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

**Review of the Fijian Electoral Commission Annual Report  
2017**



**PARLIAMENT OF THE REPUBLIC OF FIJI  
Parliamentary Paper No. 280 of 2020**

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## CHAIRPERSON'S FOREWORD



The Standing Committee on Justice, Law and Human Rights was referred the *Electoral Commission Annual Report 2017* and the Committee was mandated to review the Annual Report and table its findings back to Parliament.

The Electoral Commission is the constitutionally mandated independent electoral management body in Fiji that oversees the running and conducting of free and fair elections in accordance with written laws governing elections and any other relevant law.

This Report specifies the findings and recommendations of the Committee with respect to the issues noted from the contents of the *Electoral Commission Annual Report*.

The Committee conducted extensive deliberation and independently formed its view and stance on the issues noted in the Annual Report. The Committee identified pertinent issues from the Annual Report and sent correspondences regarding these to the Electoral Commission and its representatives, for clarification.

As a result of the review, the Committee identified a few key findings, which are provided as follows:

- i) the Commission through the Fijian Elections Office, conducts regular revision and assessment of the National Register of Voters, which is a vital part of determining the number of seats in Parliament, as provided under the *Constitution*.
- ii) the Commission works closely with the Supervisor of Elections in order to effectively manage the electoral system in Fiji.
- iii) the Annual Report provides insufficient information on gender equality and related work by the Commission, however, after further discussions, it is encouraging to note that the Commission's work is directly guided by non-discriminatory policies and legal frameworks, which also encompasses gender equality principles.

At the conclusion of the review, the Committee noted that the Commission has done a commendable job during the reported period, thus it resolved that it would be appropriate to highlight the Commission's key achievements and also put forth a few recommendations for consideration by the Electoral Commission. A summary of these is as follows:

- i) The Committee commends and notes the establishment of a full time secretariat service for the Commission and recommends that proper resources be provided to the secretariat staff to ensure provision of institutional support to the Electoral Commission.
- ii) The Committee commends the work of the Electoral Commission for the development of internal operational and procedural guidelines.

- iii) The Committee notes the new organisational structure of the Commission and commends the work carried out in the reported year, regarding the appointment of new commissioners and the chairperson.

I would like to acknowledge 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 secretariat and the representatives of Fiji's electoral management bodies who accepted the Committee's invitation and made themselves available to make a submission, which assisted the Committee in its work.

I, on behalf of the Committee, table this Report to the Parliament and commend the Fijian Electoral Commission for its Annual Report for the year 2017.



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**Hon. Alvick Avhikrit Maharaj**  
**Chairperson**

## COMMITTEE COMPOSITION

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



**Hon. Alvick Avhikrit Maharaj  
(Chairperson)**

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



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

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



**Hon. 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. Ratu Suliano Matanitobua  
(Member)**

- *Shadow Minister for Youth and Sports*
- *Former State Minister of Fijian Affairs*
- *Former Military Territorial Officer*



**Hon. Mosese Bulitavu (Member)**

- *Shadow Minister for Defense, National Security, Immigration and Correction Services*
- *Former Opposition Whip*
- *Business Consultant/Farmer*
- *Territorial Military Officer – Republic of Fiji Military Forces*
- *Law Graduate and Researcher*

### **Committee Secretariat Team**

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

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

## 1.0 INTRODUCTION

The Standing Committee on Justice, Law and Human Rights was referred the *Electoral Commission Annual Report 2017* on 2 September 2019, pursuant to Standing Order 38 (2) of the Standing Orders of the Parliament of the Republic of Fiji. The Committee was mandated to review the Annual Report and table its finding back to Parliament.

### *Procedure and Program*

The Committee began its review of the Annual Report on 7 October 2019. The review process adopted by the Committee was agreed upon through consensus by the Members and a summary of this is as follows.

The Committee read through the Annual Report and had discussions on matters that were noted by individual Members. From these discussions, a variety of issues were identified, which the Committee resolved, needed clarification and further discussions.

Issues identified were brought to the attention of the Commission through a formal letter and a set of questions. Clarification on the issues was received, which was then deliberated on by the Committee. These deliberations formed the findings of the

At the conclusion of the review, the Committee put forth a few recommendations as a result of the findings by the Committee.

## 2.0 ELECTORAL COMMISSION

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

The Commission is mandated to formulate policy and to oversee the conduct of elections in accordance with the Electoral Act and any other related law, including responsibility and authority with respect to the following matters—

- (a) *registration of voters;*
- (b) *registration of political parties;*
- (c) *determination of the number of members of Parliament in accordance with section 54(2) of the Constitution;*
- (d) *receipt and return of the writ for an election;*
- (e) *declaration of the election results and allocation of seats in Parliament;*
- (f) *adjudication of electoral disputes, including disputes relating to or arising from the right to be nominated as a candidate, but excluding petitions and disputes subsequent to the declaration of election results;*
- (g) *monitoring and enforcing compliance with this Decree and any law governing political parties, on its own initiative or in response to a formal complaint; and*

(h) *adopting Rules and instructions consistent with this Decree and the Constitution that are necessary for the transparent and orderly conduct of free and fair elections.*<sup>1</sup>”

The *Electoral Commission Annual Report 2017* provides an overview of the Commission’s work in 2017, specifically in relation to pre-election work leading up to the 2018 General Elections. The Annual Report covers topics such as a brief background of the Fijian Electoral Commission, the Legislative Framework of the Commission and the Supervisor of Elections (“SoE”), the structure of the Commission, the institutional support, the budgetary allocation, the support from development partners, working with the Fiji Parliament Committees, launching of the Commission’s website and details of the Commission’s work.

