

# **[VERBATIM REPORT]**

## **STANDING COMMITTEE ON JUSTICE, LAW & HUMAN RIGHTS**

### **ANNUAL REPORTS**

- 1. Fiji Human Rights and Anti-Discrimination Commission  
2016 Annual Report**
- 2. Fiji Human Rights and Anti-Discrimination Commission  
2017 Annual Report**
- 3. Fiji Human Rights and Anti-Discrimination Commission  
2018 Annual Report**

**INSTITUTION:** Fiji Human Rights and  
Anti-Discrimination Commission

**VENUE:** Big Committee Room (East Wing)

**DATE:** Wednesday, 26th February, 2020

**VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS HELD AT THE BIG COMMITTEE ROOM, PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, SUVA, ON WEDNESDAY, 26TH FEBRUARY, 2020 AT 9.30 A.M.**

**Interviewee/Submittee: Fiji Human Rights and Anti-Discrimination Commission**

In Attendance:

- |    |                         |   |                                |
|----|-------------------------|---|--------------------------------|
| 1. | Mr. Ashwin Raj          | - | Director                       |
| 2. | Mr. Laisiasa Rogoyawa   | - | Manager Education and Advocacy |
| 3. | Mr. Parmeshwar Prasad   | - | Manager Corporate              |
| 4. | Ms. Varanisese Dominiko | - | Accountant                     |
| 5. | Ms. Mithleshni Gurdayal | - | Media Officer                  |

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MR. CHAIRMAN.- Good morning, Honourable Members. Also, good morning to the Team from the Fiji Human Rights and Anti-Discrimination Commission, media officers, the general public, the Secretariat, viewers, ladies and gentlemen. A very good morning to you all and it is a pleasure to welcome everyone, especially the viewers who are watching this session.

The Fijian Parliament has commenced its endeavour to introduce video and audio live broadcast system in Committees of Parliament. As Chairperson of the Standing Committee on Justice, Law and Human Right, I am fortunate and glad to be given this opportunity to be here for this Committee's first public hearing session to be aired live since the launch of the system late last year.

For your information, pursuant to Standing Oder 111, all Committee Meetings are to be open to the public, except in few specific circumstances which include:

- national security matters;
- third party confidential information;
- personnel or human resources or matters; and
- deliberation and development of Committee recommendations and reports.

This public hearing will be open to the public, media and also be aired live on television via the Parliament Channel on Walesi Platform and the Parliament social media platform and website. So, for any sensitive information concerning this inquiry that cannot be disclosed in public, this can be provided to the Committee either in private or in writing.

At the outset, I wish to remind Honourable Members and our witness that all questions to be asked are to be addressed through the Chair. This is a Parliamentary inquiry and all information gathered is covered under the Parliament Powers and Privileges Act.

In terms of the protocol of this Committee hearing, please be advised that movement within the Committee Room will be restricted, there will be no usage of mobile phones and all mobile phones are to be on silent mode while the meeting is in progress. Also, interviews are to be conducted outside the Committee Room after the submission.

First, I would like to introduce Honourable Members of my Committee and the roles of the Standing Committee on Justice, Law and Human Rights.

(Introduction of Honourable Members and Secretariat by Mr. Chairman)

Our mandate established in Section 70 of our 2013 Constitution and is clearly outlined in Standing Order 109 of the Standing Orders of the Parliament of Fiji which states that the Committee can examine matters related to crime, civil rights, courts and their administration, the Constitution, policing and human rights.”

It is also vital for all stakeholders to note as per the 2013 Constitution, that Standing Committees of Parliament has the same powers as those of the High Court in terms of summoning any person to appear before it, to give evidence or provide information and compel the production of documents or other material or information, as required for its proceedings and deliberations.

With those few words, I will move on to the Report that is before us, which will be deliberated this morning. The Committee shall be looking into the Fiji Human Rights and Anti-Discrimination Commission’s 2016, 2017 and 2018 Annual Reports. So, before we start in the submission proper, we will now have the team that is before us, to introduce themselves and then we will go into today’s submission. Thank you.

MR. A. RAJ.- Good morning, Mr. Chairman and Honourable Members of the Standing Committee on Justice, Law and Human Rights. It is an absolute pleasure to be here this morning and to present the three Annual Reports, namely; 2016 Annual Report, 2017 Annual Report and 2018 Annual Report of the Human Rights and Anti-Discrimination Commission.

I am very, very pleased to inform the Standing Committee that I am accompanied today by Managers from the Commission, who are instrumental in the materialisation of our Constitutional mandate.

(Introduction of Team by Mr. A. Raj)

Again, it is an absolute pleasure to be here this morning.

MR. CHAIRMAN.- Thank you, Director, for that introduction. Now, what we would like to request is, if you can take us through the Reports because they are your Reports. If you can summarise all the three Reports and from there, Honourable Members shall have some questions and then we will actually go into those.

MR. A. RAJ.- Thank you, and a very good morning to everyone. For the purposes of the Standing Committee, because I know that our Annual Report is text dense, we do not just provide graphs and figures, we have actually gone into details in terms of the various interventions and submissions that the Commission has made, we have tried to, sort of, include those submissions as well so that you have the benefit of looking into it, as we get into questions and answers.

What I am going to do is, I will try and succinctly summarise the three Annual Reports, and try and concatenate it to some of the questions that you have sent me, around 30 questions, in relation to the three Annual Reports and look at those linkages.

MR. CHAIRMAN.- Director, apologies about that. Can we just leave the questions....

MR. A. RAJ.- Yes, absolutely!

MR. CHAIRMAN.- Thank you.

MR. A. RAJ.- But there are certain thematic areas that revolve around the Annual Reports as well.

If you look at the Annual Report, there are three or four very, very simple arguments I am going to make and the first one is, that the Annual Reports attest to the fact that the Human Rights and Anti-Discrimination Commission is able to effectively dispense with its constitutional mandate pursuant to Section 45(4) of the 2013 Constitution.

Why do I say that? We have an important mandate in terms of receiving independently and investigating complaints and affording remedies in matters of infraction or interdiction of these rights guaranteed under the Constitution; the Commission has been able to do that.

If you look at the Annual Report and you look at the nature and the number of complaints we have actually received, again, it shows one basic thing, that the Commission does not privilege on one set of rights over another. We do not privilege social, economic and cultural rights over civil and political rights, nor do we privilege civil and political rights over social, economic and cultural rights.

The nature of complaints received by the Commission attest to the fact that human rights is essentially indivisible in nature. The kinds of complaints we have received, ranging from issues around hate speech, freedom of expression, police brutality, all the way to access to water, arbitrary eviction and rights of persons with disabilities.

They attest to the fact that the Commission does not privilege a single set of rights of another, neither are we prejudicial when it comes to the receipt of complaints on any of the prohibited grounds of discrimination. For instance, we do not discriminate if the applications are coming from women, or the applications are coming from members of the *i Taukei* community, nor do we privilege Indo-Fijians or any other community for that matter -abled, disabled, et cetera. We apply the principle of non-discrimination at all times as we receive, we investigate and we afford remedies. So that is the first thing.

