



**STANDING COMMITTEE ON JUSTICE, LAW AND
HUMAN RIGHTS**

CONSOLIDATED REVIEW REPORT ON

**THE FIJI INDEPENDENT COMMISSION AGAINST
CORRUPTION ANNUAL REPORT 1 JANUARY – 31
JULY 2016**

AND

**THE FIJI INDEPENDENT COMMISSION AGAINST
CORRUPTION ANNUAL REPORT 1 AUGUST 2016
– 31 JULY 2017**



**PARLIAMENT OF THE REPUBLIC OF FIJI
Parliamentary Paper No. 17 of 2020**

FEBRUARY, 2020

Published and Printed by the Department of Legislature, Parliament House, SUVA

TABLE OF CONTENTS

CHAIR’S FOREWORD	2
1.0 INTRODUCTION.....	5
2.0 COMMITTEE DELIBERATION AND FINDINGS.....	6
3.0 GENDER ANALYSIS	8
4.0 RECOMMENDATION.....	8
5.0 CONCLUSION	9
APPENDICES	10

CHAIR'S FOREWORD



The Fiji Independent Commission Against Corruption (“FICAC”) is Fiji’s leading anti-corruption agency that was established for the purpose of responding to the people’s plea for accountability of public offices and its officials. FICAC was established in 2007 and since its establishment has dealt with hundreds of corruption related cases, which shows the pivotal role it plays in lives of all Fijians.

According to the Deputy Commissioner, FICAC has made steady progress in combating, preventing and investigating corruption and has continuously promoted and refined innovation in the nation’s anti-corruption work. Efforts have also been made to streamline the referral of non-corruption complaints to the Government Information and Referral Centre (GIRC).

The Committee deliberated on the Reports succinctly and noted a few pertinent matters in its content. These matters were discussed with the Fiji Independent Commission Against Corruption, which were appropriately clarified. The Office provided responses to the questions and these were scrutinised by the Committee.

In its review, the Committee highlighted several findings from the Report. Some of these findings are:

- that the office of the Commissioner has been vacant since the establishment of the Commission, thus sought comments on this from the Commission representatives.
- on the aspect of human resources of the Commission and whether the number of staff was sufficient.
- on the Commission’s statistics of ‘Cases recommended for closure’ with respect to why some cases have names specified and some do not.
- on the procedures that the Commission follows in coming to a conclusion on a particular case and recommends it for closure due to ‘insufficient evidence’.
- on the ‘Good Kiddo’ programme of the Commission and;
- on the financial statements such as the use of accounting terms and clarification of certain figures captured in the financial statements and its accompanying notes.

Consideration was also given to the requirements of the Standing Orders of Parliament pertaining to the impact on gender when deliberating on the Annual Report, however appreciation was given to the apparent gap in placing emphasis on such requirements when the Reports were drafted and tabled in Parliament.

Through the review of the *Fiji Independent Commission Against Corruption Annual Report 1 January – 31 July 2016* and the *Fiji Independent Commission Against Corruption Annual Report 1 August 2016 – 31 July 2017*, it can be inferred that there has been commendable effort conducted by the organisation in meeting its obligations. However, the Committee after extensive deliberation has come up with certain recommendations that it feels warrants consideration by the Office.

I would also like to thank the Honourable Members of the Standing Committee Justice, Law and Human Rights for their deliberations and input, the alternate members who made themselves available when the substantive members could not attend, the secretariat and the officials from the Fiji Independent Commission Against Corruption who had assisted in the Committee's work.

I, on behalf of the Standing Committee on Justice, Law and Human Rights, through this Consolidated Report, commend the *Fiji Independent Commission Against Corruption Annual Report 1 January – 31 July 2016* and the *Fiji Independent Commission Against Corruption Annual Report 1 August 2016 – 31 July 2017* to the Parliament and request all the members of this August House to take into consideration the recommendations put forth by the Committee.