### **3.0 DELIBERATION AND FINDINGS BY THE COMMITTEE**

#### ***Initial deliberation by the Committee***

The Committee commenced the review through a first reading of the Annual Report. From the Annual Report, the Committee noted numerous matters, which the Committee deliberated on and some of which were issues that needed to be discussed further and/or clarified. Some of the preliminary findings by the Committee, at this stage of the review are summarised below.

The Committee noted the numerous activities that transpired in 2017 and the those activities undertaken by the Electoral Commission, which include:

- the appointment of a new Commission in February of 2017;
- introduction workshop for the new Commissioners facilitated by the SoE;
- regular meetings of the Commission for the purpose of discussing general matters and correspondences to the Commission;
- meeting with the Secretary-General of the Association of World Election Bodies to Fiji (AWEB);
- launching of the newer version of the Voter Card (VoterCard 2.0), the Electoral Commission Website, Lavetiviti Newsletter and the National Polling Venues Directory;
- participation in the Writ of Election Planning Workshop; and
- various meetings with Political Parties.

Furthermore, the Committee noted that the Commission conducts regular revision of the National Register of Voters. This was an interesting fact, given that this has direct a impact on the number of seats in the Parliament of the Republic of Fiji.

Moreover, the Committee also noted other stand-out aspects regarding the Commission, including trainings by Technical Consultants from New Zealand, the reporting period for the Commission is different from that of the government; the types of complaints received by the Commission through the complaints portal on the Electoral Commission website.

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<sup>1</sup> Section 3, *Electoral Act 2014*.



The Committee also noted that there was insufficient information in the Annual Report on the budget and finances of the Commission and that whether the finances of the Commission was subject to audit by the Auditor-General.

### ***Evidence via submission received and discussion with the Electoral Commission***

The next stage of the review saw the Committee have extensive discussions, via face to face discussions and correspondences, with the Commission on issues identified from the Annual Report. The following is a summary of the response provided by the Electoral Commission to the Committee's queries on the key issues identified.

First and foremost, the Commission advised the Committee that in 2017 a new Electoral Commission was appointed and since their appointment, the Electoral Commission had a couple of very important constitutional roles to play; including elections preparations for the 2018 General Elections.

The Commission also advised that it undertakes regular revision of the National Register of Voters. The Fijian Elections Office conducts this exercise with the direction of the Commission at its Voter Service Centres. Results from this exercise is conveyed through a report to the Commission during the Commission meetings.

The revision of voter registration is a vital aspect of the electoral system as it is also a determining factor for the number of seats in Parliament. Fiji's system is rather unique, given that in Fiji, the number of seats into Parliament is determined by the number of voters. Pursuant to Section 54 of the Constitution, the Electoral Commission assesses the total number of people registered in the National Register of Voters, as well as the total number of people in the country and thereafter, determine the ratio of the total number of seats, to the total number of people.

The Constitution requires the Commission to ascertain one year before the date of the General Election, the ratio of the total number of people to the total number of seats in Parliament. There are various sources of information that assist the Commission in determining the aforementioned ratio and the total number of seats in Parliament, which includes statistics from the Bureau of Statistics and voters' data collected by the Commission. In 2017, the Commission had exercised its powers provided under the Constitution, which led to the increase in the number of seats in Parliament from 50 to 51. The next assessment will be carried out in 2021, before the next General Election in 2022.

There was also discussion on the technical training attended by the Commission, and whereby the Committee was advised that these were on the key aspects of the electoral processes and managing the electoral system. Specifics of the training include, streamlining the correspondences and complaints mechanisms, Appeals and Objections Forms vetting and implementation of various Registers such as the Correspondence Register, Complaint Register, Decision Register and Activity Register.

The Commission also commented on the numerous tasks that it had to deal with in 2017, including the pressing matter of Parliament's review of the Commission's work

as captured in the Electoral Commission Annual Reports for 2014, 2015 and 2016. During the mentioned period the Commission had the enormous task of carrying out continued preparation for the 2018 General Election conducted pursuant to the *2013 Fijian Constitution* and a new electoral system.

The Electoral Commission also underwent an introduction programme on elections. This was run by an election expert, Mr. Larry McGray, operational aspects of elections, as well as the legal aspects and how general elections work.

Discussion was also carried out on the reporting period of the Commission, which was different from that of the Government. The Commission advised that it is guided and bound by provisions of the Constitution, which provides for the reporting framework for the Commission.