We deal with these complaints with utmost transparency and we are subject to public scrutiny. If you look at the number of complaints that we have received and we have the media that routinely poses questions to the Commission on a matter about police brutality or death in custody or whatever it might be, no matter how controversial the issue is, the Commission always makes a public statement in relation to that.

Mr. Chairman, we do so outlining but we have done in terms of how we have investigated the matter, when our team went out to police stations, when we went out to communities, the kind of questions we actually asked and if there is a hold up in a particular investigation and there is a concern by the public, that there has been a matter of police brutality and we have not, sort of, looked at it and x number of months has lapsed, we also indicate what accounts for that delay. And I think that level of transparency is very, very important.

I also want to say that in relation to complaints, the Commission has had a very robust relationship with members of the public, members of the media and Members of Parliament. I mean,

they pose questions at the Commission and we have responded to those questions, and I think is a very healthy sign of a democracy.

When a constitutional body subject themselves to that kind to scrutiny, sometimes the exchange we have gets very heated, but that is the nature of our job. But no one can say that we have not been transparent with the kind of complaints the Commission receives and how we deal with those complaints, or that we privilege in particular, community or individual or someone with a certain kind of ideological disposition and we exclude other people's complaints. So that is the first argument, and that complaint spanned from civil and political, to economic, social and cultural rights.

Other than complaints, of course, the Commission has a very, very important mandate to institute legal proceedings. And if you look at the cases that we have taken to court over the years and I became the Director of the Commission in February 2016, from then on, we have been making amicus applications to court and instituting proceedings.

If you look at the proceedings we have instituted over the years around the rights of arrested and detained persons, in terms of unlawful detention, in terms of the rights of accused persons, freedom from cruel and degrading treatment, the right to be free from arbitrary detention, the rights of children access to courts and tribunals and the right to life, these cases actually attest to the fact that we are quite capable of and have held the State and private actors within the State to account.

We are able to apply the Bills of Rights vertically and horizontally, and that application of the Bills of Rights is very, very important. Anyone who makes the slightest intimation that the Commission is obsequious but genuflecting towards the State, is unable to hold the State or all those actors to account, need to read carefully the Annual Reports which absolutely attest to the fact that we are able to hold the State to account, we take the State to Court and not just the State, but private actors as well. Individuals who have violated rights in their private capacity, we have held them to account as well because for us, as much as we understand that pursuant to Section 6(2) of the Constitution, the State has the primary responsibility to uphold fundamental rights and freedoms, we also think that the private actors have a part to play and we have taken them to Court too.

How effective has this process been? The fact that a 10 year child was arbitrarily detained by the Police Force and reinstitute proceeding and the child was awarded \$25,000, attest to the fact that these things actually work - instituting proceedings, affording remedy actually works.

It is not always that the Commission would institute proceedings, we need to exhaust other remedies available under the law, for instance, it will be mediation, conciliation conferences and in that one case, there is an individual who was arbitrarily detained by an institution in which the individual was paid \$40,000 out-of-court settlement. So the remedies afforded under the law are quite effective.

We have been able to intervene where there are instances of arbitrary eviction. You would see when people are arbitrarily removed, the Commission is there. Our job is to push the fact that while we respect the rule of law - the decision of the Court, we also understand that, that does not change the fact that these people still have the constitutional right to water, they still have the constitutional right to housing, children should still go to school, so there should be no disruption to those constitutional rights. They should have the right to food, they should have the right to sanitation, et cetera, so the Commission has, within its limited resources, actually intervened in those matters as well.

Again, the Commission has a very, very important role in terms of making recommendations on existing and proposed laws. I have had a very, very healthy relationship with this Committee, amongst others, because this is the primary Committee before which we make most of our recommendations and we have had a very constructive relationship.

The Commission has benefitted a lot from the questions posed by this Committee, as much as we would like to think that the Commission has been able to instruct the Committee in terms of various Bills before it, that was subsequently passed as Acts of Parliament and some that I would like to allude to are the:

1. Rights of Persons with Disabilities Bill;
2. Adoption Bill;
3. Information Bill;
4. Parliamentary Powers and Privileges Bill;
5. Registration of Sex Offenders Bill;
6. Online Safety Bill;
7. Two Covenants - International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights; and more recently
8. International Convention for the Protection of all Persons from Enforced Disappearances.

I have also made some comments and sent some feedback to Geneva in relation to the new ILO Convention on Violence and Harassment in the Workplace. It is such a very constructive relationship and this is one of the roles of the Human Rights Commission, to give advice on existing and proposed laws.

Again, I want to implore on everyone in the Standing Committee that when we make those submissions, our submissions are again neither pro-Government, nor anti-Opposition. Our submissions are pro-human rights, so if you look at each and every submission that we have made in all of the various Standing Committees and I have included, at least, the most salient arguments of those submissions into the annual report, you would see that there is a consistent human rights approach. It may not be favourable to people because of their ideological disposition or political proclivities but not one can certainly say that we are hedging bets for one political agenda or another because each of these Bills that the Commission has made submission in relation to, actually tries to balance.

What are the key arguments around human rights? One of the things we actually do in our submission, is also apply this other principle in the Constitution which allows us to apply international law. And each time we have made a submission, we have also looked at the ways in which international human rights law applies to what we do and the various Bills before Parliament. Again, I think that is very, very important, so that Fiji is not like a frog in the well and we think this is the world. We look at withdrawn jurisprudence internationally in our submissions.

I am also very, very proud to submit to the Standing Committee that the Human Rights and Anti-Discrimination Commission has also produced alternative reports. These reports are important. A number of people said that we should be producing shadow reports. We do not do shadow reports because we are not civil society and we are not the State either.

The Human Rights Commission is a very interesting creature which is neither State nor civil society. It is not Opposition, it is not international community, it is a national human rights commission, and a national human rights commission produces alternative reports. So you would see in the Universal Periodic Review (UPR), the State would have its State Report, the civil society

will have the shadow report, the national Human Rights Commission will have an alternative report because we are independent from all of these people. So, we produce the UPR alternative report which I will be more than happy to share with everyone, but it is online as well.

We produce the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Shadow Report. The Commission also produced the first national consultation report on Lesbian, Gay, Bisexual and Transgender (LGBT) rights.

If you look at the 1997 Constitution, it prescribed sexual orientation as a prohibited ground of discrimination and the Commission has been in existence after the 1997 Constitution. But it only took this Commission under this Constitution to actually have the first national consultation around this issue.

We have a very strong mandate around public outreach and engagement, and I am very, very proud to inform the Standing Committee that between 2016 and 2018, with all our limited resources, the Commission reached out to 52,776 Fijians. I mean, actually it is a lugubrious consolation because we should be doing better. We should have a much more, sort of, robust outreach initiative.

But given the complexity of constraints within which the Commission is acting, I think this is quite significant because we have gone out to maritime areas to places like; Rotuma, Lau, Beqa, Taveuni, Kia Island, Yasawa Group, Lomaiviti Group which includes Ovalau, Nairai, Batiki, Koro and Gau Island.

The Commission visited rural remote areas including; Naduri in Macuata, Verata in Tailevu, Ra and the Ba Province. We have gone to the Northern Division and engaged with women in Macuata and the Civil Society Organisations (CSOs) in Savusavu. Also, the Commission visited the Wainunu and Kubulau Districts in Bua, and Seaqaqa.

