



STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

Review of the Fiji Independent Commission Against Corruption Annual
Report 1 August 2017 – 31 July 2018.



PARLIAMENT OF THE REPUBLIC OF FIJI
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CONTENTS

| | Page |
|---|-------------|
| COMMITTEE REMIT AND MEMBERS | 6 |
| COMMITTEE SECRETARIAT | 7 |
| 1.0 INTRODUCTION | 8 |
| 1.1 Procedure and Program | 8 |
| 1.2 The Fiji Independent Commission Against Corruption | 9 |
| 2.0 DELIBERATION AND FINDINGS BY THE COMMITTEE | 10 |
| 2.1 Initial deliberation by the Committee | 10 |
| 2.2 Evidence received via discussions with the stakeholder | 11 |
| 2.3 Sustainable Development Goals Impact Analysis | 14 |
| 2.4 Key Findings | 15 |
| 3.0 RECOMMENDATIONS | 16 |
| 4.0 CONCLUSION | 16 |

ACRONYM

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| FICAC | Fiji Independent Commission Against Corruption |
| SO | Standing Orders of Parliament |
| SDG | Sustainable Development Goals |
| NRTC | Nasoso Rural Training Centre |
| IACD | International Anti-Corruption Day |
| NACC | National Anti-Corruption Curriculum |
| MEHA | Ministry of Education Heritage and Arts |
| MOH | Ministry of Health |

CHAIRPERSON'S FOREWORD

The Fiji Independent Commission Against Corruption ("FICAC") is Fiji's leading anti-corruption agency that was established for the purpose of responding to the people's plea for accountability of public offices and its officials. FICAC was established in 2007 and since its establishment, it has dealt with numerous of corruption related cases, which shows the pivotal role it plays in the lives of the Fijian citizens.

The Committee deliberated on the Report succinctly and noted pertinent matters in its content. These matters were discussed with FICAC, which were appropriately clarified. The Office provided responses to the questions and these were scrutinised by the Committee.

In its review, the Committee highlighted several findings from the Report. Some of these findings are on:

- The rationale on filing a *Nolle Prosequi* on the matter of certain disposed cases.
- The involvement of Ministry of Health Officials in corruption-related offences.
- The selection of Communities by FICAC to conduct training sessions on corruption prevention.
- The effectiveness of the awareness/training programme undertaken by FICAC on selected communities.
- The education level of the National Anti-Corruption Curriculum taught in Schools.
- The Monitoring and Reporting mechanism of FICAC in achieving targets set out in Sustainable Development Goals.
- The unclear terms derived on certain expenditures by the Commission as listed under the Financial Statements of this report.

Consideration was also given to the requirements of the Standing Orders of Parliament pertaining to the impact on gender when deliberating on the Annual Report, however appreciation was given to the apparent gap in placing emphasis on such requirements when the Reports were drafted and tabled in Parliament.

Through the review of the *Fiji Independent Commission Against Corruption Annual Report 1 August 2017 – 31 July 2018*, it can be inferred that there has been commendable effort conducted by the organisation in meeting its obligations. However, the Committee after extensive deliberation has come up with certain recommendations that it feels warrants consideration by the Office.

I would also like to thank the Honourable Members of the Standing Committee Justice, Law and Human Rights for their deliberations and input, the alternate members who made themselves available when the substantive members could not attend, the secretariat and the officials from the Fiji Independent Commission Against Corruption who had assisted in the Committee's work.

I, on behalf of the Standing Committee on Justice, Law and Human Rights, through this Report, commend the *Fiji Independent Commission Against Corruption Annual Report*

1 August 2017 – 31 July 2018 to the Parliament and request all the members of this August House to take into consideration the recommendations put forth by the Committee.



