

[VERBATIM REPORT]

MEETING OF THE S/C ON JUSTICE, LAW & HUMAN RIGHTS

ANNUAL REPORT

Fiji Corrections Service 2018-2019 and 2019-2020 Annual Reports

**INSTITUTION: Fiji Ex-Prisoners Training and
Rehabilitation Associate Services**

VENUE: Big Committee Room (East Wing)

DATE: Wednesday, 10th May, 2023

VERBATIM REPORT OF THE MEETING OF THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS HELD AT THE SMALL COMMITTEE ROOM (WEST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON WEDNESDAY, 10TH MAY, 2023, AT 3.26 P.M.

Interviewee/Submittee: Fiji Ex-Prisoners Training and Rehabilitation Associate Services

In Attendance:

Mr. Kaliopati Toka - President

MR. CHAIRMAN.- Honourable Members, members of the media and the public, the Secretariat, dear viewers, ladies and gentlemen; a very good afternoon to you all and it is a pleasure to welcome everyone, especially the viewers who are watching this session live.

At the outset, for information purposes, pursuant to the Standing Orders of Parliament, specifically Standing Order 111, all Committee meetings are to be open to the public. Therefore, this meeting is open to the public and the media and will also be aired live, as I had earlier mentioned.

However, for any sensitive information concerning the submission that cannot be disclosed in public, this can be provided to the Committee either in private or in writing, but do note that this will only be allowed in few specific circumstances which include:

- National security matters;
- Third party confidential information;
- Personal or human resource matters; and
- Meetings whereby the Committee deliberates on all issues before it develops its recommendations and report.

I wish to remind honourable Members and our invited submittees that all comments and questions to be asked are to be addressed through the Chair. Also be mindful that only the invited submittees will be allowed to ask questions or give comments to the Committee.

This is a Parliamentary Committee meeting and all information gathered is covered under the Parliamentary Powers and Privileges Act and the Standing Orders of Parliament.

In terms of other protocols of this Committee meeting, please, be advised that movement within the meeting room will be restricted and minimal usage of mobile phones. All mobile phones to be on silent mode while the meeting is in progress.

I would now like to introduce the Members of the Standing Committee on Justice, Law and Human Rights.

[Introduction of Committee Members]

With us this afternoon, honourable Members, we have the representative of the Fiji Ex-Prisoners Training and Rehabilitation Associate Services, who have been requested to provide a submission on the Fiji Corrections Service Annual Reports for the periods 2018-2019 and 2019-2020.

I now take this time to invite our guest to introduce himself before we proceed to the submission. Please, note that if there are questions from Members of the Committee, we will wait until they complete their submission, then we will ask questions. The floor is yours, Sir.

MR. K. TOKA.- Thank you very much, Mr. Chairman. I apologise, all other members are still on their way to Parliament and I am the only person who will be representing from our Association this afternoon.

Mr. Chairman, Sir, before we put forward and discuss detailed information about our presentation this afternoon in response to the Fiji Corrections Service (FCS) submission on 26th April, 2023 before the Committee on issues of clarification sought by the Committee to the FCS pertaining to matters affecting prisoners' welfare and livelihood in custody, I, on behalf of my members, would like to express our sincere gratitude to you and your honourable Members for allowing us the opportunity to present our information this afternoon to the Standing Committee on Justice, Law and Human Rights.

Besides, we will not try to deviate from the above subject, neither will we embark upon something that is beyond the boundaries and scopes of the FCS's well-oiled submission with regards to the 2018-2019 and 2019-2020 Annual Reports respectively pursuant to clarifications on the topics of:

1. Early Release Schemes;
2. Reporting mechanisms under the Early Release;
3. Community Outreach Programme;
4. Opportunities for former convicted inmates visiting current inmates;
5. Ratio of psychologists to inmates;
6. Small number of inmates released on Short Term Release;
7. Prisoners' access to information and communication technologies, that is, computers, internet and laptops;
8. Standard rates payment on Cane Cutting Programme;
9. Health and wellness of inmates;
10. FCS's determination on the 60 percent and 40 percent disbursement formula on Prisoners' Cares Trust Fund; and
11. Matters identified and emphasised by the Auditor-General 2018-2019 Audited Financial Statements.

