



PRIVILEGES COMMITTEE REPORT

Report on the Referral of a Matter of Privilege against the Hon. Josaia Bainimarama



PARLIAMENT OF THE REPUBLIC OF FIJI
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1.0 MANDATE OF THE PRIVILEGES COMMITTEE

1.1 Pursuant to Standing Order 127(2) the mandate of the Privileges Committee (**'Committee'**) is to –

- (a) bring to the attention of Parliament any breach of the privileges of Parliament committed by any person;
- (b) consider any questions of privilege as may be referred to it by Parliament or the Speaker whether under Standing Order 134 or otherwise;
- (c) inquire into any complaint that may be referred to it by Parliament or Speaker concerning any breach of privilege on the part of any person or persons; and
- (d) provide reports and recommendations to Parliament as a result of any matter referred to it.

1.2 Additionally, clause (3) provides that for the purposes of performing its functions and duties, the Privileges Committee may summon any person to appear before the committee to give evidence or provide information, and, for these purposes, the committee has the same powers as the High Court to –

- (a) enforce the attendance of witnesses and examine them on oath, affirmation, or otherwise; and
- (b) compel the production of documents or other material or information as required for performing the function or duty concerned.

2.0 COMMITTEE MEMBERSHIP

2.1 In accordance with Standing Order 127(1) and as announced by the Hon. Speaker in Parliament on Monday, 13 February 2023, the Committee comprises the following Members –

- (a) Deputy Speaker and Assistant Minister for Local Government and Housing the Hon. Lenora Qereqeretabua (Chairperson)
- (b) Minister for Women, Children and Poverty Alleviation the Hon. Lynda Tabuya
- (c) Assistant Minister for Home Affairs, the Hon. Ratu Rakuita Vakalalabure
- (d) Assistant Minister for Finance, the Hon. Esrom Immanuel
- (e) Hon. Faiyaz Koya
- (f) Hon. Jone Usamate

3.0 CHAIRPERSON'S FOREWORD

A matter of privilege was raised with the Honourable Speaker pursuant to Standing Order 134(1) on the afternoon of Monday, 13 February 2023.

The Honourable Speaker after reviewing the complaint as well as the Hansard report for Monday, 13 February, believed there was cause to refer the matter to the Privileges Committee for consideration, on Wednesday, 15 February 2023. The Privileges Committee was given a timeline to report back to Parliament on Friday, 17 February 2023.

The Privileges Committee agreed with the Committee's Terms of Reference and this is attached as Appendix I.

The Committee by resolution decided to conduct the inquiry into the said matter, by calling the responsible parties, the Hon. Pio Tikoduadua being the complainant and the Leader of the Opposition the Hon. Josaia Bainimarama, the respondent.

The Committee noted that during the debate on His Excellency the President's Address, the Leader of the Opposition the Hon. Josaia Bainimarama made certain comments that the Hon. Pio Tikoduadua deemed "denigrating and humiliating to the Head of State, H.E. the President also as Commander in Chief, while appealing to the rank and file in the RFMF", which he communicated to the Hon. Speaker as he felt were "highly seditious and disrespectful while dishonouring the dignity and bringing Parliament into disrepute".

Parliament is an independent arm of the State, which is fully entitled to take such measures it deems fit to maintain its integrity and decorum. The Constitution and the Standing Orders of Parliament are very clear in that the control and administration of the Parliamentary precincts is vested in the Speaker. The Hon. Speaker has the authority to maintain order and decorum; to secure and maintain the honour and dignity of Parliament; and to act for any breach of privilege or contempt of Parliament.

Having considered the complaint raised as well as reviewed the uncorrected Hansard report for Monday 13 February 2023; the Hon. Speaker under Standing Order 134(2)(a) referred the alleged matter of breach of privilege by the Honourable Leader of the Opposition for words allegedly uttered during his speech on Monday, 13 February 2023.

This Report differs from those of Standing Committees in that the proceedings were held in camera. Minutes and most of the other written documentation generated remain confidential and therefore do not form part of this report.

I thank all Honourable Members of the Committee for the hard work and determination shown and respectfully submit and commend this report to Parliament.

Mr Speaker Sir, with these words, and on behalf of the Privileges Committee, I now commend this report to Parliament.



