



STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

Report on the Review of the Criminal Records Bill (Bill No. 41 of 2025)



PARLIAMENT OF THE REPUBLIC OF FIJI
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CHAIRPERSON'S FOREWORD



The Criminal Records Bill was referred to the Standing Committee on Justice, Law and Human Rights scrutinise and to return a report of its findings to Parliament.

The Bill represents an important step in strengthening Fiji's legal framework for the management of criminal records, with a clear emphasis on rehabilitation, fairness, and the opportunity for individuals to make a fresh start.

In undertaking this review, the Committee carefully considered the objectives, provisions, and potential impact of the Bill. Particular attention was given to its introduction of spent convictions, the expungement of historical offences, and the expiation of fixed penalty offences, all of which aim to reduce the long-term consequences of minor or outdated convictions.

The Committee took cognizance of the governing principles embedded in the Bill, which include rehabilitation, forgiveness, respect, and the provision of second chances. All this reflects a progressive and restorative approach to justice.

The Committee recognises that the repeal of the *Rehabilitation of Offenders (Irrelevant Convictions) Act 1997* is necessary to replace an outdated and limited framework with a more comprehensive and contemporary regime. The Bill addresses existing gaps by providing clearer processes, enhanced safeguards for the use and disclosure of criminal records, and mechanisms that better reflect current societal values and technological realities.

The Committee was mindful of the need to strike an appropriate balance between supporting the reintegration of rehabilitated individuals whilst ensuring the protection of public safety and the integrity of the justice system. The Committee is satisfied that this Bill, advances and reflects that critical balance.

The Committee conducted public consultation in targeted areas to gather opinions and feedback from the public and received a wide range of submissions from members of the public and stakeholders. The Committee received support and commendation on the introduction of the amendment Bill, from majority of the public that participated in the public consultation.

The Bill as presented to Parliament now reflects the Committees recommendations on the best way forward for advancing the fundamental principles embedded in the Bill.

The Committee also considered the impact of the Bill on meeting Fiji's targets of the sustainable development goals (SDG).

The Committee acknowledges the concerns raised by the submittees and has deliberated at length on concerns raised. The Committee is confident that all issues raised have been addressed and that the Bill is sufficient as it is with some minor amendments.

I would like to thank the Honourable Members of the Justice, Law and Human Rights Committee for their deliberations and input; Hon. Faiyaz Koya (Deputy Chairperson), Hon. Jone Usamate, Hon. Ratu Josaia Niudamu, Hon. Sachida Nand and Hon. Ratu Isikeli Tuiwailevu.

I, on behalf of the Committee, commend the **Criminal Records Bill (Bill No. 41 of 2025)** to the Parliament and seek support of all the members of this August house for the Bill.



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HON. RATU RAKUITA VAKALALABURE
CHAIRPERSON

COMMITTEE COMPOSITION

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 consists of the following Members:



Hon. Ratu Rakuita
Vakalalabure
(Chairperson)



Hon. Faiyaz Koya
(Deputy Chairperson)



Hon. Jone Usamate
(Member)



Hon. Sachida Nand
(Member)



Hon. Ratu Isikeli
Tuiwailevu
(Member)



Hon. Ratu Josaia
Niudamu
(Member)

COMMITTEE SECRETARIAT

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. Jackson Cakacaka – Senior Committee Clerk
- Ms. Alumita Cabealawa – Deputy Committee Clerk
- Mr. Jeke Rokotuiloma – Assistant Committee Clerk

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1.0 INTRODUCTION

1.1 Background

The Standing Committee on Justice, Law and Human Rights, referred to as the ("**Committee**"), was assigned the Criminal Records Bill 2025 for review on December 2025. The Bill was referred to the Committee in accordance with SO 51(2), which tasked the Committee with the examination of the Bill and the responsibility to report on its findings in a subsequent Parliament Sitting.

1.2 Procedure and Program

The Committee has conducted a thorough review of the Criminal Records Bill 2025 (Bill No. 41 of 2025). This report outlines the findings, observations, and recommendations of the Committee regarding the Bill, which aims to repeal and replace the Rehabilitation of Offenders (Irrelevant Convictions) Act 1997 and establish a modern framework governing the management of criminal records in Fiji.

The Committee read through the Bill and deliberated on the Clauses in the Bill. The Committee then invited the Ministry responsible to provide a briefing on the intention of the Bill. The Committee then met with stakeholders and members of the public to receive submissions on the Bill after having called for submissions through the Parliaments social media platform.