Early Release

The Acting Commissioner of Prisons, Mrs. Salote Naulivou Panapasa, said that the Early Release Schemes apply to all convicted prisoners, except life termers, but failed to give any reasonable grounds why life termers have been excluded and are not considered for short-term release, having regard that prisoners' serving life imprisonment are eligible for release on parole. There are certain legitimate areas where life termers could be granted short-term release and one of them is on parole.

In spite of the fact that all prisoners are qualified and applied for short-term release, majority of prisoners' applications have been dismissed and completely ignored because of the Department's selective stance per applicant. Any prisoner who petitioned the Department's poor administration outside the FCS's authority will not be granted access for a short release until the end of the sentence. The Department's stance and negative assessment of prisoners' applications for short-term release had been a major stumbling block and barrier of prisoners' application.

The Ex-Prisoners Association seeks the assistance of the Standing Committee on Justice, Law and Human Rights for the establishment of an independent and impartial board outside of the FCS to determine all prisoners' grievances against the Authority's negative decision for each serving term inmate's application in pursuit of short-term release.

Reporting Mechanism

Mrs. Salote Naulivou Panapasa stated that FCS conducts monitoring visits on fortnightly and monthly basis to inmates' workplaces, home visits, reports and daily assessments done by community work supervisors. We understand that FCS may have conducted monitoring visits, but the person or group of persons assigned to carryout visits to inmates' workplace, homes, reports and daily assessments by community work supervisors could not be ascertained since FCS merely focuses on monitoring. Whether visits to inmates' workplaces and homes, and supervisors assessments and reports of inmates under their supervision did actually happened or not is anyone's guess but in reality, FCS's submission on the other hand is purely a guessing game and far from the truth.

Visit Opportunities

Former inmates' meetings with current inmates for the purpose of the later rehabilitation are only applied to former inmates who are selected by FCS.

Number of Inmates

A small number of inmates released on short-term programme lies with the Commissioner of Prison's jurisdiction and prisoners have no right to question the decision he/she made for selection. Thus, the impact is the small number of release in the 2018-2019 Annual Report.

Inmates' Access to Information and Communication Technologies

The Acting Commissioner's assertion and claim that inmates have access to computers and internet during legal proceedings is not true. Remand prisoners are prohibited and not allowed access to internet and computers in legal proceedings before and after the trial.

Prisoners were and are denied by the FCS the right to these important facilities from the beginning and to the end of any legal proceedings. There are no law books, laptops, computers and other vital facilities available at the Remand Centre or any Prison, to assist prisoners' legal presentations prior to trial. We humbly crave the assistance of the Standing Committee that both, serving prisoners and inmates at the Remand Centre be allowed access to information and communication technologies.

Sugarcane Cutting Rate

The Committee seeks clarification and questions whether the standard rate of Sugarcane Cutting Programmes offered by sugarcane farmers to ordinary sugarcane cutting employees also applied to prisoners on the sugarcane field. Mrs. Salote Naulivou Panapasa and the rest of the Department's representatives replied affirmatively and agreed saying, and I quote: "Farm owners gave the same standard payment rate to inmates as they would to ordinary sugarcane cutting labour."

Sir, no one in this room knows exactly the amount of money involved with regards to the standard rate of payment except, according to their submission, only the Accounts Officer in the Western and Northern Divisions. The transaction looks good on the surface, the bottom line,

however, looks gloomy and less impressive. Money offered by sugarcane farmers could be more than the standard rate and only the Accounts Officers have the information of the deal held behind closed doors. It does not look good from the point of view of an ordinary observer.

Moreover, the Committee further sought clarification on how FCS determines the 60 percent and 40 percent disbursement formula it used in terms of, among other things, Note 6 of the Note to Financial Statement. The FCS's response is that, and I quote:

“FCS has a Standard Operating Procedure for all Prisoners Trust Fund which the 40:60 ratio is only applied to two prisoners Trust Accounts viz Sugarcane Fund and the Art Gallery Fund. These are the only two in the Trust that requires the incurring expenditure to generate Sales.”