.....
Hon. Lenora Qereqeretabua
Chairperson – Privileges Committee

4.0 SUMMARY OF PROCEEDINGS

First Meeting – Wednesday, 15 February 2023

- 4.1.1 The Committee convened at 1.30 p.m and deliberated on its work plan following which it agreed to call on the Hon. Tikoduadua and the Hon. Leader of the Opposition at 1.30 p.m. on Thursday, 16 February 2023.
- 4.1.2 The secretariat delivered the summons upon the direction of the Chairperson of the Committee. After the two interviews, the Committee gauged whether there is a need for any further witnesses or experts. The Committee also resolved, if there is a need for more time, after Thursday, then the Chairperson will write to the Hon. Speaker to request for more time before the Committee reports back to Parliament.
- 4.1.3 The Committee concluded its meeting at 2.05 p.m.

Second Meeting – Thursday, 16 February 2023

- 4.2.1 The Committee convened at 1.25 p.m. and called upon the following witnesses to provide evidence –
 - (a) Hon. Pio Tikoduadua; and
 - (b) Hon. Josaia Bainimarama
- 4.2.2 After hearing the evidence, the Committee agreed to meet on Friday morning to deliberate on the matter of privilege before tabling a report to Parliament.
- 4.2.3 The Committee concluded its meeting at 4.48 p.m.

Third Meeting – Friday, 17 February 2023

- 4.3.1 The Committee convened at 9:30 a.m., to deliberate on the preliminary items in the Agenda and then took a short recess at 10:30 a.m. for Members to have a read through of the Verbatim Report for Thursday 16 February 2023. The meeting re-convened again at 11:55 a.m.
- 4.3.2 The Committee deliberated on the main matter of privilege under its consideration.
- 4.3.3 During the deliberation, there were vital aspects of the privilege matter that were raised, including the typographical error in the letter of complaint.

4.3.4 The Committee then took a recess to allow the Hon. Faiyaz Koya to attend a religious prayer at 12:45 p.m., then resumed at 2 p.m. whereby the Committee deliberated, voted and reached a determination on the matter of privilege.

4.3.5 The Committee then took another recess at 4:45 p.m. and resumed at 6 p.m. to finalise its Report.

5.0 ESTABLISHMENT OF *PRIMA FACIE* BREACH OF PRIVILEGE

5.1 Jurisdiction

- 5.1.1 Under Standing Order 127(2)(b), the Committee is required to consider any question of privilege referred to it by Parliament or the Hon. Speaker whether under Standing Order 134 or otherwise.
- 5.1.2 The Hon. Speaker on 15 February 2023 decided under Standing Order 134(2)(a) that there was a *prima facie* breach of privilege by the Hon. Josaia Bainimarama for words allegedly spoken during the debate on the motion to thank His Excellency the President.
- 5.1.3 The Hon. Speaker referred the privilege matter to the Committee and further directed the Committee to meet to consider all relevant evidence and table its report with recommendations to Parliament on Friday 17 February 2023.

5.2 Analysis of Facts and Evidence

- 5.2.1 That on the morning of 13th February 2023 during the debate on the motion to thank His Excellency the President for his most gracious speech, it was alleged by the Hon. Pio Tikoduadua that the Hon. Josaia Bainimarama uttered words that were “*denigrating and humiliating our Head of State, HE the President also as Commander in Chief, while appealing to the rank and file in the RFMF*”. This was in the view of the Hon. Tikoduadua as being highly seditious and disrespectful while dishonouring the dignity and bringing Parliament into disrepute, which were in contravention of Standing Order 62 clauses (3) and (4).
- 5.2.2 In its attempt to carry out its mandate and as referred by the Hon. Speaker, the Committee also examined the evidence pertaining to the words uttered, which were the subject of the matter of privilege. The evidence were in the form of the Verbatim Reports of the interviews conducted under oath, of the complainant (Hon. Pio Tikoduadua) and the respondent (Hon. Josaia Bainimarama) and the letter by the complainant to the Hon. Speaker.
- 5.2.3 The Committee noted, from the excerpts of the uncorrected *Hansard Report* on Monday, 13 February 2023 that the Hon. Leader of the Opposition stated in his speech to the response to His Excellency the President’s Opening speech for Parliament; that there were words used that directly referenced the conduct of H.E. the President and that it also referred to the RFMF.

- 5.2.4 The Committee, then deliberated on all the evidence collected and discussed at length, whereby the following findings were identified.

6.0 FINDINGS

- 6.1 In the matter of the allegation under Standing Order 62 (3), the Committee voted and found the Hon. Josaia Bainimarama in breach. Consequently the Committee deliberated where the majority surmised that the penalty be 24 months, while the minority surmised that an apology would suffice, but because the Hon. Josaia Bainimarama was cooperative in his testimony the Committee voted and imposed a penalty of 18 months with an apology to His Excellency the President and to the public.
- 6.2 In the matter of the allegation under Standing Order 62 (4), the Committee voted and found the Hon. Josaia Bainimarama in breach specifically of Standing Order 62 (4) (c). Consequently the Committee deliberated where the majority surmised that the penalty be 24 months, while the minority surmised that an apology would suffice, but because the Hon. Josaia Bainimarama was cooperative in his testimony the Committee voted and imposed a penalty of 18 months with an apology to His Excellency the President and to the public.