The Committee was mindful of the provisions on Standing Order 111(1)(a) and 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.

1.3 Committee Remit

The Standing Committee on Justice, Law, and Human Rights, in accordance with Standing Order 109 of Parliament's Standing Orders, is tasked with several duties. As outlined in Standing Order 110, these include scrutinizing each Bill referred to it by Parliament and review any subordinate legislation presented in Parliament that falls under its purview.

2.0 CRIMINAL RECORDS BILL (BILL NO. 41 of 2025)

2.1 Introduction

The Criminal Records Bill 2025 seeks to establish a comprehensive and modern legal framework for the management of criminal records in Fiji, with a particular emphasis on rehabilitation, fairness, and social reintegration.

The Bill repeals and replaces the Rehabilitation of Offenders (Irrelevant Convictions) Act 1997, which is limited in scope and no longer adequately reflects modern legal and social realities. The existing Act does not comprehensively address issues such as the expungement of historical offences, the clear treatment of serious convictions, or the management of criminal record disclosure in an increasingly digital environment. The new Bill strengthens and modernises the law by providing clearer rehabilitation pathways, enhanced protections for individuals, and improved systems for the management, sealing, and disclosure of criminal records.

The Bill introduces mechanisms under which certain convictions may become *spent* after the lapse of prescribed rehabilitation periods, enables the *expungement* of specified historical offences, and provides for the *expiation* of fixed-penalty offences. These measures are designed to ensure that minor or historical offending does not result in lifelong consequences.

The Bill further establishes transparent and accessible processes for applying for spent conviction orders and expungement. It clearly outlines the roles and responsibilities of key institutions, including the courts and the Mercy Commission, and introduces safeguards governing the disclosure, use, and confidentiality of criminal records. Importantly, the Bill defines the legal effects of spent and expunged convictions, ensuring that eligible individuals are entitled to move forward without the enduring stigma of past offences.

Overall, the Bill represents a significant step towards aligning Fiji's criminal justice system with contemporary principles of restorative justice, proportionality, and human dignity, while maintaining necessary protections for public safety and the proper administration of justice.

2.2 Objectives of the Bill

The objectives of this Act are to—

- a) provide for governing principles that apply to the functions and powers under this Act;
- b) to provide for certain convictions to become spent automatically, spent on the expiry of a rehabilitation period or by force of a court order;
- c) to provide for historical convictions to be expunged;
- d) to confer on the Mercy Commission the authority to review a decision to refuse an application to expunge historical convictions;
- e) to provide for the effect of a spent conviction, an expunged conviction or an expiated fixed penalty offence;
- f) to provide for limitations and exceptions to the collection, use and disclosure of a spent conviction of a person for certain purposes such as the administration of justice or the performance of statutory functions;
- g) to provide for the sealing of public records of expunged convictions; and
- h) to make provision for spent convictions, expunged historical convictions and expiated fixed penalty offences in relation to Fiji Police clearance certificates.

3.0 COMMITTEE'S DELIBERATION AND ANALYSIS OF THE BILL

3.1 Initial Reading of the Bill and Deliberation by the Committee

The Committee commenced its analysis of the Bill, reading through it, Clause by Clause. From this initial reading, it was noted that the Criminal Records Bill ('**Bill**') seeks to repeal the Rehabilitation of Offenders (Irrelevant Convictions) Act 1997 ('**Act**').

The Committee had extensive discussions on the provisions of the Bill and resolved that it was ~~be~~ prudent to first hear the views of the public and stakeholders on the Bill. The public consultation would allow the Committee to gauge the public's perspective on the Bill before deliberating further, whilst also bearing in mind the requirements as set down by Parliament in referring the Bill to the Committee.

3.2 Bill Summary

By way of consensus, the Committee agreed that it would be prudent to include the necessary issues that the proposed law intends to address;

Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the new legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.

Clause 2 of the Bill provides for the definitions and interpretation of terms used throughout the new legislation. Key definitions include "adopted child", "criminal record", "customary right", "indigenous person", "kin representative", "mataqali", and "young offender". Many of the key definitions give legal recognition and meaning to customary rights and iTaukei terms and culture that are integral to the expungement of historical offences scheme. Reference has been made to the Constitution and other laws to establish the legal meaning of these terms.

