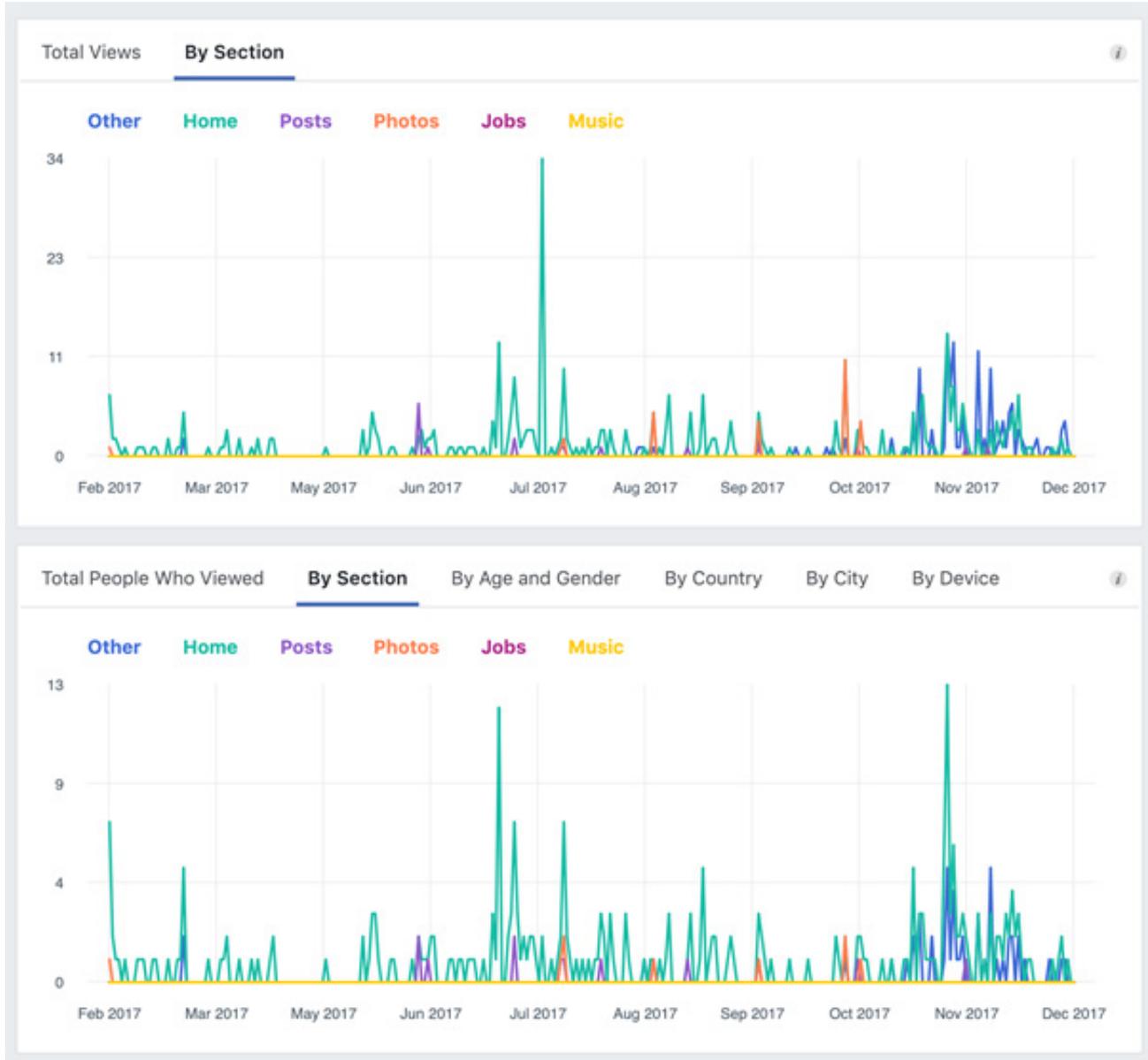
1. Technical Reports for procurement
2. Creation of user-accounts, setup printers and allow network access
3. PABX issue isolation and troubleshoot
4. Test CCTV system
5. Isolate and fix network loop and packet collision issues
6. Restore services after surges
7. Setup domain account, email and biometrix
8. Generate HPBX Call Reports
9. Generate Attendance Reports
10. Website monitoring