7.0 CONCLUSION

- 7.1 The Committee after hearing all evidence and considering all relevant matters, through a vote, determined that there is a breach of privilege on the part of the Hon. Leader of the Opposition, Hon. Josaia Bainimarama. It is the Committee's opinion that there was a breach of Standing Order 62 clauses (3) and (4)(c), which amounts to a breach of privilege.
- 7.2 The Committee through consensus also provides in this Report, the dissenting views of Hon. Jone Usamate and Hon. Faiyaz Koya, which are summarised as follows:
- 7.3 That the voting done on the consideration of whether there is a breach of Standing Order 62, clauses (3) and (4) (c), which then amounts to breach of privilege as per Standing Order 134 (2)(a), has been done without getting a clear determination of guilt. And that the determination was reached through evidence that was to the said Members is said to be lacking. In reference to the letter of complaint by the Hon. Pio Tikoduadua,

the Members in dissent expressed their reservations as to the credibility of the complainant, Hon. Pio Tikoduadua.


7.0 RECOMMENDATIONS

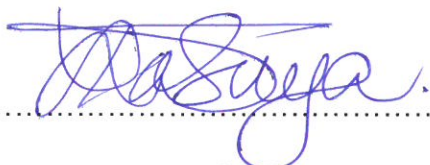
7.1 Having scrutinised the evidence provided to the Committee; the following recommendations are put forward for the consideration of Parliament –

- (i) that Hon. Josaia Bainimarama be suspended from Parliament for 3 years effective immediately, to be served till 17 February 2026;
- (ii) that the Hon. Josaia Bainimarama issue a written apology to His Excellency, the President within 14 days from today (17 February 2023);
- (iii) that the Hon. Josaia Bainimarama issue an apology to the public within 48 hours from today (17 February 2023);
- (iv) that during the period of suspension, Hon. Josaia Bainimarama is not allowed to enter the Parliamentary precincts;
- (v) that if the Hon. Josaia Bainimarama fails to comply, necessary enforcement measures must be imposed to ensure compliance.


8.0 ENDORSEMENT

8.1 We, the undersigned Members of the Privileges Committee of the Parliament of the Republic of Fiji hereby endorse this Report –