.....
Hon. Ratu Rakuira Vakalalabure
(Chairperson)

COMMITTEE REMIT AND MEMBERS

The Standing Committee on Justice, Law and Human Rights ('Committee') is established under Section 70 of the *Constitution of the Republic of Fiji* and Standing Order 109 of the *Standing Orders of the Parliament of the Republic of Fiji*. The Committee's mandate and functions are provided under Standing Order 109 (2) and 110 (1) (a)-(d) & (f). The Committee consists of the following Members:



Hon. Ratu Rakuita Vakalalabure
(Chairperson)



Hon. Iiesha Vanawalu
(Deputy Chairperson)



Hon. Mosese Bulitavu
(Member)



Hon. Lenora Qereqeretabua
(Member)



Hon. Faiyaz Koya
(Member)

COMMITTEE SECRETARIAT

Staff

- Mr. Jackson Cakacaka – Senior Committee Clerk
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1.0 INTRODUCTION

The Standing Committee on Justice, Law and Human Rights was referred the *Fiji Independent Commission Against Corruption Annual Report 1 August 2017- 31 July 2018* on Monday 27 March 2023, 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.

1.1 Procedure and Program

The Committee began its review of the Annual Report on Monday 24 April 2023. The review process adopted by the Committee was agreed upon through consensus by the Members and a summary of this is as follows.

i) Initial Analysis of the Annual Report

The Committee began with an initial reading of 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.

ii) Identification of mode of public consultation

The Committee resolved to rely on one main mode of public consultation, which is to invite the Fiji Independent Commission Against Corruption for submission to appear before the Committee in-person and provide a submission on the Report. Therefore, pursuant to SO 111, FICAC appeared on Thursday 11 May 2023 and were represented by the following officials;

- Mr. Rashmi Aslam - Commissioner
- Ms. Kolora Naliva – Manager Corruption Prevention
- Ms. Laite Bokini-Ratu – Senior State Counsel
- Ms. Loreen Singh – Principal Accountant

iii) Discussions with the FICAC – Meeting Open to the Public

The Committee was committed to upholding the public's trust in Parliament and to also meet its obligation under the Standing Orders of Parliament. The Committee ensured that its meetings were open to the public and the media, except during such deliberations and discussions to develop and finalise the Committee's observations and this Report.

The Committee endeavoured to conduct its meeting with FICAC via verbal submissions and the discussion were open to the public and the media and also recorded for subsequent reference.

iv) Drafting of Committee Report

The final step of the review process was the compilation of all issues identified from the evidence received. This was then deliberated on and the Committee formed its own bi-partisan view on all issues identified.

1.2 The Fiji Independent Commission Against Corruption

The Fiji Independent Commission Against Corruption is constituted by Section 115 of the **Constitution of the Republic of Fiji (2013)** ('**Constitution**') and mandated to carry out the responsibilities as stated in Section 115(4)(a), (b) and (c).

The Commissioner is appointed by the President on the recommendation of the Judicial Services Commission following consultation by the Judicial Services Commission with the Attorney-General¹.

The Commissioner and the Deputy Commissioner have the authority to determine all matters pertaining to the employment of all staff in the Fiji Independent Commission Against Corruption, including—

- (a) the terms and conditions of employment;
- (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
- (c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
- (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.

The Commission is required by law to produce an annual report to be presented to the President and the Minister responsible for anti-corruption. The Fiji Independent Commission Against Corruption Annual Reports 1 August 2017 – 31 July 2018 ("Report") covers information on the types of work carried out by the Fiji Independent Commission Against Corruption ("FICAC").

The Report also covers the main highlights of FICAC's activities for the reported year.

¹ Fiji Independent Commission Against Corruption (Amendment) Act 2016 – Section 5(1)

2.0 DELIBERATION AND FINDINGS BY THE COMMITTEE

2.1 Initial deliberation by the Committee

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

The Committee noted that there were two cases that were disposed of by the Commission and sought clarification on the rationale of filing a *Nolle Prosequi* in the matter which led to the disposal.

There was discussion on certain training sessions undertaken by the Commission in local communities on corruption prevention. The Committee sought clarification on how Communities were selected by FICAC.

The Committee took note of FICAC's attempts to involve communities in its prevention of corruption programmes and sought to determine the impact/effectiveness of the organization's awareness and training program on these selected areas.

The Committee commends the efforts of the Corruption Prevention department as being the proactive arm of the Commission in developing the curriculum for primary and secondary schools in Fiji, thus clarification was sought on the level of education of the National Anti-Corruption Curriculum taught in Schools and whether it was structured as a continuous programme.