Clause 3 of the Bill provides for the meaning of the term "conviction" as it appears in the Bill. The term is given an inclusive meaning to ensure findings of guilt whether or not a conviction is recorded and fixed penalty convictions are also convictions that may be spent in the same way as a conviction recorded and imposed on an individual. The provision also makes clear that in relation to a spent conviction, a conviction also includes an offence against a foreign law.

Clause 4 of the Bill provides for the meaning of the term "custodial sentence" as it appears in the Bill. The definition is inclusive of the different types of detention for an adult or child offender. The meaning of the term sets the rehabilitation period that will apply to a person before his or her convictions may be spent.

Clause 5 of the Bill provides for the determination of the length of a custodial sentence. The length of a custodial sentence is a key threshold for whether or not an individual will be the subject of a “serious conviction” and must apply to the Magistrates Court for an order to make his or her serious conviction spent.

Clause 6 of the Bill provides for the meaning of the term “expunge”. To expunge a conviction under the Bill is to permanently seal any public record of the historical offence without exception. Expungement is the removal or destruction of the conviction for the historical offence and makes lawful any claim or statement by the person that he or she has not convicted of a historical offence.

Clause 7 of the Bill provides for the meaning of the term “rehabilitation period”. There are three rehabilitation periods that apply to a person who has a conviction. A person who has a conviction where no custodial sentence was imposed is subject to a 4-year period. A person who has a conviction and a custodial sentence of up to 30 months is subject to a 7-year period. A person who has a serious conviction is subject to a 10-year period.

Clause 8 of the Bill sets out the objectives of the Bill.

Clause 9 of the Bill provides that the new legislation binds the State.

Clause 10 of the Bill provides for the application of the new legislation to historical convictions and convictions that may be spent under Part 3 irrespective of when the offence was committed, convictions were recorded or findings of guilt made. This provision will ensure an individual who has made a change and been rehabilitated before the new legislation commences will be able to have his or her convictions spent or expunged or fixed penalty offences expiated so as to have the benefit of a clean slate. The provision also clarifies that expungement of historical convictions does not affect the operation of Part 3 that provides for spent convictions.

Clause 11 of the Bill provides for the governing principles set out in clauses 12, 13, 14, 15 and 16 are to apply to the new legislation. Any person who performs any function or exercises any power under the new legislation must do so in a manner that is intended to promote the governing principles.

Clause 12 of the Bill establishes the rehabilitation principle for the new legislation. The principle provides that the rehabilitation of a person is to be promoted and respected so that the person can be supported to be a valued member of the community.

Clause 13 of the Bill establishes the forgiveness principle. The principle requires that the forgiveness of victims, families, members of the community, headmen of the *mataqali*

of a person who has been convicted is to be understood as important to bring about change and the rehabilitation of a person.

Clause 14 of the Bill establishes the respect principle. The principle requires that respect be given to a person who attempts change and to be rehabilitated.

Clause 15 of the Bill establishes the young person principle that promotes the opportunity for a young person to learn from being convicted and working towards changing his or her life for the better.

Clause 16 of the Bill establishes the second chance principle. The principle promotes a second chance being given to a person who engages in the process of rehabilitation.

Clause 17 of the Bill provides that certain minor convictions such as the finding of guilt without the recording of a conviction or where the only penalty imposed is a fine that will be spent with immediate effect on the day that a person is convicted.

Clause 18 of the Bill provides that a conviction for an offence against a law of Fiji or a foreign law becomes spent on the day on which the rehabilitation period for the conviction expires unless the conviction is a serious conviction, or the conviction has become spent with immediate effect by force of clause 17.

Clause 19 of the Bill makes provision for the time of commencement for the rehabilitation period that applies to a person. The clause also makes provision for the rehabilitation period to recommence where a person has a subsequent conviction during a rehabilitation period that has already commenced. Provision is made for the rehabilitation period for young offenders to not recommence in relation to certain subsequent convictions. The intent of this provision is consistent with the young person principle under clause 15.

Clause 20 of the Bill provides that a person who has completed a rehabilitation period and is the subject of a serious conviction may apply to the Magistrates Court for an order so that the serious conviction is spent. The provision sets out that a person who was a child at the time of being sentenced and any other person who has certain serious convictions that include a custodial sentence of not more than 5 years may make an application.

Clause 21 of the Bill provides that the Magistrates Court may refuse an application for a spent conviction order if the application is vexatious, misconceived or does not comply with the form and content requirements under clause 22.

