



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

**Report on the Review of the
Fiji Human Rights and Anti-Discrimination 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 was referred the *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2016*. The Committee was mandated to review the Annual Report and table its findings back to Parliament.

The Fiji Human Rights and Anti-Discrimination Commission is constitutionally mandated to promote the protection and respect for human rights in Fiji; monitor and investigate human rights issues and also to conduct awareness programmes on constitutional and internationally recognised rights and freedoms.

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

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

The Committee reviewed the Annual Report and noted key issues from it, which were then brought to the attention of the Commission as part of an extensive discussion of the work being carried on human rights in Fiji.

Some of the main areas of discussion, which were noted by the Committee and formed part of its findings were as follows:

- The Commission is in the forefront of human rights protection and has done so much for human rights for the people of Fiji.
- The Commission has projected itself as being impartial and transparent in all its activities, which is an attribute of the institution that the Committee commends.
- The Commission plays a vital role in matters pertaining to human rights such as:
 - instituting legal proceedings for abuse of human rights through its own Proceedings Commissioner;
 - monitoring Government's initiatives related to human rights;
 - monitoring of human rights protection in Fiji from an international perspective and this is realised through the Commission's Alternative Report for the Universal Periodic Review (UPR), which the Commission submits separately from the State UPR Report and the civil society organisations Shadow UPR Report.
- It was noted that there is a backlog of unaudited Financials for the Commission, however it is encouraging to note that the current Commission has undertaken and is still undertaking an audit of all matters pertaining to the Commission's work.
- The Commission's work is closely aligned to the sustainable development goals.
- The Commission believes in the freedom of expression and democratic dissent and the existing law is adequate. The Commission believes that what is needed is constructive dialogue and conversation between stakeholders concerning human rights.

- The Commission has made a lot of strides in the work of protecting human rights, however, there is a need for sufficient resources and funding for more effective human rights services.

Furthermore, the Committee was mindful of the requirements of the Standing Orders of Parliament regarding gender related issues, and it was encouraging to note that the Commission's work is aligned to the principles of gender equality. The Commission carries out its work without giving privilege to one set of rights or a particular group over another.

At the conclusion of the review, the Committee commends the great work carried out by the Fiji Human Rights and Anti-Discrimination Commission, however, recommends the following as a forward and for consideration by the Commission:

- The Committee recognises and notes the role of the Media in awareness on human rights, thus believes that the Media should act responsibly and hold themselves to a higher degree of professionalism and integrity when covering matters concerning human rights;
- The Committee recommends that all Parliamentary Committees and the Fiji Human Rights and Anti-Discrimination Commission collaborate effectively to ensure full realization of the implementation of the sustainable development goals with a focus on human rights in Fiji.

At this juncture I would like to acknowledge and 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 Bulitavu, for their deliberations and input, the alternate members who made themselves available when the substantive members could not attend, the secretariat and the Officers of the Fiji Human Rights Commission who made themselves available to make a submission 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 *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2016* to the Parliament and seek support of all the members of this august house to take note of the recommendations by the Committee.



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 for the 2018-2022 Parliamentary Term are as follows:



Hon. Alvick A. Maharaj (Chairperson)

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



**Hon. Rohit R. 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 R. 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 was referred the *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2016* on 2 September 2019. The Committee was mandated by Parliament to review these report and report back to Parliament on its findings.

Procedure and Program

The Committee began its review of the Annual Report on 2 October 2019. The Committee's procedure and program for the review started with first reading through the Report and noting issues that the Committee felt needed clarification and further discussion.

The Committee also invited the Fiji Human Rights and Anti-Discrimination Commission to submit on the Annual Report whereby discussion on the main issues noted by the Committee was carried out.

The Committee then reviewed the evidence received, which formed its findings and from these, the Committee made recommendations for the purpose of continued improvement in work by the Commission. The findings and recommendations of the Committee is found in later parts of this Report.

Fiji Human Rights and Anti-Discrimination Commission

The Fiji Human Rights and Anti-Discrimination Commission is constituted by Section 45 of the *Constitution of the Republic of Fiji (2013)* (hereinafter referred to as the *Constitution*). It is mandated to carry out the responsibilities as stated in Section 45 (4), (6) and (7) of the *Constitution*, which include to promote the protection of human rights, education and advocacy of human rights and freedoms, monitor and investigate on observance of human rights, making recommendations to Government concerning matters affecting human rights, receiving and investigating complaints of human rights abuses and monitoring the State's compliance of its international obligations.