Honourable Members, there are only two accounts in the Trust, out of the other accounts, under the Department's private commercial properties within the Department fraternity that were accounted for and submitted, except Trust Accounts for inmates employed by FCS through commercial businesses, that is, bakery, piggery, tailoring, joinery and few other small business enterprises that generated into the Department's coffers and bank accounts thousands and thousands of dollars per annum. The question is, why?

Although there is total absence of any official record and documentation of the receipt provided by FCS aligned with the Sugarcane Cutting Programmes, we truly appreciated the growers' effort for the offer in terms of the same payment rate to inmates. If growers could offer similar rate of payment, the question is whether Mrs. Panapasa and her troops could implement and reward the corresponding payment rate to prisoners who are working tirelessly to meet the demand of the Department's customers since Fiji's prescribed labour minimum wage is \$4 an hour. Are prisoners' lives insured? If not, why? Prisoners lost their lives in the hands of Prison Officers' atrocities, and some suffered extensive physical serious bodily injuries in the Remand Centre due to similar nature. Further, we have not heard of any FNPF deduction from the Prisoners Trust Account in the submission.

Honourable Members, those are the topics that I have delivered this afternoon. We apologise that we could not complete our submission due to the timeline.

MR. CHAIRMAN.- Thank you very much, Sir. Before we proceed and handover the floor to honourable Members who wish to ask questions, can you just introduce yourself to the honourable Members and to the Committee, please.

MR. K. TOKA.- I am Kaliopate Toka. I am from Ono-i-Lau and President of the Association.

MR. CHAIRMAN.- Thank you. Honourable Members, I now open the floor for questions to our submittee this afternoon.

HON. F.S. KOYA.- Thank you very much, Mr. Toka, for your submission. Just a quick question, do you represent an association or is it rehabilitation services that are being provided from your other group of people that you represent?

MR. K. TOKA.- I cover both, Mr. Chairman, the Rehabilitation Programme and the Association as well.

HON. F.S. KOYA.- There are two entities, or is it the rehabilitation service provided by the same association?

MR. K. TOKA.- Yes, Sir.

HON. F.S. KOYA.- You would acknowledge that the Report that was actually given by FCS is scrutinised by the Office of the Auditor-General (OAG). So, in terms of a lot of the activities, especially the financial ones, would you have been able to scrutinise it properly with respect to what goes where, and I see this from the last part of your submission with respect to the trust account, et cetera? Do you believe that the OAG has done his or her job?

MR. K. TOKA.- I apologise, Sir, I am only responding to the question that was asked to the members of the FCS. I do not have any information about the question that you are asking and I apologise for that, so I cannot answer that question.

HON. F.S. KOYA.- No, that is fine. It just when you make those submissions, you actually said that with respect to the ratio and the Trust Account having two accounts, et cetera, all those things.

You have not been privy to the Auditor-General Report, have you?

MR. K. TOKA.- I cannot access that information, Sir. I am sorry about that.

HON. F.S. KOYA.- Alright, you based this on the proceedings that we had.

MR. K. TOKA.- Your questions, Sir, that you put through to the FCS.

HON. F.S. KOYA.- Our questions, alright, thank you.

MR. CHAIRMAN.- Mr. Toka, I just have one question. Paragraph 3 of Early Release, you are stating that you seek the assistance of the Standing Committee with regards to the establishment of an independent and impartial board outside the FCS to determine all prisoners' grievances against the Authority's negative decision for each serving term inmate's application in pursuit of short term release. Is there a particular reason, why?

MR. K. TOKA.- The reason is that, Sir, if we are going to rely heavily to make the decision of pre-release, I think it takes time. They will always approach that unfair application with negative attitude.

MR. CHAIRMAN.- So, the current system with regards to early release according to the report is under the discretion of the Commissioner. Do you think that, that is not alright?

MR. K. TOKA.- Sir, the Commissioner and the Prison Officers are on the same fraternity. Their decision will always remain the same, either the Commissioner, Supervisor, Officer-in-charge or whoever in the FCS, they always remain the same – negative, Sir.

