



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

**Review of the Fijian Electoral Commission Annual Report
2016**



**PARLIAMENT OF THE REPUBLIC OF FIJI
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CHAIRPERSON'S FOREWORD



The Standing Committee on Justice, Law and Human Rights of the last term of Parliament was referred the Fijian Electoral Commission Annual Report 2016. The same report had been re-instated in this new Parliament and has been referred to the current Standing Committee on Justice, Law and Human Rights.

Like the previous Committee, the current Committee is mandated to review the Annual Report and table its findings back to Parliament.

This Committee Report specifies the findings and recommendations of the Committee with respect to the issues noted from the contents of the Fijian Electoral Commission Annual Report and is divided into three main parts, as follows:

- the introduction;
- the Committee's observation and findings; and
- the recommendations.

In reviewing the Annual Report the Committee took note of the deliberation by the previous Committee and also conducted its own independent review. This independent review highlighted a few pertinent issues, which also included the recommendations that were made by the then Electoral Commission and these were as follows:

- the realisation of independence of the Fijian Electoral Commission by having and controlling its own budget, being able to utilise independent legal services and having clear demarcation on the governance structure of Fiji's electoral management body;
- the realisation of the aforementioned by considering proposed amendments to the electoral laws (Constitution of the Republic of Fiji (2013), Electoral Act 2014 and the Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013; and
- the Commission had positive engagements with foreign electoral management bodies such as the New Zealand Electoral Commission, whereby technical assistance was provided and numerous institutional documents were successfully created;


The Committee was also mindful of the requirements of the Standing Orders of Parliament regarding gender, however, as part of the review, the Committee noted and appreciates the fact that there was not much emphasis given to gender focused analysis at the time of tabling the Annual Report.

At the conclusion of the review, the Committee noted that some of the suggestions made in the 2016 Annual Report have already been addressed by the Electoral Commission since the initial tabling of the Annual Report in Parliament. The Committee thus would like to commend the Commission for the great work carried out for Fiji's electoral system.

At this juncture I would like to acknowledge the Members of the Standing Committee on Justice, Law and Human Rights of the last term of Parliament for their efforts and input, which had greatly assisted our Committee in the compilation of this report.

I would also like to thank the Honourable Members of the Justice, Law and Human Rights Committee, Hon Rohit Sharma (Deputy Chairperson), Hon. Ratu Suliano Matanitobua, Hon. Salik Govind and Hon. Mosese Bilitavu, for their deliberations and input, the alternate members who made themselves available when the substantive members could not attend, the secretariat, and representatives of Fiji's electoral management bodies who accepted the invitation of the previous Committee and the current Committee and for taking an interest in the proceedings of the Committee and Parliament.

On behalf of the Committee, I commend the Committee's Report on the *Fijian Electoral Commission Annual Report 2016* to the Parliament and seek support of all the members of this August house to take note of the contents of the Committee's Report.



Hon. Alvick A. Maharaj
Chairperson

COMMITTEE COMPOSITION

The Committee is made up of both the Government and Opposition Members, pursuant to Standing Order 115. Members of the Standing Committee on Justice, Law and Human Rights, 2018-2022 Parliamentary Term, are as follows:



**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 Bulitavu (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*

Committee Secretariat Team

Supporting the Committee in its work is a group of dedicated Parliament Officers who make-up the Committee Secretariat, and are appointed and delegated by the Secretary-General to Parliament pursuant to Standing Order 15 (3)(i). The Secretariat team is made of the following Parliament officers:

- Mr. Ira Komaisavai – Senior Committee Clerk
- Mr. Jackson Cakacaka – Deputy Committee Clerk
- Ms. Darolin Vinisha – Committee Assistant

1.0 INTRODUCTION

The Standing Committee on Justice, Law and Human Rights of the last term of Parliament was referred the Fijian Electoral Commission Annual Report 2016. The same report had been re-instated in this new Parliament and has been referred to the current Standing Committee on Justice, Law and Human Rights. Just as the previous Committee, the current Committee was mandated by Parliament to review the Annual Report and to report back to Parliament on its findings.

Procedure and Program

The Committee began its review of the Annual Report by reviewing the previous Committee's deliberation and reading through the Annual Report. A few pertinent issues were highlighted by the Committee and these were sent to the 2017 Electoral Commission for clarification.

The Committee then conducted a public hearing at the Fijian Elections Office on 28 November, 2019, whereby the Supervisor of Elections had represented the Commission. Discussions held in the hearing form part of the Committee's findings, which is covered in later parts of this report. The Committee reviewed the evidence collected and had extensive discussions on the work done by the Commission taking into account the contents of the Annual Report and the presentation by the representatives of the Commission.

Fijian Electoral Commission Annual Report 2016

The Fijian Electoral Commission ("FEC") was constituted by Section 75 of the *Constitution of the Republic of Fiji (2013)* (hereinafter also referred to as "the *Constitution*") and mandated to carry out the responsibilities as stated in Section 75(2), (3) and (4).

The *Fijian Electoral Commission Annual Report 2016* ("FEC Report") was tabled in the last term of Parliament (2014-2018) and was referred to the previous Committee on 15 September, 2017. The Report was then reinstated to in the 2018-2022 Parliament for review.

The FEC Report covers topics such as a brief background of the Fijian Electoral Commission, the Legislative Framework of the Commission and the Supervisor of Elections ("SoE"), the structure of the Commission, the institutional support, the budgetary allocation, the independent legal advisor, the support from development partners, such as the New Zealand Electoral Commission.