The *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2016* captures the work of the Commission in carrying out its functions and responsibilities as prescribed by the Constitution. The Report documents the work put in by the Commission in revitalising itself to be an institution that fights for human rights in Fiji.

This Committee Report will focus on the issues and recommendations highlighted in the *Annual Report* and the Committee's views on these.

2.0 DELIBERATION AND FINDINGS BY THE COMMITTEE

Initial deliberation by the Committee

The Committee's review commenced with reading and deliberating on the contents of the Annual Report and whereby key issues were identified. The main issues noted from the Committee's deliberation are summarised as follows.

The Commission's work regarding human rights is commendable, however, it would be prudent to understand how the Commission aligns its activities with the sustainable development goals. It is also prudent to have knowledge of the efforts by the Commission in ensuring that the provisions of the Bill of Rights as enshrined in the *Constitution*, is upheld and how aggrieved citizens and organisations can have access to assistance and service by the Commission.

An issue also worth noting is the role the Commission plays in national issues such as drugs and substance abuse and climate change and environmental issues. Concern was also raised regarding the Commission's independence and impartiality and therefore this raised the question of how the Commission ensures that it is immune from political influence and also if there any conflicts of interest when dealing with the Commission and its relationship with the Media Industry Development Authority.

The Report also triggers curiosity into the Commission's efforts regarding the monitoring of the implementation of the various conventions and treaties that were ratified by Fiji. Additionally questions should be asked of the Commission about its efforts regarding the review of legislation that seem to undermine the key ideals and principles of human rights in Fiji.

Moreover, there is a need to gauge the Commission's efforts in working with the other statutory bodies to ensure that the Parole Board and Mercy Commission is put in place. There is also a need to ascertain the reasons for delay in the disclosure of the Annual Audited Financial Statements of the Commission.

Evidence via submission received and discussion with FHRADC

In the course of the review, the Committee gave an opportunity for the Fiji Human Rights and Anti-Discrimination Commission (FHRADC) to attend before it and discuss key issues noted from the Annual Report. The following is a summary of the key points noted from discussion between the Commission and the Committee.

At the outset, the Committee was assured that the FHRADC aims to promote and protect all persons rights, irrespective of social, economic or political status, gender, sex, religious beliefs and political affiliations. The Commission is an independent body and is not subject to any direction or control of any authority or body and it noted that the Commission is not State nor is it a civil society organisation; it is a unique creature, which mainly deals with the promotion and protection of human rights for all Fijians.

The Commission believes that transparency and accountability are, among others, key principles for the effectiveness of a human rights body. The Commission is accountable

to the people of Fiji, the Judiciary and Parliament including the Parliamentary Committees. A complaint received against an officer of the Commission is always welcomed and encouraged and in dealing with such instances, greatest care is given to any issues of conflict of interest.

In its role as a monitoring institution of human rights related matters, the Commission plays a role in intervening in human rights related cases, reviewing and making proposals for amendments of existing laws and making proposals for amendments of new laws so that the fundamental principles of human rights are promoted and protected.

The Commission also highlighted the role of the Media, when it comes to human rights issues. The media plays a critical role in informing the public about human rights and what is being done to address human rights issues. Thus, it is vital for the media to ensure that they are not adding to the misconceptions of the public on human rights.

In regard to its investigation functions, and the Commission's role in investigating certain abuses of rights; the Commission assured the Committee that it carries out its duties with due diligence and in line with what the Commission is mandated to do and exhausts all the institutional mechanisms at its disposal. The Commission does not utilise any Government legal representative for initiation of investigation or proceedings in court, but has a Proceedings Commissioner who handles such matters and often, the Commission utilises a private lawyer for proceedings in court.

In its efforts to protect all human rights; there is no exception given and this includes freedom of expression and democratic dissent. And it is the belief of the Commission that the existing laws are adequate, however, what is needed is understanding the meaning of certain limitations and a conversation between stakeholders about such understanding and to openly have dialogue on the differing or opposing views.

Additionally, the Commission makes an Alternative Report for the Universal Periodic Review (UPR) and this is submitted separately from the State UPR Report and the CSO's shadow UPR Report. The Commission also engages with communities and NGO's/CSO's and conduct visits to rural areas with the aim of taking human rights to the people of Fiji.