There was also discussion on the targets set out in the Sustainable Development Goals (SDG), and clarification was sought on the commission's monitoring and reporting system and its achievement towards reaching specific related SDG.

Furthermore, the committee noted that there were certain accounting terms provided in the report that were unclear and therefore clarification was sought on these parameters and expenditures by the Commission as listed under the Financial Statements of the report.

At the conclusion of the first reading, certain key issues were identified, which were formulated into questions and submitted to FICAC for clarification.

2.2 Evidence received via discussions with the stakeholder

The next stage of the review saw the Committee have extensive discussions with FICAC on issues noted from the Annual Report. The following is a summary of the response provided by FICAC to the Committee's queries on the key issues identified and the summary of submissions are as follows.

The Issue of disposed cases and the reason of filing for Nolle Prosequi.

The Committee queried the information on the reasons for filing a Nolle Prosequi in two disposed court cases, FICAC v MISIELI NAIVALU & VISHWA DEO Labasa MC Criminal Case No. 01/2007 and FICAC v SHIRI NARAYAN Nadi MC Criminal Case No. 14/2015.

Case 1 - FICAC v MISIELI NAIVALU & VISHWA DEO Labasa MC Criminal Case No. 01/2007

The Committee was advised that the Commission initiated a case against Naivalu and Deo, the Northern Commissioner and Divisional Secretary respectively, on 21 December 2007, alleging three counts of abuse of office based on allegations that;

1. The accused individuals allegedly certified an ANZ Authority for Operations certificate claiming a resolution was passed at the Nasoso Rural Training Centre (NRTC), despite no such resolution having been passed.
2. The accused individuals allegedly facilitated the payment of \$5,345,535 for renovations to Commissioner Northern's office building from the NRTC account without proper authorization: and
3. The individual accessed \$19,800 from the NRTC account without the Minister of Finance's approval to fund a vehicle purchase.

The case involved a delay in prosecution due to several factors. The legality of the case was challenged by the Defence, and the matter had to be sent to the Director of Public Prosecution office. Another factor was the changes in Magistrates, and the longest delay was when the presiding magistrate failed to deliver a judgment from 2012 to 2014. The new magistrate ruled a trial 'de novo' in 2014, but the defence objected, and the magistrate failed to give a ruling until June 2016. The main witnesses, Manasa Vaniqi and Satya Nand, died in 2015, and other witnesses were unable to remember details in which, therefore a nolle prosequi was recommended.

Case 2 - FICAC SHIRI NARAYAN Nadi MC Criminal Case No. 14/2015

The Committee was advised that the former Divisional Surveyor Western, Shiri Narayan was charged with extortion in 2008 for receiving \$10,000 from Aswin Kumar for a lease transfer. The case was influenced by legal challenges and was discharged by the Resident Magistrate. However, the evidence was contradictory and lacked credibility. Most witnesses, including the main witness, could not recall the case or the accused. The case was deemed unjust and unfair, leading to a recommendation for a nolle prosequi. The case was filed on 27 November 2017, resulting in a nolle prosequi.

Issue on the Ministry of Health Officials involved in corruption-related offences.

It was noted that the Ministry of Health had the highest number of officials investigated and charged for corruption-related offenses, prompting the Committee to seek clarification on the type of offense.

The Committee was informed that five (5) Ministry of Health (MOH) officials, along with a private individual, were jointly charged in a case involving Mohammed Fariaz, Shiri Ram, Aliti/Tamani, Setefano Lagilagi, Ilisepo Bulavakarua, and Mohammed Imran. The charges were filed on 12 September 2017, alleging that Fariaz falsified and submitted quotations from other automotive parts dealers to MOH offices in Ba, Tavua, and Rakiraki, resulting in a gain of \$38,412.07 for his own business. Due to this, Mr. Fariaz was charged with one count each of Falsification of Documents, Giving False Information, and Obtaining Financial Advantage under the Crimes Act 2009. MOH officials Ram, Tamani, Lagilagi, Bulavakarua, and Imran were charged with one count each of abuse of office under section 139 of the Crimes Act for facilitating payments to Fariaz, which was prejudicial to the rights of MOH. The case against the MOH officials was later withdrawn and they were made State Witnesses in the proceedings against Fairaz. After Shiri Ram's death in 2017, it was recommended that the cases against them be withdrawn and they were better used as State Witnesses to prove the charges against Fariaz. The case against Fariaz was scheduled for a hearing before Resident Magistrate, Qica, in the Ba Magistrates Court from 19 - 23 June 2023.