.....
Hon. Alvick A. Maharaj
Chairperson

COMMITTEE COMPOSITION



Hon. Alvick Avhikrit Maharaj (Chairperson)

- *Assistant Minister for Employment, Productivity, Industry Relations, Youth and Sports*
- *Chairperson of Public Accounts Committee*
- *Government Whip*
- *Registered Pharmacist*



Hon. Rohit Sharma (Deputy Chairperson)

- *Deputy Chairperson of the Standing Committee on Justice, Law and Human Rights*
- *Deputy Government Whip*



Hon. Ratu Suliano Matanitobua (Member)

- *Shadow Minister for Youth and Sports*
- *Former State Minister of Fijian Affairs*
- *Former Military Territorial Officer*



Hon. Dr. Salik Govind (Member)

- *Public Health Specialist – United Nations (World Health Organisation)*
- *Deputy Chairperson of the Standing Committee on Foreign Affairs and Defence Committee*



Hon. Mosese Bultavu (Member)

- *Shadow Minister for Defense, National Security, Immigration and Correction Services*
- *Former Opposition Whip*
- *Business Consultant/Farmer*
- *Territorial Military Officer – Republic of Fiji Military Forces*
- *Law Graduate and Researcher*

1.0 INTRODUCTION

Pursuant to Standing Order 38 (2) of the Standing Orders of the Parliament of the Republic of Fiji, the Standing Committee on Justice, Law and Human Rights (“Committee”), was referred the *Fiji Independent Commission Against Corruption Annual Report 1 January – 31 July 2016* and the *Fiji Independent Commission Against Corruption Annual Report 1 August 2016 – 31 July 2017* (“Reports”) for review, on 5 March, 2018 and 14 May, 2018 respectively.

In reviewing the Reports, the Committee resolved that it would be appropriate to have a consolidated Report.

The Committee conducted its own deliberation and invited the Fiji Independent Commission Against Corruption to clarify issues pertaining to the Reports.

This review outlines the findings and recommendation by the Committee.

The Fiji Independent Commission Against Corruption

The Fiji Independent Commission Against Corruption (“Commission”) is an independent agency established by the *Fiji Independent Commission Against Corruption Act 2007*. The Commission is dedicated to combating and reducing major crimes such as fraud, bribery and corruption in the public sector¹. It also has jurisdictions in the private sector, when it comes to bribery related cases².

The Commission receives complaints of fraud, bribery and corruption and investigates such allegations and prosecutes its own cases.

The Commission is required by law to produce an annual report to be presented to the President and the Minister responsible for anti-corruption. The *Fiji Independent Commission Against Corruption Annual Reports 1 January – 31 July 2016 and 1 August 2016 – 31 July 2017* (“Reports”) covers information on the types of work carried out by the Fiji Independent Commission Against Corruption (“FICAC”).

The Reports also covers the main highlights of FICAC’s activities for the respective years.

¹An Introduction to the Independent Commission Against Corruption. *FICAC*. Vol: 1/November 2017.

² Section 2, *Prevention of Bribery Act 2007*.

2.0 COMMITTEE DELIBERATION AND FINDINGS

As part of its review the Committee read and deliberated on the Reports and identified a few issues, which were then brought to the attention of FICAC for clarification. Some of the main issues and queries noted were:

- The Committee noted that the office of the Commissioner has been vacant since the establishment of the Commission, thus sought comments on this from the Commission representatives.
- The Committee sought comments on the human resources aspect of the Commission and whether the number of staff was sufficient.
- The Committee sought clarification with regards to the Commission's statistics of 'Cases recommended for closure' with respect to why some cases have names specified and some do not.
- The Committee sought clarification on procedures that the Commission follows in coming to a conclusion on a particular case and recommends it for closure due to 'insufficient evidence'.
- The Committee sought information and comments on the 'Good Kiddo' programme of the Commission.
- The Committee also sought clarification on certain aspects of the financial statements such as the use of accounting terms and clarification of certain figures captured in the financial statements and its accompanying notes.

The Committee thoroughly discussed the above issues with the FICAC representatives and the following is a summary of the issues from this discussion:

The issue of the vacancy in the office of the Commissioner

It was advised that even though the office of the Commissioner is vacant, this does not mean that the Commission has been defunct. The *FICAC Act 2007* provides that the Deputy Commissioner becomes the ex-officio Acting Commissioner when office of the Commissioner is vacant. The Deputy Commissioner has been exercising his statutory powers to act as the Commissioner pursuant to Section 7 of the *FICAC Act 2007*.

Clarification on the human resources aspect of the Commission

It was advised by the Commissioner that he was content with a small but efficient and effective workforce since the current staff have proven to be able to carry out their functions diligently.

The issue of anonymity of names in certain cases

In relation to the issue of anonymity of names in certain cases, the Commission advised that these were cases and complaints brought to it by persons who wanted to remain anonymous and had done so during the time of lodging the complaint. The Commission will take the complaint as is, with names or without and put it through its investigation procedures.

Issue of conclusion and closure of a particular case on the recommendation of 'insufficient evidence'

With regards to the issue of closure of a particular case due to insufficient evidence; it was advised that the Commission goes through the investigations and thereafter an assessment is made by the Legal Department to determine whether there is sufficient evidence to initiate proceedings or not. After going through this process, it then falls on the Commission to decide whether there is no evidence to go ahead, and if this is the case, then the case is closed on the basis that there is no sufficient evidence.