MR. CHAIRMAN.- So, that is why your request for an independent....?

MR. K. TOKA.- Please, if you can do that for us, Sir, thank you very much.

MR. CHAIRMAN.- Thank you very much, Mr. Toka.

HON. I.S. VANAWALU.- Through you, Mr. Chairman, *bula vinaka*, Mr. Toka. I just want to have some in-depth information with regard to your reporting mechanism as stated in this submission. I will read from what is here with us, I quote:

“Whether visits to inmates, workplaces and homes, and supervisors assessment and reports of inmates under their supervision did actually occurred or not is anyone’s guess. In reality FCS submission on the other hand is purely a guessing game and far from the truth.”

Can you explain further on that, generally?

MR. K. TOKA.- Yes, if you look at their submission, they said they are only monitoring the visits. But the person they said to do the visits, no one knows. They are only monitoring the visits.

HON. I.S. VANAWALU.- So, during their visits, other inmates are aware?

MR. K. TOKA.- From what I know, Sir, I have not seen that.

HON. F.S. KOYA.- Mr. Toka, just on the same issue, so effectively what you are asking is some sort of inquiry with respect to whether the actual visits are taking place or not? Is that what you are saying?

MR. K. TOKA.- Yes, Sir.

HON. F.S. KOYA.-That we should inquire into whether the visits to the inmates’ workplaces and homes are actually taking place, is what you are actually questioning?

MR. K. TOKA.- Yes, Sir.

HON. F.S. KOYA.- You are not sure whether those visits are taking place?

MR. K. TOKA.- Because I have not seen any of them coming to visit the prisoner’s family beside my house.

HON. F.S. KOYA.- I am sorry to ask you this question, but you are a former inmate, right?

MR. K. TOKA.- Come again, Sir.

HON. F.S. KOYA.- You are a former inmate?

MR. K. TOKA.- Yes, Sir.

HON. F.S. KOYA.- So, you have been out of the system since for a long time now?

MR. K. TOKA.- Yes, since 1996.

HON. F.S. KOYA.- This information that you are checking on or asking us to inquire about, you got this information from the current prisoners, et cetera?

MR. K. TOKA.- Yes, Sir.

HON. N.T. TUINACEVA.- Mr. Toka, *malo bula*.

MR. K. TOKA.- *Bula Vinaka*, Sir.

HON. N.T. TUINACEVA.- I apologise, I want to go back a little bit because I need to understand more about your Association, if I am going to ask a couple of questions basing from your submission. I think honourable Members have already asked about your Association. Is this a registered Association? What is your relationship with the FCS? Is there any working relationship with them? Are you some kind of a group of ex-prisoners who are members of this Association?

MR. K. TOKA.- Yes, Sir, we are already registered.

HON. N.T. TUINACEVA.- How many members do you have?

MR. K. TOKA.- For the time being, I am sorry, I do not have the numbers here with me, but may be more than 300 or 400 members.

HON. N.T. TUINACEVA.- If I remember correctly, there are a couple of similar bodies already there, is it not? They are also called some Fiji Ex-Prisoners with different name at the end but yours, you are putting down as Fiji Ex-Prisoners Training and Rehabilitation Associate Services. Are you aware of this?

I just want to know what is the working relationship with those who are also involved in the rehabilitation work - some Church Ministries also calling them Prisoners Chaplaincy, that kind of programme - are you aware of this? I saw that in some of the reports. If you do not remember that, then that is alright.

MR. K. TOKA.- I cannot recall that.

HON. N.T. TUINACEVA.- Alright, I will move on to the question that I was wanting to ask. You talked about the life termers who could be granted some kind of short-term release, and you mentioned something about parole. That is a big word and a big activity that is going to cover. Can you explain to this Committee your definition of this parole - the work that they are going to do, the scope that they will be engaged in to assist in that?

MR. K. TOKA.- That is only the opinion, Sir. It should not be taken for granted. Honourable Koya, will tell you more about the parole and how it works.

