

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

**Review of the Fiji Human Rights and Anti-Discrimination
Commission Annual Report 2018**



PARLIAMENT OF THE REPUBLIC OF FIJI
Parliamentary Paper No. 193 of 2020

September 2020

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

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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 2018*. The Committee was mandated by Parliament 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 2018*.

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 Commission's work in upholding the Bill of Rights as stipulated in the *Constitution of the Republic of Fiji*, and one such good example is the 'human rights wall' in police stations;
- the work by the Commission in regard to investigating rights abuse cases and utilising all the institutional mechanisms at its disposal;
- the belief in understanding freedom of expression and democratic dissent and the need for conversations to be held between stakeholders even if there are opposing views;
- the contribution by the Commission towards the Universal Periodic Review; and
- the resources necessary for the Commission in achieving the goals prioritised in its Strategic Plan.

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

- in regard to the Commission's work and services, the Committee recommends that support be given to ensure the realisation of the Commission's Strategic Plan at the earliest possible time; and
- the Committee reiterates what it believes is a paramount way forward for addressing the numerous human rights and other related issues that exists in Fiji, and that it is highly recommended that there be a National Dialogue for stakeholders, including Parliamentarians, for a better understanding on human rights and all other key issues and differences.

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, the public who accepted the invitation of the Committee and made themselves available to make submissions 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 2018* 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 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 Bultavu
(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 2018* on 2 September 2019. The Committee was mandated to review the Annual Report and report back to Parliament on its findings.

Review process 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 2018* 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 there is a need to understand about hate speech, expressing dissent and freedom of expression and whether the existing legal framework is sufficient in providing an interpretation that assists with understanding hate speech, expression of dissent and freedom of expression.

The Committee noted from the Annual Report that there were certain human rights abuses that were addressed by the Commission and one such incident that attracts attention is the case of the death of a 26 year old male allegedly assaulted by the police outside a night club.

Additionally, the Committee noted that the Commission does play a role in the national general election, specifically with regards to human rights issues that arise during such elections.

Moreover, it was concerning to note from the Annual Report for the reported year, that there was a 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.

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.

Another vital characteristic of the Commission is that it is able to institute legal proceedings for abuse of any rights enshrined in the Bill of Rights. The Commission tirelessly works to uphold the Bill of Rights as stipulated in the *Constitution of the Republic of Fiji*. One such good example of this effort is the creation of the 'human rights wall' in police stations around the country.

The Committee was assured that the Commission in takes its role of investigating rights abuse cases, very seriously. The Commission has its own Proceedings Commissioner that carries out legal work and gives legal advice to the Commission. There is also engagement of independent legal practitioners, for certain cases. The Commission also gave assurance that it utilises all the options available and the institutional mechanisms at its disposal.

The Commission highlighted that it also contributes to Universal Periodic Review. It provides a report known as Alternate UPR Report, which is separate from the States report and the civil society organisation report.

The Commission also reiterated that as part of its commitment to its work, there is a need for adequate resources to carry out its work and to achieve the goals set out in its Strategic Plan. The Commission commented that it takes full cognisance of the recommendations

of the UPR and distilling from the Strategic Plan, it puts in place the Annual Corporate Plan, which also has an important element in terms of the resources.

It is also worth noting that the Commission reiterated that as a good way forward, there needs to be a national dialogue between stakeholders about human rights and human rights issues.

Written copy of the submission and the Verbatim Report of the submission are uploaded along with this Report onto 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. Any human rights related issue is in some way or the other linked to the sustainable development goals.

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 and 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.

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 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.

- 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 and linked to the sustainable development goals.
- 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 as a way forward. Below is a table capturing the main recommendations proposed by the Committee.

<p>Recommendation 1:</p> <p>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.</p>
<p>Recommendation 2:</p> <p>The Committee reiterates what it believes is a paramount way forward for addressing the numerous human rights and other related issues that exists in Fiji, and that it is highly recommended that there be a National Dialogue for stakeholders including Parliamentarians for a better understanding on human rights and all other key issues and differences.</p>
<p>Recommendation 3:</p> <p>The National dialogue mentioned in recommendation 2, to also address freedom of speech along with consideration specifically given to hate speech, racial or religious vilification, expressions that likely would cause division and community antagonism, which would strengthen our collective efforts as responsible Fijians to build a better Fiji.</p>

4.0 CONCLUSION

After reviewing the *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2018*, 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 2018* 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 also put forth its recommendations, which recognises the efforts of the Commission in further strengthening its work especially by proposing to increase the participation of various stakeholders through a National Dialogue process. The Fiji Human Rights and Anti-Discrimination Commission in partnership with the Justice Law and Human Rights Committee shall facilitate the national dialogue. Noting that the recommendation in the report has been the result of the Committee's consultation and discussion with the Director of the Fiji Human Rights and Anti-Discrimination Commission.

The Committee through this report commends the *Fiji Human Rights and Anti-Discrimination Commission Annual Report 2018* and the contents of its Report to the Parliament.

MEMBERS SIGNATURES:



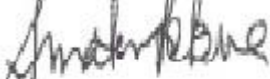
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**Hon. Alvick Maharaj
(Chairperson)**



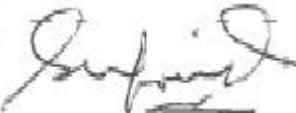
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**Hon. Rohit Sharma
(Deputy Chairperson)**



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Hon. Ratu Suliano Matanitobua



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**Hon. Dr. Salik Govind
(Member)**



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**Hon. Mosese Bultavu
(Member)**

DATE: 27/08/2020