We have gone to the Western Division to places, such as, Sigatoka, Lautoka, Ba, Ra and Tavua; informal settlements in the Central Division, such as, Jittu Estate and Wailea. The Commission also visited the Housing Assistance Relief Trust (HART) homes in Newtown, Nasole and Valelevu but most importantly, we have conducted human rights training in schools and that is equally significant.

We have engaged with CSOs and development partners, various CSOs such as, the Fiji Women's Crisis Centre, Fiji Women's Rights Movement, the Citizens Constitutional Forum, Diverse Voices and Action (DIVA) for Equality, the United Nations Development Programme (UNDP), the Association for the Prevention of Torture and the International Red Cross.

The constructive engagements that the Commission has had with these institutions has been absolutely important in also ensuring that we have a robust understanding of human rights. Sometimes, the conversations can be through texting, they can be very difficult but that is why this conversation is important because the education advocacy mandate of the Commission has also enabled the Commission to rethink its strategy in terms of how it must do human rights education, what it should focus on and what are the ordinary Fijians thinking about what are the key human rights concerns that matter.

Our politicians will have one view about what are the pressing human rights issues in this country, so they might say, "Oh, organising marches and permits, this is an issue. Police brutality is an issue." An ordinary folk in some rural remote community is going to say, "No, access to water is an issue. The right to education is an issue. Social welfare scheme is an issue for us." So we need

to balance those things, and that is why education advocacy initiatives are instructive because we receive oral submissions from members of the community.

The other thing is, the education advocacy initiatives also create the conditions or possibility for us to receive the kinds of complaints that ordinarily we were not because there is a digital divide. People may not have access to various social media platforms, to be able to lodge a complaint.

They may not be able to travel all the way to Suva to come and lodge a complaint. So, the Commission cannot possibly sit there and wait for the public to come to it. The Commission as a Constitutional Office, as an office that is funded by the taxpayers of this country, needs to be out there with people. So, my colleagues are out in rural remote communities, in places like Kadavu, for days end.

There are lots of photos in the Annual Report. You will see our Commission staff on horses, carting through rivers and all of that, but that is our reality - taking human rights to the most rural remote communities and creating the conditions or possibility for them to be able to be equal authors of representation in the story of human rights.

Now, the last and the most important element is that, we cannot hold anyone in this country to account, if we do not subject ourselves to the highest level of scrutiny, if we do not strengthen the institutions of accountability, transparency and good governance.

The Human Rights and Anti-Discrimination Commission was in dormancy, in a state of partruncy, for over a decade. When you get charged of an institution like that, you have to:

- go back;
- strengthen governance;
- find out what happened to complaints;
- find out what happened to the finance of the Commission; and
- find out what happened to the state of assets in the Commission.

So, one of the things we have done and I know that the Committee has been asking us questions, such as, where are our Annual Reports? I could not possibly give you an Annual Report, had I not done all of these institutional audits.

What has happened to your financial audit? We had to go back and we have to audit the finance of the Commission dating all the way back to 2008. We did that. We looked at our payroll software, to see whether they are consistent with the laws of our country.

We needed to look at what happened to the computers and all those other things in the Commission. They too are funded by taxpayers of this country. A single computer goes missing, it should prick our conscious. We should be asking questions about where these things have gone.

We did an audit on that too. We looked at discrepancies, reported matters to police and all those other authorities that we needed to. So, I am pleased to say and to quickly sum it up now, it has been an incredible journey. Building a Commission in so many ways that, once existed as an 'A' status accredited Commission so it has a history, and so many fundamental ways a Commission that was built anew, given the history, the engagements, et cetera.



So, what you have before you is an Annual Report that documents the renaissance of a national Human Rights Commission that really is rising from the ashes, and I am very, very pleased to present that to you this morning. Thank you.

MR. CHARMAN.- Thank you, Director for that brief on the three Annual Reports that are before the Committee. Just to start off, with regards to the reporting pathway...

MR. A. RAJ.- Yes.

MR. CHAIRMAN.- ...whom does the Commission actually reports to? I do believe it is a Constitutional Office, ...

MR. A. RAJ.- Yes.

MR. CHAIRMAN.- ..but what is the reporting pathway?

MR. A. RAJ.- Of course, the Director of the Commission would report to the Board. The Honourable Acting Chief Justice is the Chairman of the Commission. We have a Proceedings Commissioner. We have got three other Commissioners, including a Commissioner who represents persons with disability. So, there is pluralism in terms of the composition of the Commission, also in terms of ethnic representation and also in terms of gender representation. So, the Director of the Commission reports to the Board. The Commission itself, of course, is subject to scrutiny by Parliament, which is why this level of accountability is very, very important.

In a fundamental sense, we are also accountable to the people of Fiji in all things that we do. So, when someone does pose a question, we are legally obligated to respond to it because we want to make sure that we are transparent. We try not to hide things, we try not to obfuscate issues. Sometimes, I come out very, very strong and abrasive and all of that, but that is our job.

We do not want to circumlocute because the more you dodge a bullet, the more it begins to build in people's mind that they have got something to hide. We have got nothing to hide. We open ourselves to the highest level of scrutiny.

There was an allegation made by someone and they reported the Commission to FICAC. We opened our doors and said, "No one is above the law. Please come, comb the Office. Do what you have to do because we respect the rule of law. We respect the fact that we are funded by taxpayers, we respect the fact that we needed to be held to the highest level of scrutiny." So, that kind of accountability is important for us, so we are accountable to the Standing Committee, we are accountable to Parliament, we are accountable to you people but we are also accountable to the people of Fiji.

We are also accountable in terms of the various statutory regulations that bind us. So, the Human Rights and Anti-Discrimination Commission Act regulates what we do and what we cannot do.

Section 45(4) of the 2013 Constitution governs what we can do and what we cannot do. Our accountability to the Office of the Auditor-General, for instance, in terms of the financial audits, et cetera. But it does not change the fact that under the 2013 Constitution, we are an independent Commission. We are not subject to the direction or control of anyone.

So, you would see that in every Annual Report, we make a point of saying that under Section 45(7) of the 2013 Constitution, we shall not be subject to the direction or control of anyone. Now, does that mean that the Commission cannot be subjected to any kind of scrutiny? Absolutely not!

We are going to be accountable to an extent that you cannot twist my ear in telling me to do one, two, three and four. But that does not mean that you cannot ask me questions. “Mr. Raj, what happened to this particular case in this particular police station? What happened to this kind of money which has gone missing from your coffers?” Absolutely, you can ask those questions, but we do not work at the political will of anyone.

I know a number of times we make a certain kind of argument which one might think, “Oh, this guy is in favour of this particular politician” or “Look, he is hedging bets for this particular political party”. But there is a rationale, a perfect human rights reasoning behind that and always remember that human rights is a very, very contested area. It is a very subjective area. So, we may not necessarily agree with these things because there are two sides to a particular argument but the fact remains that it is enshrined in these values.