HON. N.T. TUINACEVA.- So, at any stage you have been existing as an association involved in training and rehabilitation, have you ever worked or ever consulted the FCS to talk about this parole?

MR. K. TOKA.- Sir, we are prepared to assist those prisoners - life termers who are eligible for parole. But the decision for their release is with the Department as we do not have any say about their release. I am sorry about that.

HON. F.S. KOYA.- If I may just clarify with you, I think what you are effectively asking is that, if there is a life termer, then that life termer should also be allowed to be released on early release?

MR. K. TOKA.- Yes, before they are fully released.

HON. F.S. KOYA.- They may get some and they are eligible for parole after whatever. So, what you are saying is that you are asking us to see if there is a possibility that an independent and impartial board could determine that, is that what you are saying?

MR. K. TOKA.- Yes, Sir.

HON. F.S. KOYA.- Alright, so those who are eligible for parole within the life term should be subject to an impartial board to determine whether they should be allowed on early release?

MR. K. TOKA.- That is correct, Sir.

HON. F.S. KOYA.- The reason is because you are saying at the moment that it is currently completely subjective, meaning only the Prison Authority and the officers are determining that. That is what you are saying - there is no independence to determine that.

MR. K. TOKA.- You are right, Sir.

HON. I.S. VANAWALU.- Through you, Mr. Chairman, just a clarity on the access of information and communication technology within because when FCS presented to us, they did mention that prisoners get access, to some extent, some form of communication, like laptops, books or whatever. But in your submission, you stated that those are not given to the inmates.

MR. K. TOKA.- From my experience, Sir, I have not come across that in the Remand Centre, no, not even a law book - nothing at all. You have to defend yourself either from the Legal Aid Commission or to represent you yourself.

HON. I.S. VANAWALU.- Mr. Toka, that was during your time when you were in prison. Any later updates from those who are in prison now? Do they get or have access to any form of communication?

MR. K. TOKA.- Yes, Sir, we have regular communication with them.

HON. F.S. KOYA.- Just following up on what honourable Tuinaceva actually talked about, Mr. Toka, you do not actually have any kind of formal or even an informal relationship with the FCS as an association, do you?

MR. K. TOKA.- Sir, we always visit them sometimes and we tried to give them advice about what the Association can do to help the Prison Department. I once wrote a letter to the Acting Commissioner of Prisons, Mrs. Panapasa, about the kind of assistance we can offer them, but they did not reply and did not say anything about our application.

HON. F.S. KOYA.- I think you understand why I am asking because on the title to your submission, you have got Ex-Prisoners Training and Rehabilitation Associate Services. As a former prisoner, there are a lot of people that could help rehabilitate those who are in there, that is why you are asking, is it?

Do you understand what I am saying? Because you have got an association that (as you say there are 300 strong) you could help in the rehabilitation of some of the prisoners.

MR. K. TOKA.- Yes, Sir, we can help.

HON. F.S. KOYA.- But you have never had a response?

MR. K. TOKA.- We can help them, Sir.

HON. F.S. KOYA.- You have offered but you have never had a response from them?

MR. K. TOKA.- It is already in the Constitution, Sir.

HON. F.S. KOYA.- No, I mean, you have offered to the Prison Authorities to help with the rehabilitation services, but they have not responded to you.

MR. K. TOKA.- They completely do not like it. We already had a roundtable discussion to discuss about our proposal, they did not like it that.

MR. CHAIRMAN.- Just a question, Mr. Toka, how good is the relationship of your Association and the FCS, do you work together?

MR. K. TOKA.- Sir, we went to them with good kind heart to express our proposal to them. Our relationship will not be good always, and you know the reason why, Sir. They do not trust us.

MR. CHAIRMAN.- Is your organisation in some other towns or just in Suva because there are 300 to 400 members?

MR. K. TOKA.- Yes, Sir. We have branch in the Western Division, Northern Division, Suva and Nasinu.

MR. CHAIRMAN.- So it is pretty big.

MR. K. TOKA.- Yes, you can say that, Sir.