The Commission's work is closely aligned to the sustainable development goals and also works tirelessly in addressing key national issues affecting the nation.

The current Commission has undertaken and is still undertaking an audit of all matters pertaining to the Commission's work, including complaints that have been received in the last decade, operations and finances.

For resources for the human rights commission, the Strategic Plan takes into cognation of the recommendations from the UPR and there is a need for more funding. The Commission is looking to decentralise the Commission's office, where the first decentralised office will be based in the Western part of Viti Levu.

Written copy and the Verbatim Report of the submission are uploaded along with this Report and can be accessed from the Parliament website: www.parliament.gov.fj.

Findings

After reviewing the issues noted from the Annual Report and the evidence attained from the discussion with the Commission, there were a few key findings that the Committee gave priority to and these are provided below.

- The Commission can be seen to be in the forefront of human rights protection and has done so much for human rights of all Fijians.
- The Commission has projected itself as being impartial and transparent in all its activities, which is an attribute of the institution that the Committee commends.
- The Commission plays a vital role in bringing and instituting legal proceedings for abuse of human rights and it is interesting to note that the Commission has its own Proceedings Commissioner, that carries out legal work for the Commission and that no legal professional from the Government is utilised. Apart from the Proceedings Commissioner, the Commission also utilises independent legal experts for its legal matters.
- The Commission also plays a vital role in monitoring Government's initiatives related to human rights and this is realised in its efforts of participating in the review of existing laws or new laws being proposed by Government. The Commission endeavours to ensure that any law being introduced into Fiji does not infringe on the rights of the people.
- The Commission also plays a role in the monitoring of human rights protection of a country from an international perspective; this role is realised through the Alternative Report for the Universal Periodic Review (UPR), which the Commission submits and is submitted separately from the State UPR Report and the civil society organisations Shadow UPR Report.
- There is a backlog of unaudited Financials for the Commission and it is encouraging to note that the current Commission has undertaken and is still undertaking an audit of all matters pertaining to the Commission's work backdated to 2008, which includes complaints that had been received in the last decade, operations and finances.
- The Commission's work is closely aligned to the sustainable development goals.
- There is a need for easy access to human rights services for the people of Fiji in all four Divisions, thus it is commendable to note that the Commission is looking to decentralise the Commission's office beginning with the Western Division.
- The Commission believes that the media in Fiji, also plays a vital role in promoting the protection of human rights.
- The Commission has made a lot of strides in the work of protecting human rights, however, there is a need for sufficient resources and funding for the continuation of effective human rights services.

Gender Analysis

Additionally as part of its deliberation, the Committee is bound by Fiji Parliamentary Standing Order 110(2) 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”.

Therefore, the Committee sought clarification on the how the principle of gender equality is realised in the Commission’s work. It noted that:

- the Commission’s work is closely linked to the sustainable development goals, which include gender equality;
- the Commission has tirelessly stood for the rights of all individuals irrespective of gender; and
- the Commission continues to work towards improving understanding of all human rights including gender equality.

3.0 RECOMMENDATIONS

After extensive deliberation, the Committee commends the great work being done by the Commission, however also recommends the following as a way forward and for consideration by the Commission.

Main Recommendations proposed by the Committee

- i. The Committee notes the role of the Media in human rights awareness, thus believes that the Media should act responsibly and hold themselves to a higher degree of professionalism and integrity when covering matters concerning human rights.
- ii. The Committee recommends that all Parliamentary Committees and the Fiji Human Rights and Anti-Discrimination Commission collaborate effectively to ensure full realization of the implementation of the sustainable development goals with a focus on human rights in Fiji.

4.0 CONCLUSION

After reviewing the *Fiji Human Rights and Anti-Discrimination 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 *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2016* with due diligence.

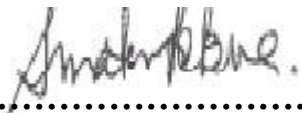
The Committee’s review highlighted numerous findings, which were addressed by the Committee and whereby a few recommendations were put forth for the consideration of the Commission.

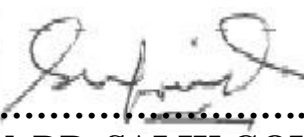
The Committee through this report commends the *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2016* and the contents of its Report to the Parliament.

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