Issue on the selection of Communities to conduct training sessions

The Committee sought clarification on the process by which communities are selected by FICAC to conduct corruption prevention training programmes.

The Committee was advised that the Corruption Prevention department, under Section 12(g) of the FICAC Act No. 11 of 2007, conducts community education on anti-corruption in various communities across the country. These programs are primarily targeted at Government-funded projects such as rural electrification and water schemes. The department collaborates with various organizations, including the Ministry of iTaukei Affairs, Provincial Council offices, District police, and Provincial Administrators, to cover settlements and Indo-Fijian communities.

The Committee was further advised that the department visits communities and consults with village elders and headmen about their training needs and information on government processes. They also maintain contacts with village headmen, who request anti-corruption trainings and re-fresher sessions. Furthermore, it was advised that during International Anti-Corruption Day (IACD) observance, the department visits communities to distribute educational and promotional items.

The training is usually conducted using vernacular language for easy understanding and tailor-made content. The programs educate communities on the role of the Commission, corruption, types of corruption, common offences, effects of corruption, reporting corruption, identity protection, role in the fight against corruption, relevant laws, penalties, and contact methods. Additional training programs cover goodwill payments, bribery, land scams, real

case scenarios, integrity, gift-giving, civil service policies, public officials' community visitations, and traditional gifts during official visits. The department's goal is to empower communities to protect them from corruption and protect them from the evils and acts of corruption.

It was noted that the training programs seeks to empower communities to report corruption to the Commission when they see it. The outreach programs alert communities on corruption allegations, protecting them from corruption. They are also well-informed about government processes, public offices, fees, and checklists for government-funded projects. This empowers them to report corruption effectively and protects them from potential harm.

Effectiveness of the awareness/training programme undertaken by FICAC

The Committee was advised that the Commission uses evaluation questionnaires to monitor and evaluate the effectiveness of its training programs. The objectives include determining the Commission's engagement with the public, gauging public understanding of its role and functions, assessing public perception of corruption, assessing public confidence in reporting corruption, and enlisting public support in the fight against corruption. Feedback from participants is used to improve training programs, specifically on content, deliverance, and duration. The Monitoring & Evaluation Team, established in 2017 and 2018, now conducts this task.

Education level of the National Anti-Corruption Curriculum taught in Schools

The Committee sought clarification on the National Anti Corruption Curriculum's scope and its continuous learning program which it stands to ensure that students progress from one Level/Class to higher one in schools.

The Committee was advised that the National Anti-Corruption Curriculum (NACC) is a continuous learning program designed and aligned with the Fiji National Curriculum Framework. The Commission collaborated with the Ministry of Education, Heritage and Arts (MEHA) to compile manuals for the curriculum. The Committee, consisting of Commission officers and Curriculum Development Unit (CDU) officers, represented various subjects in the manuals. The curriculum is provided at various levels to ensure students progress through the curriculum.

The NACC manuals are being amended to enhance their content and are in discussions with the Ministry of Education regarding the introduction of a Civic Education curriculum on moral education. The aim is to engage with the Ministry to incorporate the NACC manuals and contents into its discussions on the Civic Education curriculum.

The Monitoring and Reporting mechanism on Sustainable Development Goals

The Committee queried about the existence of a reporting or monitoring mechanism for FICAC's contribution to specific SDGs.

It was advised that the Commission's anti-corruption efforts are aligned with SDGs, particularly SDG 16, which focuses on reducing bribery, strengthening institutions, and accessing information. The Corruption Prevention Department, in collaboration with

UNDP, launched an Anti-Bribery Campaign in 2019 aimed at public servants and the private sector, ensuring continued monitoring and support for the Fijian economy.

Specification of Miscellaneous Income

The Committee sought clarification on the term 'Miscellaneous Income' and what it entails.