The Committee queried about the Commission's complaints portal, which is available on the Electoral Commission website. The Commission advised that the portal was to allow complaints made directly through the platform, however, it had not been used.

The Committee queried the roles of the Supervisor of Elections ("SoE") and the Electoral Commission and clarification provided highlighted that Fiji has a dual system, whereby there is the Electoral Commission and the Office of the Supervisor of Elections. There has been changes to the law governing elections in Fiji and one major change is the collaborative role between the SoE and the Commission. The SoE has become the secretary to the Commission, which is in line with what the Constitution states are the roles of the Commission and SoE. The Commission provides the direction and intentions and the SoE provides the operational support, which realises these intentions.

Furthermore, the Commission also had to deal with certain legal matters (court cases), which were resolved after the law was clarified. There was also discussion on Pre-Poll and whether essential services staff could take part in that. The Commission advised that it would be preferable and beneficial that essential services are not disrupted due to there staff lining up in a cue to vote. There were options given to essential services staff that ensured that the services they provided were not disrupted, even during election. One of the most viable option provided was the postal voting.

Written copies of the submissions and Verbatim Reports of the submissions are uploaded along with this Report onto the Parliament website: [www.parliament.gov.fj](http://www.parliament.gov.fj).

### ***Sustainable development goals impact analysis***

As part of its review the Committee is also mindful of the requirements of the Standing Orders of Parliament whereby all matters before the Committee are to be reviewed through a gender lens. This is supplemented by the Committee's appreciation of the Parliament's role in contributing towards the Global Agenda, which Fiji is also committed to. Thus it is commendable to note that the Commission's work in the electoral regime also covers pertinent matters relating to these development goals. A summary of these activities by the Commission is provided below.

In regard to reviewing the Annual Report through a gender lens, the Committee noted that the Annual Report had insufficient information regarding gender. The Committee then sought clarification from the Commission on its work towards the promotion of gender equality. It was encouraging to note that the Commission's work is based on gender-neutral and non-discriminatory principles and legal frameworks.

Legal framework guiding the work of the Commission includes the *Constitution of the Republic of Fiji*, the *Electoral Act 2014* and the *Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013*.

Other aspects of the electoral system have contributed to the efforts towards achieving Fiji's development goals. One such encouraging aspect of the electoral system is the commendable support put towards improved access and participation in the electoral process, for persons with disabilities. This demonstrates the Commission's efforts in towards the achievement of the sustainable development goals.

### ***Key Findings***

At the penultimate stage of the review; after extensive deliberation of all the evidence received and comments noted from the discussions with the Electoral Commission, the Committee has identified a few pertinent findings, which it believes are worth noting and a summary of these is provided as follows:

- i) The Commission through the Fijian Elections Office, conducts regular revision and assessment of the National Register of Voters, which is a vital part of determining the number of seats in Parliament, as provided under the Constitution.
- ii) The Electoral Commission works closely with the Supervisor of Elections in order to effectively manage the electoral system in Fiji.
- iii) The Annual Report provides insufficient information on gender equality and related work by the Commission, however, after further discussions, it is encouraging to note that the Commission's work is directly guided by non-discriminatory policies and legal frameworks.

## **4.0 RECOMMENDATIONS**

After extensive deliberation, the Committee noted that the Electoral Commission has made strides in many areas of the electoral system. As part of its wholistic approach to the review, the Committee would like to highlight the Commission's key achievements in the reported year and suggest a few recommendations for consideration by the Electoral Commission. These achievements and recommendations are summarised and provided as follows:

- i) The Committee notes the establishment of the full time secretariat service for the Commission and recommends that proper resources be provided to the secretariat staff to ensure provision of institutional support to the Electoral Commission.

- ii) The Committee commends the work of the Electoral Commission for the development of internal operational and procedural guidelines.
- iii) The Committee notes the new organisational structure of the Commission and commends the work regarding the appointment of new commissioners and the chairperson.

## **5.0 CONCLUSION**

After reviewing the *Electoral Commission Annual Report 2017*, the Committee recommends that the House takes note of its contents.

The Standing Committee on Justice, Law and Human Rights has fulfilled its mandate approved by Parliament, which is to examine and review the *Electoral Commission Annual Report 2017* with due diligence.

The Committee's review highlighted numerous findings, which are reflected in this Report. The Committee also put forth a few recommendations for consideration of the Electoral Commission.

The Committee through this report commends the *Electoral Commission Annual Report 2017* and the contents of its Report to the Parliament.

## Member's Signatures

**Hon. Alvick Maharaj**  
(Chairperson)



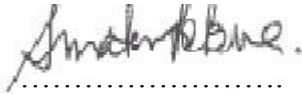
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**Hon. Rohit Sharma**  
(Deputy Chairperson)



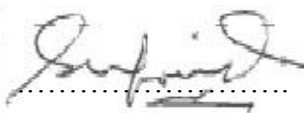
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**Hon. Ratu Suliano Matanitobua**  
(Member)



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



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**Hon. Mosese Bultavu**  
(Member)



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**DATE: 15/ 10/ 2020**