This is why we have Courts. We are also accountable to the Courts in that sense in terms of various human rights arguments we make. So, that is another institution that we hold ourselves accountable to, because the Courts play an instrumental role in the development of jurisprudence around human rights and where we think that a complaint has been lodged and there is serious violation, we take matters to Court and people may not agree with us.

For instance, the decision to take Josua Loulouvaki’s case to court, I mean, we received so many criticisms. The Honourable Bulitavu knows about that, but we felt at that time that this is someone’s constitutional right to life. This is the right to full accountability before the law, the right to be free from cruel and degrading treatment, et cetera, and we took the matter to court.

We might have heard in terms of the protocols of laws, et cetera, but the Commission’s conscience was in the right place. We felt that this was a constitutional right of this individual and this was a gross violation of that particular right, I am very, very pleased that those officers had been held to account and all of that, but the fact is that the Commission did not drag its feet. We did this and we held those institutions to account.

Mr. Chairman, it is the Parliamentary Standing Committee, it is the Office of the Auditor-General, it is the independent Courts of our country and it is the people of Fiji. We submit ourselves to these institutions in various capacities, as and when required. Thank you.

MR. CHAIRMAN.- Thank you, Director, for that explanation. You also mentioned during your presentation that your Office take certain cases to Court. Do you have your own legal team or you use the services of the Director of Public Prosecutions?

MR. A. RAJ.- No, once again, Mr. Chairman, the Commission is an independent Commission. So, we have our own Proceedings Commissioner. I am very, very pleased to inform the Standing Committee that the Proceedings Commissioner is a very hands-on Commissioner.

After the complaints have been lodged into the Commission, we have conducted our independent investigations, the Proceedings Commissioner will look through the file to say, “Alright, in this particular case, Director, I think it warrants us to institute proceedings” or “No, there is an alternative remedy available, so institute mediation.” So, when that happens and also when we have limited, sort of, human capital available, we would outsource a lawyer to take the case. But even in

that instance, it is something that is vetted by the Proceedings Commissioner. It very much holds the opinion of the Commission, and the lawyer does the necessary in Court, and certainly not the Office of the Director of Public Prosecutions or any other institution. We are independent.

MR. CHAIRMAN.- Thanks for elaborating on that. With regards to any complaint against the Commission itself, if someone wants to actually lodge a complaint, what are some of the avenues for it to be resolved?

MR. A. RAJ.- Mr. Chairman, for instance, someone might want to lodge a complaint against the Director. What happens is that, the Director procedurally has to recuse himself because there is a clear conflict of interest.

The complaint would go directly to the Board and in that instance, it will be the Human Resource which will take the complaint to the Board. If there is a complaint against a Commissioner, for instance, someone says, "Alright a particular Commissioner has done something which is a violation of a particular right or maybe unethical or whatever", again, the matter goes to the Chairman of the Commission.

The other thing is, we are very, very careful with conflict of interest. The Chairman of the Commission, for instance, does not look at any of the complaint of the Commission, it goes to the Proceedings Commissioner, to make sure that there is no conflict of interest perceived or otherwise, that the institution of the Judiciary and the institution of the Human Rights Commission are being conflated. So we are very, very careful around all of that, to make sure that the Chairman of the Commission is actually extricated from all of that, it is the Proceedings Commissioner that looks at matters that need to be taken to Court, we institute proceedings, et cetera. For us, that is very, very important.

Mr. Chairman, I just want to say to members of the public that you can lodge a complaint against the Commission, and we do get those. We do get complaints from members of public to say, "Look, I lodged the complaint in this particular year, on this particular day, and it is six months and we still have not heard from you." We take those complaints very, very seriously.

We get the relevant Section of the Commission to look into it, to get back to the public and find out why there is a serious delay in responding to those complaints. So that kind of accountability is very important.

Then people also lodge complaints against the Commission with other independent bodies. Sometimes, they might run to FICAC or they might go to some other agency but that, again, is absolutely fine because like I said, if you are operating yourself in a transparent manner and in an accountable manner, you are the public office that you claim to be, you have got nothing to worry about. Open your books, subject yourself to scrutiny and it is absolutely fine.

MR. CHAIRMAN.- Thank you, Director. Now, I shall open the floor to the Honourable Members if they have pertinent issues or questions they would like to ask. We will start from my far left with Honourable Dr. Govind.

HON. DR. S. GOVIND.- Thank you, Director. You have given us a very comprehensive overview of the Commission, your work and we thank you for that. My question to you is on the Sustainable Development Goals (SDGs). We would like to hear from you on how you align your work with certain SDGs that the Government is trying to fulfil?

MR. A. RAJ.- Thank you, Honourable Member. Is that the only question?

HON. DR. S. GOVIND.- Yes.

MR. A. RAJ.- Through you, Mr. Chairman, the response to the first question in relation to the 2016 Annual Report and in the interest of time, I only did 2016 because I guess, I wanted to express some kind of fidelity to the questions that are being asked and not run from one annual report to another, but I can certainly do the same for 2017 and 2018 Annual Reports as well.

What we do is we look at each Goal of the SDG and we look at what work, if the Commission has any, done in relation to this particular Goal. So if you look at Goal No. 1 on No Poverty, we actually received complaints in relation to the right to social security scheme.

If we look at Section 37(1) of the 2013 Constitution of the Republic of Fiji, it talks about the fact that the State needs to take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to social security schemes.

We looked at the kind of complaints under that and said, "Alright, this aligns with Goal No. 1 on No Poverty. We look at good health, well-being. We look at Goal 4 on quality education, for instance.

If you look at the question of gender equality, the Commission does a lot of work in that area, so we look at Section 26 on Prohibited Grounds of Discrimination. It aligns with Goal 5.

We look at Goal 6, for instance, clean water and sanitation, we received complaints around the right to adequate water and sanitation.

We look at Goal 8 around decent work and economic growth, you would see from our reports that we actually deal with the issue of freedom from slavery, servitude and forced labourer and human trafficking.

There are lots of complaints around employment relations and we work very closely with the Ministry of Labour in relation to that.

The right to economic participation is another area under Section 32 of the Constitution. That again, aligns with Goal 8 around decent work. Workplace discrimination; we get a number of complaints around that.

Goal 13 on climate action, for instance, you would notice that first time in the history of the Commission, we started monitoring evacuation centres, to ensure that minimum human rights standards are met in these evacuation centres precisely because the Commission takes cognisance of the fact that women, children, persons with disability, the elderly, the Lesbian, Gay, Bisexual and Transgender (LBGT) are communities that are most susceptible to vulnerability because they already are vulnerable and this gets heightened in times of natural disasters and we have been looking at those areas.

Of course, Goal 16 on peace and justice and strong institutions, I mean, this is where all of our work around police, in terms of corrections, et cetera. The various proceedings that we institute come under that particular Goal.

Then, of course, Goal 17 in terms of partnership. If you look at our partnership with UNDP, with the Association for the Prevention of Torture and partnership with the International Red Cross, these partnerships are actually become instrumental because you want to ensure that you ensure that you implement international best practice and human rights practice in the work that we do. So, if you look at the first-hour procedure in terms of early access to justice, the video recording of caution interviews and all that, the part that the Commission plays in, we do that through constructively engaging with some of these international bodies. That is why our relationship with Geneva is so important because most of these institutions are there.