## Discrimination Commission's Facebook Page Report (<https://www.facebook.com/HRADCFiji/>)



## Summary of the Commission’s Facebook page view by section



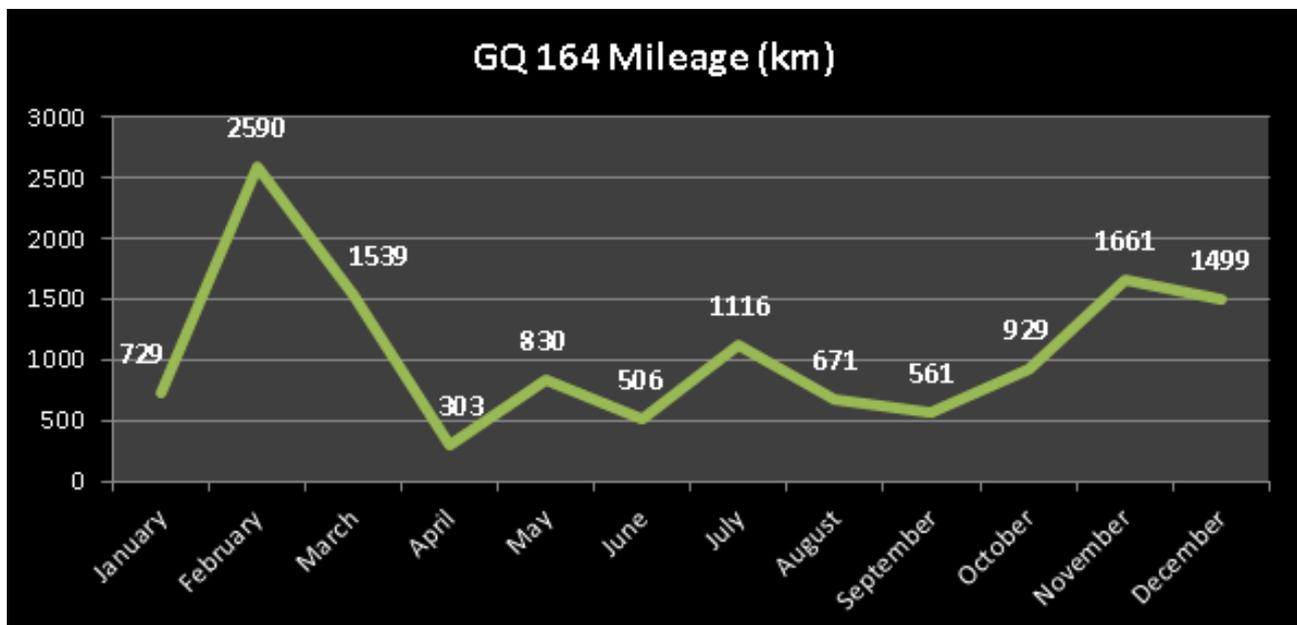
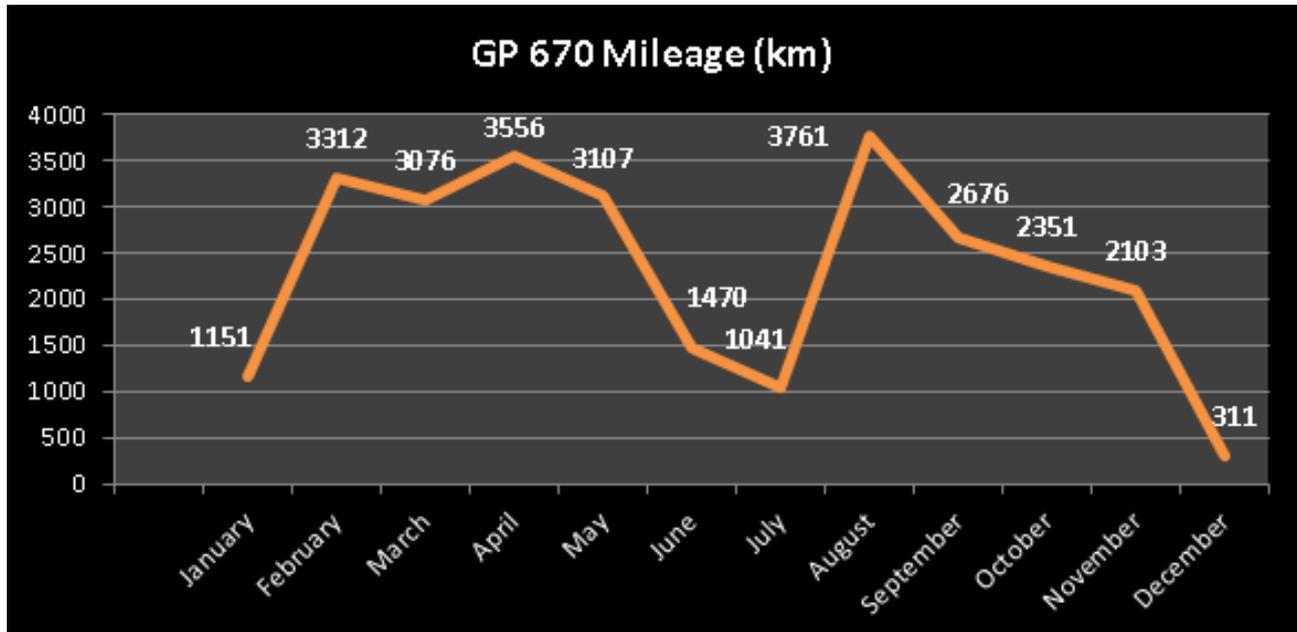
## Fleet Report