Clause 22 of the Bill sets out the requirements for making a proper application for a spent conviction order and confers on the Magistrates Court the power to issue a written notice requiring an applicant to provide further information in support of their application.

Clause 23 of the Bill confers on the Magistrates Court the power to make an order that a rehabilitation report be prepared in respect of an applicant for a spent conviction order. The rehabilitation report must be prepared by the Permanent Secretary and contain the matters set out in the provision. The Permanent Secretary must file the rehabilitation report with the Magistrates Court and provide a copy to the applicant, Attorney-General, the Commissioner of Police and the Commissioner of Fiji Corrections Service. A person may file notice of an intention to dispute the rehabilitation report at the hearing of the application.

Clause 24 of the Bill makes provision for the applicant for a spent conviction order to serve a copy of the application on the Attorney-General, the Commissioner of Police and the Commissioner of the Fiji Corrections Service. Submissions may be made by the Attorney-General, the Commissioner of Police and the Commissioner of the Fiji Corrections Service at the hearing if notice is provided to the court, before the expiry of 28 days after being served a copy of the application.

Clause 25 of the Bill provides for the hearing and determination of an application for a spent conviction order. To assist the Magistrates Court to hear and determine the application it is not bound by the rules of evidence and may inform itself in any way the court thinks fit. The provision confers an administrative jurisdiction on the Magistrates Court to hear an application for an order that may if made impose requirements on the holding of public records of spent convictions and the entitlements of a person who has a spent conviction. It is not a civil or criminal jurisdiction as it does not provide for the making of legal arguments or leading of evidence on a dispute that requires determination by the court.

Clause 26 of the Bill confers on the Magistrates Court the power to make a spent conviction order and the matters that the court must consider determining whether to make or refuse to make the order.

Clause 27 of the Bill provides for the making of further application where a person has previously made an application for a spent conviction order. The Magistrates Court may in its discretion dismiss any further application that it considers to be frivolous, vexatious or an abuse of the procedure of the court.

Clause 28 of the Bill makes provision for a person who is convicted of a historical offence to apply for an administrative determination by the Permanent Secretary to approve or refuse the expungement of a historical conviction of a person. The clause also

provides for a kin representative of a person who was convicted of a historical offence and is deceased to make an application to the Permanent Secretary for the deceased person's conviction to be expunged. The requirements for making a valid application are set out in the clause.

Clause 29 of the Bill confers on the Permanent Secretary the power to require an applicant to provide any information that is missing from an application within 28 days or any longer period determined by the Permanent Secretary.

Clause 30 of the Bill sets out the matters that the Permanent Secretary must give proper consideration to in considering an application for expungement of a historical conviction.

Clause 31 of the Bill confers on the Permanent Secretary a power to require a person or body to give information about the offence that is the subject of the application and that is requested under clause 30(1)(c). The clause provides that bodies such as a court, tribunal, the Fiji Police Force and the Office of the Director of Public Prosecution are not bound by any duty of confidentiality imposed by any Act or agreement in complying with the Permanent Secretary's request.

Clause 32 of the Bill sets out the matters and tests that the Permanent Secretary must be satisfied to approve an application for the expungement of a homosexual offence. The balance of probabilities is the evidentiary test that applies the tests contained in the clause. The Permanent Secretary must also have regard to matters set out in the clause including whether any person involved in the conduct constituting the offence consented and the person's age at the time of that conduct. In having regard to a matter, the Permanent Secretary must take the matter into account and give weight to it in making a determination.

Clause 33 of the Bill sets out the matters and tests that the Permanent Secretary must be satisfied to approve an application for the expungement of a larceny offence. The balance of probabilities is the evidentiary test that applies the tests contained in the clause. The Permanent Secretary must also have regard to matters set out in the clause including whether the eligible person involved in the conduct constituting the larceny offence is an indigenous person and on the balance of probabilities would not have been charged but for the fact that the conduct was for the purpose or in connection with the exercise of a customary right. The Permanent Secretary must also be satisfied on the balance of probabilities that the conduct constituting the larceny offence occurred at, on or in the land, sea or waterway that is or forms part of the area or land to which the eligible person belongs. In having regard to a matter, the Permanent Secretary must take the matter into account and give weight to it in making a determination.