There were some criticisms about how many times Mr. Raj travels to Geneva. This is what we do. When we go there, we do not go there to pick up per diem and to hang around in shopping malls, we actually put in the hours at the Human Rights Council, we talk to these institutions and say, “Alright, what is the best practice that we can bring back so that we can implement?”

This is why the experts from the United Nations Office on Drugs and Crimes (UNODC), Phillip Meyers came and trained our Corrections Facilities on the Nelson Mandela Rule. I know some of the Honourable Members have very astutely asked me, if Corrections seems to be an issue in your Annual Report, what are you doing about it? That is what the Human Rights Commission and the Fiji Correction Services are doing, working on the implementation of the Mandela Rules around the minimum human rights standards for persons who are detained.

Those kind of international engagements are important. We bring the association for the Prevention of Torture to work with our Police in ensuring that our Standard Operating Procedures are consistent with minimum human rights standers that are internationally recognised and accepted. That is how Honourable Members, through you, Mr. Chairman, we are aligning our work around the Sustainable Development Goals (SDGs) with the mandate of the Commission.

But you would notice that in our recommendations on the Universal Periodic Review, we have actually implored on the State to adopt the National Mechanism on Reporting, Implementation and Follow-Up (NMRIF), because the moment you adopt the NMRIF, you can actually align what you are doing in terms of the key recommendations, the Treaties and all of that to the SDGs as well. So that is another way in which you can seamlessly start to weave the SDGs into the fabric of what we are doing at the moment. But that is at the institutional level in terms of having systems and processes in place, but well before the NMRIF, the Commission has been aligning its work to the SDGs. Thank you.

HON. DR. S.R. GOVIND.- Just a supplementary question. Director, you said that if you received a complaint on human rights issues or whatever, you deal with specific Ministries to handle that. Are you, as the Human Rights Commission, also participating in the overall SDG monitoring? Are you represented somewhere in the Government’s efforts to monitor, especially from a human rights point of view?

MR. A. RAJ.- That is a good point, Honourable Member, and I accept that. But what we do at our level is, we seamlessly align the work we do with the SDGs so that in the various conversations that we have with relevant United Nations agencies, we are able to say, “Look, our work actually aligns with this particular Goal of the SDGs.” I must say, can I thank the Standing Committee because this is a very good question.

The question help break one stereotype. Normally, when I would talk to various agencies about the role of the Human Rights Commission, they usually think it is SDG 16 and 17. This mapping exercise shows that, in fact, there are so many of these other Goals within the SDG that

aligns with the work that the Human Rights Commission does. So there are some very useful exercises and I think that going forward, the Commission will continue to do this kind of mapping which will be very useful in the various reports that we present. Thank you.

MR. CHAIRMAN.- Director, thank you for that explanation. Honourable Ratu Suliano Matanitobua, your question please.

HON. RATU S. MATANITOBUA.- Thank you, Honourable Chairman. Through you, I thank the Director for his submission this morning. This is on the Bill of Rights. How is the Commission ensuring the upholding of the Bill of Rights enshrined in the 2013 Constitution?

MR. A. RAJ.- If you look at the Bill of Rights of the Fijian Constitution, it prescribes very clearly under Section 45(4), what the powers and responsibilities of the Commission are. And if you look at the work of the Commission, the various things that the Commission has actually done, it is done to uphold the Bill of Rights. For instance, monitoring places of detention, independently investigating complaints of human rights violations and the various initiatives we put into place to address intractable human rights issues, such as looking at the question of police brutality, et cetera.

For the first time in the history of this country, we actually have human rights walls in police stations. Ordinarily, if you look at the relationship between the police and human rights, it is going to be a very combative one. You can forget that a human rights officer can march into a police station and say, "This, this and this, constitutes a violation." But now, you can walk into a police station, there is a wall dedicated to human rights where it articulates the constitutional rights of arrested and detained persons. That is a very, very constructive thing that we are doing to uphold the Bill of Rights in terms of rights of arrested and detained persons.

We monitor places of detention, so you will see in 2016 alone, we made 35 visits - 32 to Corrections, as well as the police stations, the cell blocks, the Department of Immigration safe houses and we even went to hospitals. So any place that has the power to detain people, we have actually gone and visited those.

We make very public statements around brutality and all of that. I mean, the number of times people come out and say why we are quiet over this issue around police brutality. Our statements are very clear - police brutality or brutality by any other institution or individual is not on. It is contrary to our Constitutional values and it is contrary to human rights. So sometimes, the media and politicians would want to rehearse those statements, again and again. We do not have to, we have made it very clear through our independent investigations that we do not put up with this thing.

We made it very clear that we are absolutely committed to ensuring that Fiji becomes torture-free, that there are no incidences of brutality. We do not want police corruption, et cetera, so that is what the initiative is all about.

We also deal with access to justice for foreign nationals. It is not just about being preoccupied with Fijians only as the only intended subject of human rights. We have made interventions to ensure access to justice for foreign nationals from countries like Tunisia, Sierra Leone, Afghanistan, Bangladesh, Egypt, India and Pakistan, and these are people who are detained in our prisons. So we go and talk to them, find out if they need access to lawyers, et cetera.

We make amicus applications. This is about redress under the law, under the Constitution, under the Bill of Rights. We looked at human rights in terms of national disaster and I think that work

will need to just be amplified, given the regular occurrence of cyclones, et cetera, and the advent of climate change.

We have looked at a number of cases around discrimination on prohibited ground. For instance, the preclusion of non-economic subjects from donating blood under the WHO Guideline, we publically condemn that stuff. If you look at you know the ways in which persons with disability are treated when they are detained, et cetera, we have condemned that.

We looked at basic access through health services by LGBT community and all that, we have looked at some of these areas. We have called them up for instances where we think are not concession with the principles of non-discrimination.

We have actually took freedom of assemble and expression. There has been a lot of talk in this country that we got very quiet every time there is a march and a permit or whatever. We have actually looked at those things and I issued a statement to say that we must carefully balance these rights.

In a democracy, people have the right to democratic dissent. We also have the legitimate concern around national security, et cetera, therefore, we need to start looking at the ways in which we are going to balance that stuff and there is a very clear statement around that.

We have looked at issues around arbitrary eviction, rights of children, human trafficking, of course, I have talked about education advocacy initiative, the robust submissions were made before Parliamentary Standing Committees. We have looked at whether the State is complying with Treaties and Conventions relating to human rights.

I am very, very pleased to say that we do not just look at whether the State is complying with its obligations under a particular Convention or a Treaty, they have also been able to, through our various Missions, encourage Fiji to co-sponsor key Human Rights Resolutions. For instance, there was one Resolution at the 33rd Human Rights Council in Geneva in which Fiji co-sponsored the National Institution for the Promotion and Protection of Human Rights, which is very significant. Again, we encouraged Fiji to vote for the UN Independent Expert on Sexual Orientation and Gender Identity at the UN General Assembly in New York. So, that, again, shows the ways in which the Commission, through its mandate, upholds the Bill of Rights and addresses various Human Rights issues.