Hon. Lenora Qereqeretabua 

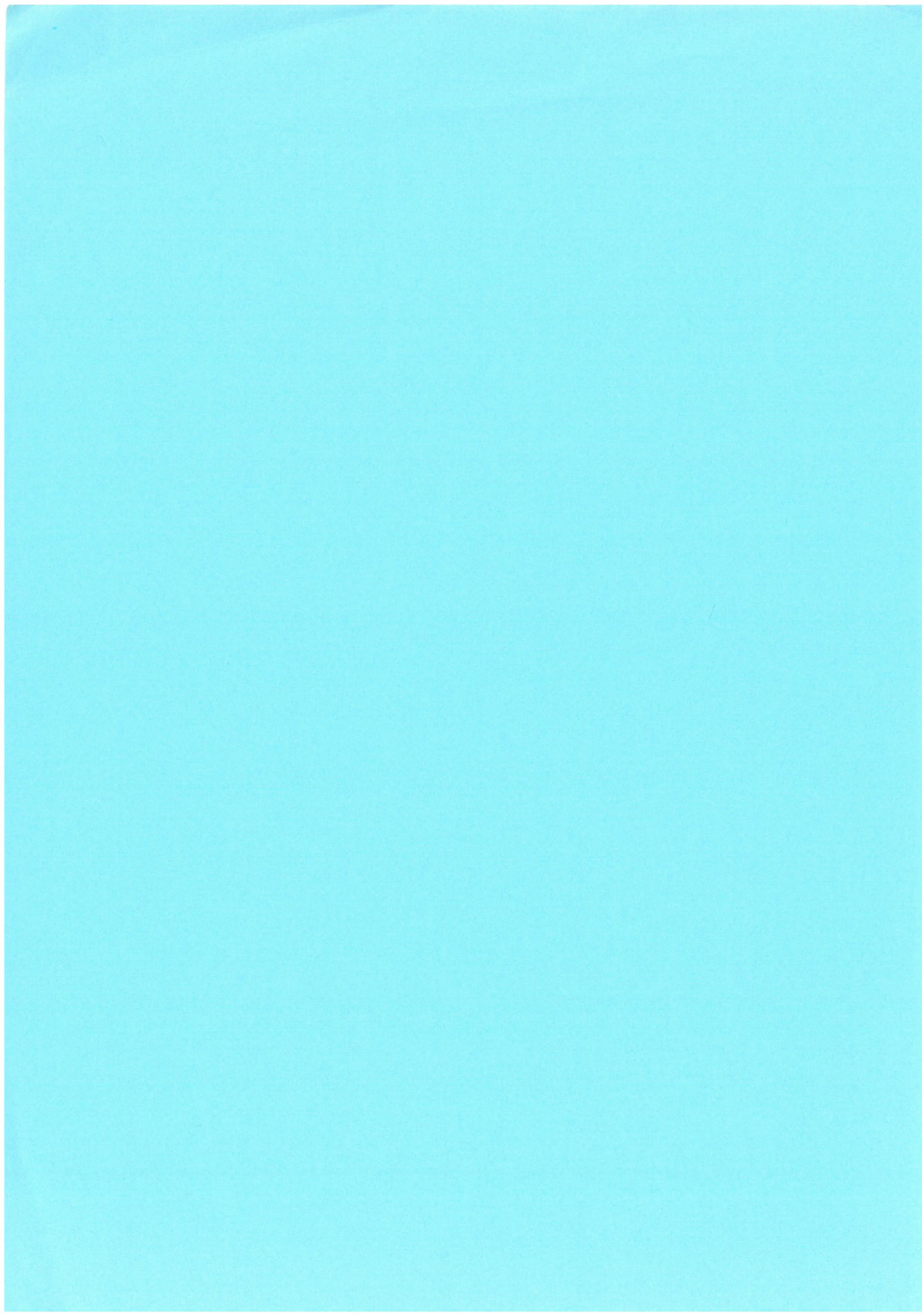
Hon. Lynda Tabuya 

Hon. Ratu Rakuita Vakalalabure 

Hon Esrom Immanuel. 

Hon. Jone Usamate

Hon. Faiyaz Koya





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13 February 2023

Honorable Ratu Naiqama Lalabalavu,
The Speaker
Parliament of Republic of Fiji
Government Building
SUVA.

Dear Honourable Speaker

Alleged Breach of Privilege by Hon Opposition Leader – SO 62(3) and SO 62(4)

Warm Greetings from the Government Chambers in Parliament.

We write to respectfully refer to your high office, a matter of privilege which in our humble and considered opinion, is set out in Standing Order 134.

We raise for your consideration, that a *prima facie* breach of Standing Orders 62 (3) and SO 63(4) by the Leader of Opposition, Honourable Josaia Voreqe Bainimarama, in his response to HE The President's most gracious speech on Monday 13th February, 2023. The motion to thank H.E. the President is the primary order of business this sitting week, as agreed to at the last Business Committee meeting of 27th January, 2023.

Honourable Speaker, it gives us no joy to raise this but the words uttered by the Hon Leader of Opposition in denigrating and humiliating our Head of State, HE The President also as Commander in Chief, while appealing "to the rank and file in the RFMF", is in our considered view [Note pls extract other language from Hansard, are highly seditious and disrespectful while dishonouring the dignity and bringing Parliament into disrepute.