HON. N.T. TUINACEVA.- Mr. Toka, you seem to put a special emphasis on the ratio of psychologists to inmates. I just want to know the reason why you picked on this particular issue?

MR. K. TOKA.- I think it is true, Sir. I accept that because the prisoners outnumber the current psychologists in prison, so it is true.

HON. N.T. TUINACEVA.-So it does really help in the rehabilitation work, or why are you putting this up?

MR. K. TOKA.- Yes, Sir, it depends on the kind of psychologists who work in prison - the quality of services that he or she can offer. As human beings, there will always be weaknesses. You know what I mean, that sometimes, they can allow and sometimes they cannot do anything about the Association.

HON. N.T. TUINACEVA.- If you are to recommend to the Committee, what would be the ration that you are looking at?

MR. K. TOKA.- I have no right but as long as they go to prison and help the FCS with the assessment of prisoners' welfare, that would be good.

HON. N.T. TUINACEVA.- Mr. Chairman, just another question, and I will to point number 4 - the opportunities for former inmates visiting current inmates. Perhaps, a layperson may find this very weird for an ex-convict to go back and visit. What is the whole point of doing that? How does that help - you going back to prison and try to visit another inmate? The Authority knows that, but how does that help in the process of training and rehabilitation?

MR. K. TOKA.- Sir, everyone makes mistakes. Even a Prime Minister goes to prison, but from their point of view, I cannot say anything about it, Sir. They will always clash - us and them.

HON. N.T. TUINACEVA.- So, it is all about going back there, just to go and encourage the inmates or try to encourage them to come back as a good citizen, is that correct?

MR. K. TOKA.- We will only confine our visiting through rehabilitation, no more than that, Sir. If they want to represent them, we cannot ask them to.

HON. N.T. TUINACEVA.- Mr. Chairman, still on rehabilitation, when prisoners come out, what is the extent of the rehabilitation programme that you do for those who are already out of prison?

MR. K. TOKA.- We have already visited the prisons and asked them if they can. We have got a piece of land in Naitasiri and was already approved by iTLTB. We came to FCS and asked them if they can pay this piece of land for us so that we can toil the land and earn some income, but they did not like it.

HON. I. VANAWALU.- Through you, Mr. Chairman, my last question to Mr. Toka; the FCS Annual Reports that were tabled and was discussed in here, can you tell us roughly the percentage of what they have reported, compared to what the Association feels is truthful about their reporting?

MR. K. TOKA.- I will give them 45 percent.

MR. CHAIRMAN.- Any other questions, honourable Members?

HON. N.T. TUINACEVA.- Last one from me, Mr. Toka, on the issue of FNPF deduction for the Prisoners Trust Account. I know this is talking about the money that comes from cane cutting and all those work that you do in prison. It seems very bold in stating this. Was it an agreement and you signed that with the FCS that all the work you are going to do in prison and the FNPF deductions that will be carried out?

MR. K. TOKA.- Sir, during my time in prison, we wanted to have access to work inside prison as they do have now.

HON. N.T. TUINACEVA.- So you bring it up in this submission, is it something that you are requesting or something already been agreed, but like you are saying that we have not heard of any FNPF deductions?

MR. K. TOKA.- I have not heard anything about the submission because once you employ any person, as an employer, you are dutybound to pay for his or her FNPF.

HON. N.T. TUINACEVA.- Are you just saying about the understanding and nothing was agreed between the two associations?

MR. K. TOKA.- Yes, Sir.

MR. CHAIRMAN.- Honourable Members, I believe there is no more questions.

Mr. Toka, on behalf of the Committee and on behalf of Parliament itself, a big *vinaka vakalevu* to you. please, convey our thanks also to the hardworking team at your Association in the rehabilitation work that you do, and we thank you very much for that.

Vinaka vakalevu for your insights. It has definitely helped us in looking at it from another angle or from an inmate's perspective, so we thank you very much, Sir, for your submission.

Honourable Members, on that note, our meeting has come to a close. Thank you very much for coming by this afternoon, honourable Members, and I also thank you for your time this afternoon.

The Committee adjourned at 4.05p.m.