



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

**Review of the Fiji Human Rights and Anti-Discrimination
Commission Annual Report 2017**



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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 2017*. The Committee was mandated to review the Annual Report and table its findings back to Parliament.

This Report will provide the findings and recommendations of the Committee with respect to the issues noted from the contents of the *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2017*.

This Report is divided into three main parts as follows:

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

The Committee reviewed the Annual Report and identified a few pertinent issues, which were then brought to the attention of the Commission and discussed extensively.

Some of the main areas of discussion, which were noted by the Committee are as follows:

- the work by the Commission in looking into matters concerning human rights and it is worth noting the Commission's efforts in standing up for the people of Fiji that have had their rights abused;
- the Commissions' work and collaboration with the United Nations Development Programme (commonly referred to as the UNDP), the European Union and civil society organisations on awareness on the 'First Hour Procedure' for persons detained by the Police;
- the work by the Commission in partnering with other statutory authorities, to ensure that there is no gender discrimination when it comes to registration and investigation of complaints;
- the Commission recommendation of adopting and implementing a monitoring framework such as the National Mechanism for Implementation, Reporting and Follow-Up (which is abbreviated as NMIRF) and a fully integrated National Recommendations Tracking Database (which is abbreviated as NRTD);
- concerns noted in respect of prejudicial activities being carried out by certain landlords, especially those living in squatter settlements;
- the issue regarding persons seeking refugee status and the Commission's role and efforts in intervening in such matters, for example, the case concerning an Iranian refugee, seeking refugee status in Fiji;
- the Commission's work on awareness and advocacy programmes on human rights related issues;
- the need for easy access to human rights services for the people of Fiji in all four Divisions, and the commendable step taken by the Commission in looking to decentralise the Commission's office beginning in the Western Division;
- the Commission's work which relates to the United Nations 2030 Global Agenda and the monitoring of these goals, specifically with regards to human rights in institutions in Fiji; and

- furthermore, the concerns on the delay in furnishing the accounts for audits as required under the Financial Management Act.

At the conclusion of the review, the Committee commends the great work carried out by the Fiji Human Rights and Anti-Discrimination Commission, but also recommends the following for consideration by the Commission, as it believes would assist the Commission in its work:

- the Committee notes the need for accessibility of the service provided by the Commission to the people of Fiji and appreciates the efforts in setting up an office in the Western Division. The Committee thus recommends that there be more decentralisation of the Commission's office;
- the Committee notes and commends the Commission's recommendation for the implementation and adoption of the National Mechanism for Implementing, Reporting and Follow-Up (NMIRF), which is a monitoring tool for human rights.
- Additionally, the Committee notes the endeavour of the Commission in improving its Strategic Plan, thus recommends that support be given to ensure the realisation of the Strategic Plan at the earliest possible time.

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 Bilitavu, for their deliberations and input, 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.

I, on behalf of the Committee, commend the Committee's Report on the *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2017* to the Parliament and seek support of all the members of this August house for the recommendations by the Committee.



Hon. Alvick Avhikrit Maharaj
Chairperson

COMMITTEE REMIT AND COMPOSITION

The Standing Committee on Justice, Law and Human Rights was established under Standing Order 109 of the Standing Orders of Parliament and is mandated to, among other things as prescribed in Standing Order 110 (1), scrutinise the government departments with responsibility within the committee's subject area.

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. Rohit Sharma
(Deputy Chairperson)**

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



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. 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 Defence, 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 2017* on 2 September 2019. The Committee was mandated by Parliament to review these report and report back to Parliament on its findings.

Review 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 discussions 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 2017* 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 Committees deliberation are summarised as follows.

The Committee noted that the Commission makes effort to look into matters concerning human rights and it is worth noting the Commission's efforts in standing up for those people in Fiji that have had their rights abused. Such cases include abuse of rights of detained persons and persons being assaulted by police,

The Committee took note of the Commissions' work and collaboration with the UNDP, the EU and civil society organisations on awareness on the 'First Hour Procedure' for persons detained by the Police.

The Committee was curious to know what steps were taken by the Commission, unilaterally or in partnership with other statutory authorities, to ensure that there is no gender discrimination when it comes to registration and investigation of complaints.

There was concern noted in respect of prejudicial activities being carried out by certain landlords, especially those living in squatter settlements and the Committee was curious to know what the Commission was doing to address such issues.

Additionally, another concern worth noting was the issue regarding persons seeking refugee status and the Commission's role and efforts in intervening in such matters. In the reported year, the Commission intervened in a case concerning a Mr. Loghman Sawari, who was an Iranian refugee, seeking refugee status in Fiji, but was deported.