Our Commission is not only about highlighting problems. If we are going to just highlight problems, we would be like any other civil society. Our job is to also find solutions within the law, and that is why we constructively engage with State and various institutions. It does not mean we are colluding with the Government of the day. It does not mean we are colluding with the State or we are colluding with one agency or another, but we have to find solutions because if we do not find solutions, what is point of just pointing a finger and saying, "This is not working and that is not working."

A dozen people can come around and tell you what is not working in Fiji. What is the solution? How do we address these issues? How can we use our Constitutional mandate and the legal infrastructure to help people, to resolve our human rights solution?

It cannot be done overnight. It is a journey and we take one step at a time but we need everyone to work together to come up with solutions that transcend the political divide we might have, the differences we might have and say, "Alright, you and I, despite our political differences,

are very committed to ensuring that Fiji is torture-free, let us do one, two, three and four.” That is where the Commission comes from. We are very receptive to recommendations from the public and from individuals. Where you think we can do better, we will. Thank you.

MR. CHAIRMAN.- Thank you, Director. I think that explanation actually concludes the 2016 Annual Report. That was a very comprehensive way that we have actually deliberated on that particular Report.

Now, we will go to the 2017 Annual Report. We will request Honourable Rohit Sharma, if there is any question you wish to raise in regard to the 2017 Annual Report.

HON. R.R. SHARMA.- Thank you, Mr. Chairman. I would like to thank the Director for your comprehensive Report.

In reference to Page 24 of the 2017 Annual Report - Nature of Complaints, Section 8, Right to Life; it is noted that there is a mention of the Commission’s investigation of the death of a suspect while in police custody in the Nakasi Police Station...

MR. A. RAJ.- Yes.

HON. R.R. SHARMA.- ... and a mutual request for an inquest into the matter. Is the Commission in a position to comment on the above-mentioned matter?

MR. A. RAJ.- Absolutely! Let me look for the response to that because I think I had done a written response to the Standing Committee as well. This was a question sent by the Standing Committee in relation to that in Nakasi and we can confirm that a suspect was found dead while in custody at the Nakasi Police Station in February 2017.

The Commission conducted its independent investigation by interviewing 11 Police Officers, inspected the cell block where the suspect was held and obtained necessary documents, including copies of Station diaries and registers.

Pursuant to the Inquest Act Cap 46, the Commission made a request for an inquest. Consistent with the provisions of the Act, the Commission wrote to the Office of the Attorney-General who, based on the relevant Police Inquest docket, together with the findings of the Magistrates Court, concurred with the Court’s findings that there be no inquest, and we have sent some links to the Standing Committee as well to look at the various reports in relation to that particular case.

So, I can confidently say that the Commission exhausted avenues available to it under the law. We did our independent investigations, we did request for an inquest and we followed what is prescribed in law.

MR. CHAIRMAN.- Thank you, Director, for that explanation. Just on a general note, when complaints come to the Commission, how do you try to see that there is no gender discrimination with regards to any particular complaint?

MR. A. RAJ.- That is a very good question and I smiled as I was writing the response to this. One of the things that the Commission absolutely does is that, it upholds the principle of non-discrimination in the receipt, in the independent investigations and affording of remedies.



One of the things we ensure is that, if a complaint has been lodged by a female or it could a person with disability or an LGBT person or an indigenous individual or someone who does not publicly agree with me politically, it could be the Honourable Bulitavu because him and I fight all the time, if he comes and lodges a complaint, I need to make sure that his complaint is dealt with, with the same level of transparency and consistency with that of Mr. Prasad, for example. I cannot say, "Oh, I do not agree with this guy, just push the file somewhere else." We do not do that. We need to make sure that we deal with every complainant, whatever your belief is. So that is the first thing - principle of non-discrimination is absolutely important.

If you look at our Report, the Alternative Report to CEDAW, you would see the number of complaints we have received from women, the oral submissions that we get from women, including our indigenous women when we go to the rural, remote and maritime areas, in terms of their human rights concern. So, the Commission, if anything, is very attentive to that, plus you look at our Strategic Plan. In our Strategic Plan, there is a particular goal in relation to complaints handling, that we apply a gender lens to all that we do, so that is that.

The other thing I do, Mr. Chairman, is that, we train our staff to say, "Look, you might be a strong Christian, you might be a committed Muslim, you might be an ardent Hindu, if someone comes in with a particular complaint which is contrary to your religious value, or someone comes and lodges a particular complaint which seems to be an insult to your sense of identity because you are an indo-Fijian or iTaukei or whatever you are – pink, brown or purple, put that aside. In this Commission, you are none of those things. In this Commission, you are an officer of the Human Rights and Anti-Discrimination Commission, you are going to deal with this particular complainant, with that level of transparency and respect as anyone else. Put all your baggage aside. At the gate as you enter the premises of the Commission, you deal with the public. You may not politically agree with them, their values might be an anathema to who you are and what you believe in, that is your problem. Put it aside! Deal with the person, deal with the complaint, deal with it in the most transparent and most effective manner."

We hold our staff to account. If we find that there has been a bias and you have given an inordinate attention to this one particular complaint and you go to ground zero with that one, and you have completely glossed over this thing, we ask those questions. Why you glossed over this particular complaint but on the same issue with this individual, you have gone all the way to Lami, you have gone to the police station - blah, blah and this one you are closing the file and saying there is no sufficient interest; why? If there is no sufficient interest, what have you done? Pick up the phone, call the individual, track the individual, write to the individual or go visit them at their residence and follow this up. So that is what we are doing, Mr. Chairman.

We do not discriminate. It does not matter who you are or what your belief is? Remember, this National Human Rights Commission does not belong to anyone, it belongs to everyone. This is not our personal property. This is not the property of the Government, nor is it the property of CSOs, nor the property of the international community, it belongs to the people of Fiji. So, please, even if you have any fundamental disagreements, you still have the same right to recourse under the Constitution. You still have the right to access the institution and come and lodge complaints, make submissions, et cetera. It is your Commission.

MR. CHAIRMAN.- Thank you, Director. Honourable Mosese Bulitavu, if you have any pertinent questions?

HON. M.D. BULITAVU.- Thank you, Mr. Chairman. Through you, thank you, Director, for your presentation this morning. Is the Commission planning to open up offices in the Western

Division and the Northern Division, given that the complaints are only done in Suva for them to access?

MR. A. RAJ.- Yes, absolutely! Thank you very much, Honourable Bulitavu. That is an important consideration and something that has been our priority since I was appointed in 2016. So I am very, very pleased to inform the Standing Committee that within months, the Commission will open its first office in Lautoka.

We have secured the premises, right now, we have just exhausted the procurement requirements and we have found a contractor that is going to work on the renovations. We will be travelling to the West next week to go through the microphysics of arrangement around that. But within months, we should have the Lautoka Office open and it is actually near the Lautoka Market.

That is one thing we had wanted, to have it accessible to the people of Fiji. We want to develop models that actually begin to decentralise in ways that brings us closer to ordinary folks. And then, of course, resource permitting, we want to be able to open an office in Labasa.