The Commission currently has two (2) leased vehicles in its fleet pool. The summary of mileage consumption is illustrated below.

**GP 670**, Mazda BT 50, twin cab, 4 wheel drive primarily utilised to undertake all rural and remote

engagements for training and advocacy purposes as well as site visits and investigations. Total mileage consumed in 2017 was 27,915 kilometres.

**GQ 164**, Kia Optima, executive sedan, fully loaded, is used for administrative engagements and providing logistical support to the Commission Board. Total mileage consumed in 2017 was 12,934 kilometres.



## Letter from the Office of the Auditor General

As procedurally required by the Office of the Auditor General, the Commission will submit the accounts for 2017 to the Office of the Auditor General upon conclusion of financial audit for the period of 31 December 2008 to 31 December 2017, which is already under audit by the Office of Auditor General.

### OFFICE OF THE AUDITOR GENERAL

Excellence in Public Sector Auditing



6-8<sup>th</sup> Floor, Ratu Sukuna House  
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P. O. Box 2214, Government Buildings  
Suva, Fiji

Telephone: (679) 330 9032

Fax: (679) 330 3812

E-mail: [info@auditorgeneral.gov.fj](mailto:info@auditorgeneral.gov.fj)

Website: <http://www.oag.gov.fj>



File: 494

11 January 2019

Mr. Ashwin Raj  
The Director  
Human Rights & Anti-Discrimination Commission  
Level 2 Naibati House  
**SUVA**

Dear Mr. Raj

#### **AUDIT OF HUMAN RIGHTS & ANTI-DISCRIMINATION COMMISSION FOR THE YEARS ENDED 31 DECEMBER 2008 TO 31 DECEMBER 2017**

With reference to the above-mentioned subject.

The Office hereby confirms that the Commission's financials for the years 2008 to 2016 are currently being audited on our behalf by a Chartered Accounting firm after being appointed by Auditor-General under section 7A(1) of the Audit Act.

The Office would undertake the audit for year 2017, once the accounts are submitted by the Commission.

Yours sincerely

Sairusi Dukuno  
**Deputy Auditor General**  
for AUDITOR GENERAL

I YOU  
I ARE

Neither Greater  
Nor Lesser  
but EQUAL:  
Dignity,  
Equality  
and Freedom  
for all in Fiji