The Committee noted that the Commission conducts a lot of awareness on human rights. On this end, the Committee was curious to know of some the specific education and advocacy programmes within the Commission regarding the promotion and protection of human rights.

The Committee noted the importance of the UN 2030 Agenda and queried how the Commission implements the goals under the 2030 Agenda and whether the Commission plays a role in monitoring the implementation of the sustainable development goals, specifically with regards to human rights in institutions in Fiji.

Furthermore, there was concern on the delay in furnishing the accounts for audits as required under the Financial Management Act.

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.

The Committee was assured by the Commission that it tirelessly works in promoting and protecting the rights of all Fijians. Some of the key efforts by the Commission which is evident of the tireless work which it conducts for the protection of human rights are as follows: intervening in human rights abuses such as those concerning incarcerated persons, upholding the principle of non-discrimination and collaborating and engaging with national and international institutions in human rights promotion and protection work in Fiji such as the ‘human rights wall’ in police stations.

It was also noted that in its role in reviewing and making proposals for amendments of existing laws and making proposals for amendments of new laws, the Commission relies on the complaints received by the public, which pertains to the particular legislation under review, submissions received from the public during the Commission’s outreach initiatives and international law.

As addressed in the earlier report for 2016 Annual Report, the Commission’s work is closely aligned to the sustainable development goals. The Commission highlighted the need for a State to adopt and implement the National Mechanism for Implementation, Reporting and Follow-Up (NMIRF) and a fully integrated National Recommendation Tracking Database (NTRD), which embodies engagement, consultation and information management capacity.

The Commission also assured the Committee that it follows the principles of accountability, good governance and transparency and this is evident in the audit being undertaken by the Commission on all the matters pertaining to the Commission’s work, including complaints that have been received in the last decade, operations and finances.

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

Sustainable Development Goals Impact Analysis

In its oversight role, the Committee is also mindful of Fiji’s global commitment towards achieving the sustainable development goals, which has been domesticated via the national development plan. In that regard, there were also discussions on the work of the Commission, which ties in with the development goals and plan.

It was encouraging to note that the work of the Commission is closely aligned to the sustainable development goals. From looking into complaints that relate to poverty to monitoring of right to quality education.

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 how the principle of gender equality is realised in the Commission’s work. From this discussion it noted that:

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

Committee 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 plays a vital role in being the voice for people that have had their rights abused. Certain examples of such abuse as captured in the 2017 Annual Report are as follows:
 - Breach of Section 8 of the Constitution – Right to Life – a suspect found dead while in police custody;
 - Breach of Section 11(1) of the Constitution – freedom from cruel and degrading treatment – a female complainant was strip searched by police in the presence of a male police officer;
 - Breach of Section 11(2) Right to Security and freedom from violence (police brutality) – allegations of assault, including assault on minors during arrest and while in custody, which resulted in physical injuries;
 - Discrimination of persons based on physical capabilities, gender and or sexual orientation.
- The Commission recommended that the State to adopt and implement a monitoring framework such as the National Mechanism for Implementation, Reporting and Follow-Up (NMIRF) and a fully integrated National Recommendation Tracking Database (NTRD).
- There is a need to balance imperatives of national security with Fiji’s international human rights obligations, so that issues such as people seeking refugee status are not prejudiced.
- The Commission plays a vital role in monitoring human rights protection in Fiji.
- There is a backlog of unaudited Financials for the Commission.
- The Commission reiterated its belief in the freedom of expression and democratic dissent and that existing law is adequate. The Commission believes that what is needed is constructive dialogue and conversation between stakeholders concerning human rights.

3.0 RECOMMENDATIONS

After its extensive deliberation, the Committee recommends the following to be considered by the Commission as a way forward. Below is a table capturing the main recommendations proposed by the Committee.

<i>Main Recommendations proposed by the Committee</i>
Recommendation 1: The Committee notes the need for public accessibility of the service provided by the Commission and appreciates the efforts of the Commission in setting up an office in the Western Division. The Committee also recommends that there be more decentralisation of the Commission's office.
Recommendation 2: The Committee notes and supports the Commission's recommendation for the implementation and adoption of the National Mechanism for Implementing, Reporting and Follow-Up (NMIRF), which is a monitoring tool for human rights.

4.0 CONCLUSION

After reviewing the *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2017*, 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 2017* with due diligence.

The Committee's review highlighted numerous findings, which were addressed by the Committee through consultation with the Commission. The Committee also puts forth a few recommendations, which encompasses support towards improving public access to the Commissions' services and the implementation of the National Mechanism for Implementing, Reporting and Follow-Up (NMIRF).

The Committee through this report commends the *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2017* and the contents of its Report to the Parliament.

MEMBERS SIGNATURES


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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: 27/08/2020