So, Honourable Bulitavu, while we are in that process, my colleagues, like Mr. Laisiasa Rogoyawa and others, who go to rural remote communities in that sense, are using a mobile in a clinic model. While we do not have offices open in the North and West and all that, we take our advocacy initiatives to be a mobile clinic model where we go to the people, we receive those complaints, we come back, we register and we get the investigations process going.

Within months, the people of Fiji should be able to enjoy our services through the Lautoka Office because we are mindful of the fact that it costs a lot of money for people to come from some of these areas. Let me give you one example. A person with disability had to pay \$100 to come to us, firstly, to lodge a complaint and then, secondly, pick up those documents. When I found out about that, I mean, I lost my head because it is unacceptable. We are supposed to go to those people, they are not supposed to find the \$100 and come to us.

So where we find that there are extenuating circumstances where the condition or possibility is absolutely not there for these people to come, we go out there. So I went to Twomey Hospital to find this gentleman and because he is an *i Taukei*, I thought maybe if he does not have access to the English language, I took someone who is an *i Taukei* member of the Commission to go through the translation, but we have to help people.

We have to avail ourselves and we need to be able say to people, “We will come to you. We are not supposed to sit here and wait for you to come to us.” So that is what we are also doing to enhance accessibility.

Also, in relation to accessibility, Honourable Bulitavu, we are making sure that the buildings we have are disability accessible because it is also a requirement under the Paris principles. So, ensuring that the Office is accessible, resource permitting, we will have a disability desk officer with us in the Commission, but for now, we are making sure that even our complaint system is actually friendly to persons with disability.

We have secured close to 150,000 from the Commonwealth Equality Initiative (CEI) to build the Complaints Management System which is going to ensure that we apply best practice. It is actually transparent.

It takes a lot of work to do the annual reports because we have to physically audit things. There is no Complaints Management System, et cetera. With all these systems built in place, the production of annual reports is going to be a lot easier and we also should be able to give you desegregated data at the click of a finger because it auto-generates those things. You should have reports because if you stop and said, "Mr. Raj in 2016, how many complaints are of police brutality", I should be able to click on the system and tell you, "16 cases", et cetera. You know what I mean. And that is what we are trying to do.

Within months, we are working with a very reputable company that is building that system and once we have the system in place, it is also going to centralise, Honourable Bulitavu, the complaints. What the public have to do is just go to the Lautoka Office and lodge a complaint. It is going to be dealt with through the Suva Office, it is going to be part of the central system, we will then send our team to go and investigate, et cetera, so they do not have to spend that kind of money and travel all the way to Suva. We will be taking the services to them. Thank you very much.

MR. CHAIRMAN.- Your question, Honourable Bulitavu?

HON. M.D. BULITAVU.- Probably a last one, given that you have mentioned, Director, in terms finding a solution in terms of trying to facilitate national conversations with those that are for democratic dissent. How is the Commission, probably trying to facilitate or open up a forum to allow the various stakeholders to be involved and their interest taken on board and we find a solution?

Given my few last questions and given that the Commission is a special creature as you have said and not State, not a civil society group, we have heard from the past few days on the UPR and the recommendations, read your article in the *Fiji Sun* on Saturday and responding to that and how the various States had recommended what we had made progressing and what areas we are able to improve on, how have you assessed Fiji as a State in terms of us fulfilling those international Treaties and also those rights that are enshrined in the Constitution? Also, how the funding that the State is giving in fulfilling those rights and how the Commission is recommending to the State the various resources to put in the budgetary allocation, so that those particular rights are fulfilled?

MR. A. RAJ.- Now, fantastic set of questions. Let me get to the first one around Freedom of Expression, Assembly and the Right to Democratic Dissent. You would have seen my response to that question because you had asked me the question around sedition and hate speech as well.

I really think that the provisions of our law are adequate. What we need to do is continue to have that national conversation about what hate speech means, what is the legal demarcation between legitimate free expression and expression that has the effect of inciting or advocating hatred on a prohibited ground of discrimination, when a speech act as seditious and all of that. I have done papers before where I looked at the question of sedition and also looked at the question of national security and freedom of expression.

Can I say that if people are willing to get into a very, very calm rationale debate and discussion around this thing, there are principles in international law that I will be very happy to share. These principles actually talk about the threshold for free speech, threshold for advocacy of hatred, threshold when something begins to constitute national security and adversely affects public order, et cetera. We need to talk about those things. We need to talk about how we develop jurisprudence, how do we develop those thresholds.

The other one is, I have been watching the space with politicians and the police and the amount of hoopla around it, about permits not approved, then people running and making statements,

et cetera . I mean, I look at that and said, “It is such a straightforward thing.” People need to come into the room, the politician should say, “We have the right to democratic dissent. We understand that you, the police, have an important responsibility in terms of ensuring that there is public order and all of that. We know what happened in 2000, there was looting, burning, et cetera, when something started as a peaceful protest. How can we make sure that we both have our legitimate interest in a democracy met?” We would be very happy to facilitate that kind of conversation in that kind of space, nothing stops!

The problem is this and I am going to be very straightforward with everyone in this room, that because of our political differences and it is like a bit of the Bush Doctrine - if you are not with me, then you are against me; that has really derailed our ability to sit together and talk through some of these things. Get into that space and I say, disagree by all means, but get into that space and have that conversation. We would be very happy to facilitate that kind of conversation, so that these two interests can be met.

The other issue is this. People say, “Why are we not intervening in terms of this whole issue around labour rights, et cetera?” Where we see that an issue is before a court or a tribunal, you have to wait for the court or tribunal to adjudicate on that matter. We are not going to interfere because it is *sub judice*.

In this country, we must learn to exhaust the institutional mechanisms and where we fail, we need to get into that kind of model that you are talking about, Honourable Bulitavu, we need to have that conversation. Have the national conversation about racism, have that conversation because it is a recommendation by the Special Rapporteur as well. So we need to get together but we must learn to get into a space without necessarily making it an act of self-preservation because the moment we go - guns all armed, we are ready to annihilate the other person.

You cannot do that! You have got to listen to people first and say, “Alright, where are you coming from? If you are making this kind of noise, Mr. Raj, where are you coming from? What is it? Where is your perspective? Is it international law? Is it our Constitution? Where is the authority around this argument? Is it the jurisprudence on the European Court for Human Rights? If it is the European Court for Human Rights, why are you going to Europe? Why not our courts and our decisions here? Then I will tell you, we need to develop jurisprudence in this area. You know what I mean? So that is what we have to do. I totally agree with you.

Secondly, this whole business around UPR recommendations; I had an issue about selectively looking at a few recommendations. The first thing I made clear and it is a very, very technical, sort of, thing, the UN has not made any recommendations as yet, it is individual States. People who do this work will know.

Individual States are making these recommendations. I pulled out those recommendations to say, “Yes, they have talked about freedom of expression, they have talked about repealing media laws and other laws that deem to be an obstruction in our ability to exercise freedom of expression and democratic dissent”, but I also said, “Look, do not be a drunk person looking for keys under the streetlight”, because if you put the light here, this is exactly where you are going to look.

If you open up the chain of equivalences, you would realise that they are also making recommendations about prohibiting the advocacy of hatred which, again, relates to freedom of expression because we have a problem with hate speech in this country on the social media and everywhere else. So what we do and we should do is, look at the recommendations in its totality.