Information and comments on the Good Kiddo programme of the Commission

The Commission advised that the Good Kiddo programme is a development programme aimed at informing children of the functions of FICAC and teaching young citizens especially children the concept of good values and how it leads to being a good citizen. It also aims to act as a buffer to the National Anti-Corruption Curriculum (NAAC).

This programme has been adopted from a Brunei concept which has similar programmes of development training. This programme has been successfully implemented for 2 years in 32 schools and will contribute to the NAAC full implementation into the Ministry of Education by 2019.

Clarification on certain aspects of the financial statements

The Commission clarified certain terms used in the Annual Reports, and what it pertains to.

Apart from the issues initially brought to the attention of the Commission, there were other supplementary question noted and discussed between the Committee and the Commission. The following is a summary of this discussion:

It was noted that the Deputy Commissioner carries out the work of the Commissioner without any remuneration for acting in the position. This has been the case since the establishment of the Commission.

It was also noted that there are offices in other Divisions of Fiji, but the investigating and/or legal officers are only dispatched to these areas to attend to a complaint lodged when the need arises.

A copy of the Commission's response is attached as '**APPENDIX A**' with this Report.

3.0 GENDER ANALYSIS

The Committee took into account the provisions of SO 110(2) which states when a committee conducts an activity listed in clause (1), the Committee shall ensure that full consideration will be given to the principle of gender equality so that all matters are considered with regard to the impact and benefit on both men and women equally.

The Committee noted that the Report is impartial with regards to gender, which can be seen in the form of drafting of the Report.

There was no gender biasness seen in the reporting by FICAC and this were evident in the disaggregated data for staff that were recorded for the two reported years. Staffing category were Male 81(53%) and Female 71(47%) for the year 2016 and Male 82(54%) and Female 70(46%) for the year 2016 – 31 July 2017 giving a 2 percent differential increase/decrease between the two genders for the two comparable years.

The Committee also notes that three (3) female staff holds managerial positions out of the six department indicating a level field of decision making and contribution towards the achievement of the organisation's operational task's.

The Committee therefore notes that the Commission is confined in the parameters of promoting gender equality and also maintains the balance in the employment and promotion of both male and female officers within the Organisation.

4.0 RECOMMENDATION

After reviewing the *Fiji Independent Commission Against Corruption Annual Report 1 January – 31 July 2016* and the *Fiji Independent Commission Against Corruption Annual Report 1 August 2016 – 31 July 2017*, the Committee noted a few issues which were brought to the attention of the Commission. These issues were clarified but the Committee feels that despite the achievements of the Commission, there is still room for improvement. Therefore the Committee recommends the following:

- The Committee noted that the position of the Commissioner has been vacant since the Commission's establishment and it therefore recommends that the position be substantively filled.
- Given that the Deputy Commissioner has been carrying out the work of the Commissioner without any remuneration for acting in the position, the Committee recommends that the Deputy Commissioner be appropriately remunerated for carrying out the work in the absence of the Commissioner.
- The Committee notes the adoption of the Good Kiddo programme, which is a Brunei concept that the Commission advised is a positive development for the combat of corruption in Fiji, however the Committee recommends that the Commission

seriously consider developing home-grown development programmes taking into account our unique cultural, family and religious set up.

- The Committee recommends that additional funds be provided for staff and other resources for the Northern and Western Offices.

5.0 CONCLUSION

The Standing Committee on Justice, Law and Human Rights has fulfilled its mandate approved by Parliament, which is to examine and review the *Fiji Independent Commission Against Corruption Annual Report 1 January – 31 July 2016* and the *Fiji Independent Commission Against Corruption Annual Report 1 August 2016 – 31 July 2017* with due diligence.

The Committee's review findings showed a few issues which were brought to the attention of the Fiji Independent Commission Against Corruption representatives and was appropriately addressed and this was reflected in the findings and the recommendations put forth in this report.

The Committee through this Report commends the *Fiji Independent Commission Against Corruption Annual Report 1 January – 31 July 2016* and the *Fiji Independent Commission Against Corruption Annual Report 1 August 2016 – 31 July 2017* and seeks this august house to take into consideration its recommendations.

APPENDICES

APPENDIX A: ISSUES BY THE COMMITTEE AND RESPONSE BY THE FIJI INDEPENDENT COMMISSION AGAINST CORRUPTION