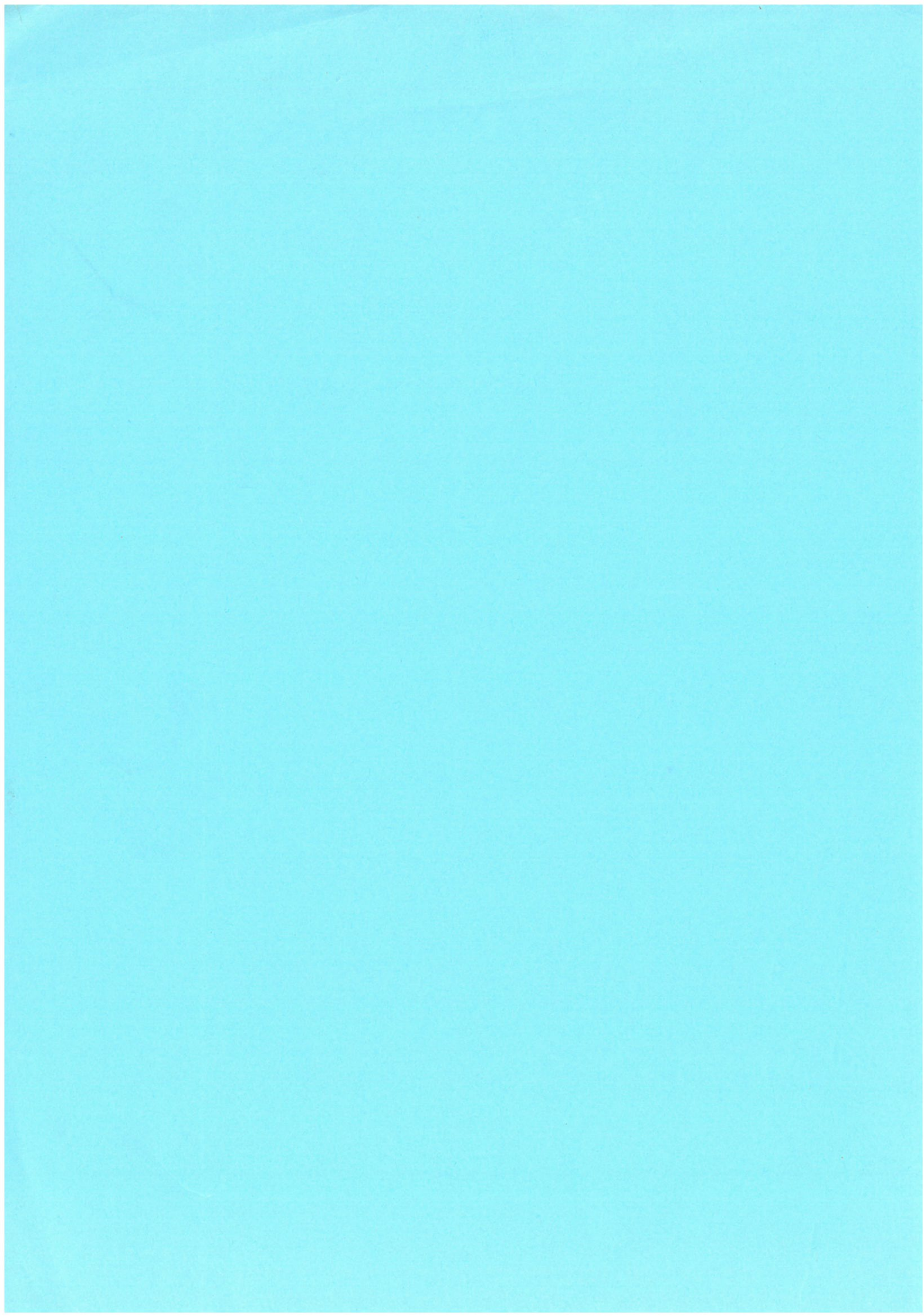
Honourable Speaker, this aggressive arrogant rhetoric warrants sanction, and thus is a matter of parliamentary privilege as per Standing Order 134.

We humbly seek your ruling on this matter at your earliest opportunity.

Respectfully

Member of Parliament

Cc: *Chairman, Privileges Select Committee*
Secretary General to Parliament





PARLIAMENT OF THE REPUBLIC OF FIJI

PRIVILEGES COMMITTEE

TERMS OF REFERENCE

1. AUTHORITY

Relevant part of the Standing Orders

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Additionally, clause (3) provides that for the purposes of performing its functions and duties, the Privileges Committee may summon any person to appear before the committee to give evidence or provide information, and, for these purposes, the committee has the same powers as the High Court to –

- (a) enforce the attendance of witnesses and examine them on oath, affirmation, or otherwise; and
- (b) compel the production of documents or other material or information as required for performing the function or duty concerned.

2. MEMBERSHIP

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- (b) Minister for Women, Children and Poverty Alleviation the Hon. Lynda Tabuya
- (c) Assistant Minister for Home Affairs, the Hon. Ratu Rakuita Vakalalabure
- (d) Assistant Minister for Finance, the Hon. Esrom Immanuel
- (e) Hon. Faiyaz Koya
- (f) Hon. Jone Usamate

3. MATTER FOR CONSIDERATION

A referral of a matter of privilege by the Hon. Speaker on Wednesday, 15 February 2023.

4. COMMITTEE WORK PLAN

To be endorsed as soon as applicable taking into consideration that the Committee must report back to Parliament on Friday, 17 February 2023.

5. PROCESS

The Committee to call for evidence as may be necessary.

The Committee to call the complainant to provide an explanation.

The Committee to call the Member accused of breach of privilege to provide an explanation.

The Committee to call other relevant persons to provide clarification.

The Committee to finalise and table its report in Parliament on the morning of Friday, 17 February 2023.