The Committee was advised that the Commission recorded miscellaneous income in its 2017-2018 financial statements, including a sale of boarded office chairs for \$50, which were disposed of by the Board of Survey Committee after being assessed for durability. The item was beyond repair and of zero value to the Commission. The Committee further noted that the Court imposed a \$2,450.00 cost on the accused for recovery of prosecution cost and wastage of prosecution time. The relevant case references were CF959/14, CF237/16, and CF271/17.

Written copy of the issues and clarification document is uploaded along with this Report onto the Parliament website: www.parliament.gov.fj.

2.3 Sustainable Development Goals Impact Analysis

The Committee took into account the provisions of SO 110(2) which states when a committee conducts an activity listed in clause (1), the Committee shall ensure that full consideration will be given to the principle of gender equality so that all matters are considered with regard to the impact and benefit on both men and women equally.

The Committee noted that the Report is impartial with regards to gender, which can be seen in the form of drafting of the Report.

The gender distribution was observed by the Committee to be 52% male and 48% female. However, the Committee notes that out of the six existing departments, there was an equal distribution of gender in each department. The Committee further notes that the *Legal and Prosecution* department consist of twelve (12) female employees, demonstrating an equal playing field in terms of its contribution to the accomplishment of the organization's operational tasks.

The Committee therefore notes that FICAC has considered the promoting of gender equality positively.

2.4 Key Findings

At the last few stages of the review; after extensive deliberation of all the evidence received and noted from the discussions with FICAC, 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 Committee observed that throughout the reported year, the Commission conducted 46 training sessions on corruption prevention programmes. As a result, the Committee noted that requests are usually received from the Provincial Councils for FICAC to conduct anti-corruption trainings on specific communities. Given that the training primarily focuses on the communities that are also recipients of government funded projects, the Committee observed that there were significant number of communities that were not listed in the reported year.
- II. The Committee queried the effectiveness of the awareness/training programme undertaken by FICAC in selected communities and how the organization measures the effectiveness of such trainings.
- III. The Committee noted that the National Anti-Corruption Curriculum was introduced in Primary and Secondary education and clarification was sought on the level/class being taught in Schools.
- IV. In respect to the Sustainable Development Goals targets, the Committee noted that there is a lack of information with respect to SDG reporting.

3.0 RECOMMENDATIONS

After extensive deliberation, the Committee would like to put forth recommendations for consideration by FICAC, which are as follows:

- I. The Committee recommends that the Commission provide timely submission of its annual reports to Parliament.
- II. The Committee recommends that the Commission ensure that there is a formal SDG compliant component in all future reports. Furthermore, that the annual peer review report be also in the schedule of all future reports.
- III. The Committee recommends that communities such as Rotuma, Rabi and Kioa and Melanesian communities be also visited annually to conduct such trainings given that these communities are confirmed recipients of project development funds from the Office of the Prime Minister.
- IV. The Committee recommends that the training information be translated into all vernacular languages in Fiji and it not be limited to any.
- V. The Committee recommends that anti-corruption education be emphasized at all educational levels, from primary to tertiary and it be a part of the compulsory curriculum.

4.0 CONCLUSION

After reviewing the *Fiji Independent Commission Against Corruption Annual Report 1 August 2017-31 July 2018*, the Committee recommends that the House takes note of its contents.

The Standing Committee on Justice, Law and Human Rights has fulfilled its mandate approved by Parliament, which is to examine and review the *Fiji Independent Commission Against Corruption Annual Report 1 August 2017-31 July 2018* 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 the consideration of the House.

The Committee through this report commends the *Fiji Independent Commission Against Corruption Annual Report 1 August 2017-31 July 2018* and the contents of its Report to the Parliament.

MEMBER'S SIGNATURES


.....
HON. RATU RAKUITA VAKALALABURE
(CHAIRPERSON)


.....
HON. ILIESA VANAWALU
(DEPUTY CHAIRPERSON)


.....
HON. LENORA QEREQERETABUA
(MEMBER)


.....
HON. FAIYAZ KOYA
(MEMBER)


.....
HON. MOSESE BULITAVU
(MEMBER)

DATE: 15/04/2024