Clause 34 of the Bill provides for an applicant to withdraw an application at any time before the Permanent Secretary determines it. The clause provides the Permanent Secretary with the power to reinstate an application that has been withdrawn.

Clause 35 of the Bill provides for the power of the Permanent Secretary to determine an application for the expungement of a historical offence by approving it or refusing it. The applicant must be given written notice within 14 days of the making of decision by the Permanent Secretary. If the Permanent Secretary approves an application the historical conviction is expunged 28 days after the date of the decision being made.

Clause 36 of the Bill provides that a person is allowed one further application if the Permanent Secretary is satisfied that necessary supporting information contained in the further application became available only after the earlier application was determined.

Clause 37 of the Bill sets out that if an application for the expungement of a historical offence is refused the eligible applicant may apply to the Mercy Commission for review of the decision of the Permanent Secretary.

Clause 38 of the Bill sets out the notice requirements if an eligible applicant makes an application for review of the Permanent Secretary's decision to the Mercy Commission.

Clause 39 of the Bill provides for an applicant to withdraw an application to the Mercy Commission for review at any time before it is determined.

Clause 40 of the Bill confers on the Mercy Commission the power to review of a decision of the Permanent Secretary to refuse an application to expunge a historical offence. This review function is conferred on the Mercy Commission in accordance with section 138 of the Constitution. The Mercy Commission may replace or uphold the decision of the Permanent Secretary refusing the application.

Clause 41 of the Bill confers on the Mercy Commission the function of making interim orders or temporary orders as is necessary for the circumstances of the review application before it.

Clause 42 of the Bill creates offence for a person who directly or indirectly makes a record, discloses or communicates any information relating to at application to expunge a historical offence. The offence imposes a penalty of a fine not exceeding \$10,000 or a term of imprisonment not exceeding 1 year or both for a person who contravenes the offence.

Clause 43 of the Bill provides that a document purporting to have been given by the Permanent Secretary or the Mercy Commission certifying whether an application in

respect of a historical conviction was approved or refused is admissible in evidence in any proceeding and in the absence of proof to the contrary is proof of the matters stated in the document.

Clause 44 of the Bill makes clear that the expungement of a historical offence does not mean that the person is entitled to compensation to account for being charged with the historical offence, convicted or sentenced with the historical offence or for serving a sentence or suffering any kind of loss or consequence.

Clause 45 of the Bill is a deeming provision that makes clear the new legislation does not affect the prerogative of mercy.

Clause 46 of the Bill provides for the expiation of fixed penalty offences where a person pays the fixed penalty and any fee in respect of a fixed penalty offence or serves a term of imprisonment in default of payment.

Clause 47 of the Bill provides for the effect of a person expiating a fixed penalty offence in accordance with clause 46. No further proceedings may be brought against the person in respect of the fixed penalty offence, no conviction is taken to have been recorded against the person, the payment of the fixed penalty or serving a term of imprisonment in default of payment is not an admission of guilt or an admission of liability.

Clause 48 of the Bill makes clear that the expiation of a fixed penalty offence does not prevent the incurring of demerit points under the relevant Act or subsidiary legislation establishing the fixed penalty offence.

Clause 49 of the Bill sets out that the effect of a person's conviction being spent under the new legislation, is that the person is deemed to have no criminal record for the purposes of any question asked of him or her about his or her criminal record. The provision further provides that the person may disclose or consent to the disclosure of his or her criminal record, but nothing under the new legislation authorises the person to state he or she does not have a criminal record if asked a question under the law of a foreign country.

Clause 50 of the Bill provides for the duties of a head of a government office that holds public records of spent convictions or spent conviction orders to conceal any spent conviction records of a person unless that person requests disclosure of the records to him or her.

Clause 51 of the Bill sets out the effect of a spent conviction on a conviction record holder, employee or contractor. Provides that the conviction record holder, employee or contractor must not disclose a person's criminal record or information about the person's

criminal record that is contained in a criminal record on request from another person. The provision also provides that conviction records must only be used for a purpose authorised under the new legislation.

Clause 52 of the Bill creates an offence for an employee or a contractor of a conviction record holder who knows he or she does not have lawful authority or being reckless as to whether he or she has lawful authority discloses a spent conviction or information about a spent conviction that is required to be concealed. The penalty for contravention of the offence is a fine not exceeding \$10,000.

Clause 53 of the Bill creates an offence for a person to without lawful authority require or request that an individual disregard the effect of a spent conviction. A person who contravenes the offence is liable on conviction to a fine not exceeding \$10,000.