2.0 DELIBERATION AND FINDINGS BY THE COMMITTEE

Initial deliberation by the Committee

The Committee reviewed the deliberation of the previous Committees and noted that the Fiji Electoral Commission Annual Report 2016, reiterated the recommendations made by the Commission in its 2014 Annual Report. These recommendations are summarised as follows:

The FEC Report highlighted the issue pertaining to independence of the Commission and the main arguments pertaining to this issue can be summarised as follows:

- To assist in maintaining independence of the Commission, it should have its own budget and be allowed to determine without interference how to utilise the budget, and only subject to scrutiny by the Auditor-General's Office;
- The Commission should be able to procure its own independent legal adviser and legal services and not to solely rely on the Solicitor-General;
- There needs to be clarification on the roles and governance structure of the Commission and the Supervisor of Elections, since the governance structure in 2014 limited the FEC from fulfilling its role.

Deriving from the 2014 Annual Report recommendations; it was noted that there were recommendations for review and amendments of pieces of legislation that relate to the electoral system, which include the following:

Amendments to the Constitution of the Republic of Fiji

- Sections 53(3), 61 and 64(1) and (2).

Amendments to the Electoral Act 2014

- Sections 23(4)(g), 36(2)(c), 52(2), 43, 53(1A), 67(7)(a), 79(4), 81(3), 83(1), 86(1), 88(2) and (4), 102, 103, 104(6) and (8), and 119.

Amendment to the Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013.

- Section 6(3)(i).

Evidence via submissions received and discussions with the Fijian Electoral Commission

This Committee report will only focus on the submission received and the outcomes of the discussions with the representatives of the *Fijian Electoral Commission*, which is summarised as follows.

The Commission assured the Committee that in terms of its independence, there have been actions taken that highlights this aspect, such as amendments of the Electoral Act. The amendment in turn cured some of the other pertinent issues of the Commission, such as budget implications.

The Commission has also been dedicated a secretariat team, who carry out the Commission's secretariat and administrative work.

The Committee was also assured that the Commission has been fortunate to have support from the New Zealand Electoral Commission in terms of technical assistance, training and creation of election related institutional documents.

Findings

The Committee has reviewed the Annual Report taking into account the deliberation by the previous Committee and the recommendations under the FEC Annual Report 2014 and has below is a summary of the Committee's main findings.

The Commission's independence has always been a controversial subject; however, recognition should be given to the progress that has been made with regard to addressing many of the concerns raised in the 2014 Annual Report, which were reiterated in the 2016 Annual Report. Some of the main achievements made were:

- key changes/amendments to the electoral laws;
- providing the Commission its own secretariat team; and
- putting in place election documents and policies that are in line with the electoral laws, which ensure a smooth election process.

The Commission has been assisted so much by foreign electoral management bodies such as the New Zealand Electoral Commission (NZ EC). These assistance were provided via a Memorandum of Understanding (MoU) with the NZ EC, whereby technical assistance was provided, trainings were conducted and numerous institutional documents were successfully created.

Gender Analysis

Additionally as part of its deliberation, the Committee is bound by Standing Order 110(2) of the Standing Orders of the Fiji Parliament, which provides as follows:

“Where 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 as to ensure all matters are considered with regard to the impact and benefit of both men and women equally”.

The Committee for this part of the review, noted that during the initial tabling of the Annual Report, there was a lacuna in reporting on gender focused analysis. Therefore, the Committee has taken note of this fact and appreciates that this will be an area that will take more precedence in the future.

3.0 RECOMMENDATIONS

After its extensive deliberation, the Committee noted that the 2016 Annual Report reiterates the recommendations that the Commission had put forth in its 2014 Annual Report. Thus, the Committee does not make any recommendations, however, takes note

of the main matters highlighted in the 2016 Annual Report, which are summarised as follows.

- i.) The Committee takes note of the work done by the Electoral Commission and the progress made towards the preparation of the 2018 General Elections.
- ii.) The Committee noted the support provided by the Electoral Commission to Supervisor of Election for the Preparation of the 2018 General Elections.
- iii.) Committee noted that the Electoral Commission requested for a separate budget and to have its own secretariat in 2016.

4.0 CONCLUSION

After reviewing the *Fijian Electoral Commission Annual Report 2016*, the Committee recommends that the House takes note of its contents.

The Standing Committee on Justice, Law and Human Rights has fulfilled its mandate approved by Parliament, which is to examine and review the *Fijian Electoral Commission Annual Report 2016* with due diligence.

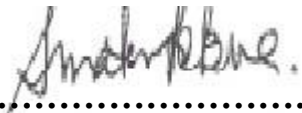
The Committee's review highlighted numerous findings which were addressed by the Committee and these were reflected in this Report.

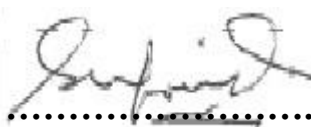
The Committee through this report commends the *Fijian Electoral Commission Annual Report 2016* and the contents of its Report to the Parliament.

MEMBERS SIGNATURES OF ENDORSEMENT:


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HON. ALVICK MAHARAJ
(CHAIRPERSON)


.....
HON. ROHIT SHARMA
(DEPUTY CHAIRPERSON)


.....
HON. RATU SULIANO
MATANITOBUA
(MEMBER)


.....
HON. DR. SALIK GOVIND
(MEMBER)


.....
HON. MOSESE BULITAVU
(MEMBER)

DATE: 25/05/2020