Look at the pros, look at the cons, look at where it is about rights, where it is about responsibilities, and look at how we need to address those things in totality.

One of the other things, and I am so glad you asked these two questions, Honourable Bulitavu, that we need to do in this country is we need to understand how to interpret limitations under the Constitution. If people stopped being sarcastic on *Twitter* and become self-anointed human rights lawyers and advocates, if they stopped bragging, being sarcastic, trashing and showing the world how smart they are (and I think these people know who they are and who I am taking a jab at the moment) and if they just stopped and became a good lawyer for five minutes and taught the whole country what the Oaks Formula is, if you knew the Oaks Formula, you would know how to interpret limitations in our Constitution - that it must be legitimate, it must be prescribed by law, it needs to be proportionate, it must meet a pressing social need, et cetera.

If politicians stop fighting with me and trashing me, rather than got into this conversation and say, "Mr. Raj, what is the Oaks formula all about and how can we use this to interpret limitations?", Fiji will have a very different kind of conversation. Unfortunately, what is happening in Fiji is, you will have this side which will have a particular kind of political position, you will have that side which is snarling, like a Rottweiler ready to attack.

You cannot have a national conversation if you are going to be like that. You need to come together, you need to be calm and rationale, you need to know your staff and say, "Alright, these are the various positions that emanate this one particular issue, so how do we find a solution? How do we find a meeting ground?" So, understanding what the oaths formalise.

You know what one of the lawyers did? When we investigated the Navua case, this lawyer who was very active on *Twitter* and the social media, quickly says, "Oh, come on, Ashwin, have the gumption to call it police brutality." I had to tell everyone and I had to go on national television to say, "Excuse me, this person of all people because he is a self-anointed human rights lawyer, should know that when we say 'cruel degrading inhumane treatment', it means torture. It means brutality. It means emotional torture, not just physical torture.

So, the kind of games that our educated people play in this country when they can be doing so much good by educating everyone to say, "Hey guys, these are the limits in law, this is how we interpret, these are the definitions and this is what it means", this would be a different country. This would be a different conversation.

But the elite lawyers of this country, who purport to be human rights lawyers are doing very little because everyone likes our house divided because that is where they get their little political capital from. So, if you were to change them and have a robust intelligent discussion about human rights, you would see that there is a way out of this intractability. We just need to be committed to findings solutions, and I think the entire country can learn from the Standing Committee and the model of the Standing Committee.

Look at how we are discussing! Everyone knows him and I have political differences, but he and I are able to reason across our political differences in a calm rationale manner. He is not swearing at me. I am not swearing at him. I am raising all of these issues, despite the fact that we all have these political differences. If we can do it in a civilised manner, sock in the entire country, but for that to happen our media needs to stop inciting hatred.

Our media needs to stop dividing and manipulating people for their narrow parochial agenda of profit making. Our lawyers need to stop being sarcastic on the social media and actually engage

the issues in a robust manner. We need to learn what the meaning of democratic dissent is and how we do we disagree fundamentally on issues without necessarily attacking someone's race or religion because they believe in things that are different from us.

That would also mean, trying to understand what democratic dissent means. Under the Crimes Act, I am tired of saying this to everyone, you have the right to political criticism of Government and its policies under the Crimes Act. It is not a punishable offence, so people should stop misinterpreting that stuff.

Our freedom of expression landscape is very robust. When you see the Media Industry Development Authority (MIDA) Annual Report, that Annual Report details in length, I mean, I scanned pages and pages of newspaper stories to show how our politicians from the Opposition and Government have been able to freely speak their mind, and they have been published by the various agencies.

Freedom of expression and democratic dissent is not the same as political bias. We have political bias in this country, we all can see it, and it is as stuck as day and night. We have that, but how do we come to a meeting ground?

We can only come to a meeting ground, if we put our egos aside, we get into calm rational discussion based on what international law is saying, what our Constitution is saying, what our laws are saying, and if things need to change, they need to change through spaces like this.

In terms of the resources, et cetera, what we are doing, Honourable Bulitavu, is that in the formulation of our Strategic Plan (we are going to do a new Strategic Plan):

1. we take full cognisance of the Recommendations of the UPR; and
2. distilling from the Strategic Plan, we do the Annual Corporate Plan, which also has an important element in terms of the resources.

So, we prioritise, as a National Human Rights Commission. These are the recommendations that are actually quite urgent and very resource consuming. So, put money where your mouth is and get more money into this area because this is one that we need to implement.

However, one of the things I have also learned because I have run a Commission where I started with the budget of \$550,000 in 2016 and look at the work we produced in 2016. I have seen budgets go up and I have seen budgets go down. Our budget was cut by 55 percent in the last financial year, but there are so many things you can do in this country that does not require money. It requires political will, it requires that conversation, et cetera, and it can be done at a time when resources are dwindling.

May I add that the Human Rights and Anti-Discrimination Commission is one of the few Commissions all over the world that enjoys the kind of money we do. Globally, the budgets for National Human Rights Commissions are being drastically cut by States because either they have too much teeth or they basically, sort of, an eyesore to everyone politically or basically the resources do not exist. So, can I add that resourcing is an issue but we have worked within the means, but it has not derailed us from doing our work.

The Commission is also going back in producing the Annual Reports from 2008 to 2015. You shall have that soon for your scrutiny, and I think the Commission is in a very strong place now.

We are working towards accreditation so hopefully, we will be considered for an accreditation next March at the Global Alliance Meeting.

In fulfilling that, the Commission is going to embark on its capacity assessment which starts next month. We will be inviting members from the Standing Committee, including the Chairman, to meet with the APF and doing the capacity assessment. So, please, use that process and help make a strong National Human Rights Commission, the one that you can say, “Look, it is an effective institution that we are all very proud of and this is what we want the institution to do.” So, I invite the Standing Committee to be part of the capacity assessment of the Commission. It is going to start on 15th March or 16th March, and we will be inviting CSOs and the Government.

I have also said that it is a process, including the formulation of our Strategic Plan which must be owned by the people of Fiji. So, for our Strategic Plan, we are actually taking it into the markets around the country and we will receive recommendations from members of the public, see what they want, distil those recommendations and make a Strategic Plan that also reflects the concerns of ordinary folks.

Thank you very much, it was an absolute pleasure speaking here this morning.

MR. CHAIRMAN.- Thank you, Director. You have raised some very important issues and some of those, I think, as a Committee, we will actually be discussing with the Honourable Speaker so that in our next training session or workshop, we can have you as a guest to come and speak whereby the Opposition and Government Members are present, to see what is the best interest of our ordinary Fijians.

Another thing I would like to mention is the collaboration with this Committee. As you know, this is the Committee on Justice, Law and Human Rights and you are the Commission on Human Rights, so what are some of things or resources we can share, the ideas we can share, so that we can take human rights to the next level.

Now, I will request the Honourable Mosese Bulitavu, if he can thank our Subcommittee before we conclude this morning’s session.

(Vote of Thanks by Honourable Bulitavu)

MR. A. RAJ.- *Vinaka vakalevu.*

The Committee adjourned at 10.54 a.m.