Clause 54 of the Bill creates an offence for a person who obtains information relating to a spent conviction by fraud or dishonesty and a person who commits the offence is liable on conviction to a fine not exceeding \$10,000.

Clause 55 of the Bill provides for exceptions to the effect of a spent conviction and spent conviction order. The circumstances where a person who has a spent conviction must state he or she has a criminal record are for the purposes of a law enforcement function, administration of a sentence, any criminal or civil proceeding, performance of a function of a security intelligence agency, to assess suitability to work with children or persons with a disability, an application to serve in the Fiji Police Force, Fiji Corrections Service or the Republic of Fiji Military Forces, employment in a national security agency, employment in a role that predominantly involves delivery of education to children.

Clause 56 of the Bill provides that a person, body or agency to whom criminal records are disclosed in accordance with an exception under clause 55 must not use that information for any purpose other than the purpose in relation to which it was disclosed.

Clause 57 of the Bill provides for the effect on a person on the expungement of his or her historical conviction. The person may deem any question put to him or her under oath about the person's criminal record does not refer to the expunged conviction, is not required to disclose any information about the expunged conviction under oath or affirmation in a legal proceeding, that any document referring to a conviction is deemed to not refer to the expunged conviction, a position or appointment must not be refused on the grounds of the non-disclosure of the expunged conviction. The clause also provides that expungement of a historical offence requires the records of the expunged conviction to be sealed.

Clause 58 of the Bill provides for the obligations of the Permanent Secretary and conviction record holders on a conviction becoming an expunged conviction and the actions required to seal any public record relating to the expunged conviction.

Clause 59 of the Bill provides that the effect of expungement on conviction record holders, employees and contractors of a conviction record holder is that in terms of requests to disclose and use expunged convictions, the criminal records of expunged convictions must not be disclosed.

Clause 60 of the Bill creates an offence that applies to a person who is an employee or contractor of a conviction record holder and who has access to public records that contain information in relation to an expunged conviction or lists of expunged convictions. The person commits an offence if he or she discloses that information knowing that he or she does not have lawful authority from the person who has the expunged conviction. A person who contravenes the offence is liable on conviction to a fine not exceeding \$20,000.

Clause 61 of the Bill creates an offence if a person requires or requests that a person who has an expunged conviction disregards the effect of the expungement and answers a question or discloses information about the expunged offence. A person who contravenes the offence is liable on conviction to a fine not exceeding \$10,000.

Clause 62 of the Bill makes provision for police clearance certificates by making clear that a spent conviction, expunged conviction or expiated fixed penalty offence must not be in a Police clearance certificate unless an exception under clause 55 applies.

Clause 63 of the Bill states that the new legislation does not limit or affect the operation of the Registration of Sex Offenders Act 2021.

Clause 64 of the Bill provides for the regulation making powers available to the Minister.

Clause 65 of the Bill repeals the Rehabilitation of Offenders (Irrelevant Convictions) Act 1997.

Clause 66 of the Bill revokes the Rehabilitation of Offenders (Irrelevant Convictions) Regulations 1998.

Clause 67 of the Bill makes provision for the transitional arrangements that will apply on the repeal of the Rehabilitation of Offenders (Irrelevant Convictions) Act 1997.

3.3 In-depth Analysis of the Clauses of the Bill

The Committee then held extensive discussions on the Clauses and identified certain provisions that merit proper consideration. These discussions resulted in the identification of a few issues, which the Committee placed as priority issues raised by the Ministry of Justice to be further discussed and deliberated on with the drafters. Based on the initial reading of the clauses, the Committee compared the content of the submissions made on the Bills and the main issues noted from these discussions are as follows:

These were the list of key points noted during the initial review of the Criminal Records Bill 2025 (Bill No. 41 of 2025).

1. *Spent Convictions*

- a) It was noted that “spent conviction” is a past criminal conviction that the law treats as ‘finished’ or that is no longer considered part of a person’s criminal record after certain conditions are met. (Conditions outlined in Part 3 of the Bill)
- b) Certain minor convictions are automatically spent on the day of conviction (e.g., fines under \$10,000, fixed penalty convictions, or convictions without custodial sentences). [Clause 17]
- c) Convictions become spent after a rehabilitation period of 4 years (no custodial sentence), 7 years (custodial sentence up to 30 months), or 10 years (serious convictions). [Clause 7]
- d) Serious convictions can only be spent through a court order after the rehabilitation period. [Clause 20]

2. *Expunged Historical Convictions*

- a) Historical convictions for homosexual offences and larceny offences related to customary rights can be expunged. [Clause 32]
- b) Expungement permanently seals public records of the conviction and allows individuals to lawfully claim they have not been convicted of the offence. [Clause 6]
- c) Applications for expungement can be made by the convicted person or their kin representative if deceased. [Clause 28]

3. *Rehabilitation and Second Chances*

- a) The Bill promotes rehabilitation, forgiveness, respect, and second chances for individuals who have been convicted and have demonstrated change. [Clause 6]
- b) Special provisions are made for young offenders to support their rehabilitation and reintegration into society. [Clause 15]

4. *Protection of Privacy*

- a) Spent and expunged convictions must not be disclosed or used unlawfully. [Clause 59]
- b) It is an offence to require or request individuals to disclose spent or expunged convictions without lawful authority. [Clause 53]
- c) Public records of expunged convictions must be sealed, and police clearance certificates must exclude spent, expunged, or expiated convictions unless exceptions apply. [Clause 57]

5. *Exceptions for Disclosure*

- Spent convictions may be disclosed for specific purposes, such as law enforcement, court proceedings, national security, or assessing suitability to work with children or persons with disabilities. [Clause 55]

6. *Fixed Penalty Offences*

- a) Fixed penalty offences can be expiated through payment of fines or serving imprisonment in default of payment. [Clause 46]
- b) Expiated offences are not considered convictions and cannot be used as admissions of guilt or liability. [Clause 47]

7. *Application Process*

- a) Clear procedures for applying for spent conviction orders or expungement of historical convictions. [Clause 64]
- b) Rehabilitation reports may be required for spent conviction applications. [Clause 23]
- c) Applicants can dispute rehabilitation reports or appeal decisions to the Mercy Commission. [Clause 35]

8. *Accountability and Penalties*

- a) Strict penalties for unlawful disclosure of spent or expunged convictions, including fines up to \$20,000 or imprisonment. [Clause 60]
- b) Offences for obtaining spent conviction information through fraud or dishonesty. [Clause 54]

9. *Police Clearance Certificates*

- a) Fiji Police Force must not require applications to disclose spent convictions, expunged convictions, or expiated fixed penalty offences. [Clause 62]

- b) Police clearance certifications must not include information about spent convictions, expunged convictions or expiated fixed penalty offences unless an exception under Clause 55 applies. [Clause 62]

10. *Transitional Provisions*

- a) The Act applies to convictions and historical offences irrespective of when they were committed or recorded. [Clause 10]
- b) Pending applications under the repealed Rehabilitation of Offenders Act will be treated under the new Act. [Clause 67]

11. *State Accountability*

- The Act binds the State, ensuring compliance by government offices and officials. [Clause 9]

12. *No Compensation for Expunged Convictions*

- Individuals are not entitled to compensation for losses or consequences related to expunged historical convictions. [Clause 44]

These were the list of points discussed by the Committee during its review of the Criminal Records Bill 2025 (Bill No. 41 of 2025).

Indigenous Persons

The Committee expressed disagreement with definition noting it was too complicated. They suggested using existing legal definitions instead, since adding extra details could cause confusion. It was recommended either simplifying or removing the definition of "indigenous person." It was also advised avoiding references like VKB registration unless necessary, to ensure fairness and non-discrimination. law regardless of cultural context therefore recommend replacing all references to "larceny" with "theft" to ensure consistency with the Crimes Act.

Section 32: Matters and tests for determining application in relation to homosexual offence

The Committee supported Section 32 on offences no longer criminal (including historical offences such as homosexuality), agreeing that affected persons should be eligible for expungement, and recommended it be retained and clarified to apply to offences no longer recognised in law.

Section 33: Matters and tests for determining application in relation to larceny offence

The Committee raised concerns on Section 33 for creating special treatment for indigenous persons and introducing unequal expungement processes, with concerns that

it violates equality before the law and creates inconsistency in criminal record removal, and it was recommended that the section be removed and replaced with a uniform provision applicable to all persons. The Committee raised concerns about using a civil standard of proofing criminal-related matters and its inconsistency with criminal law principles, and recommended reviewing its use in expungement decisions.

Removal of Division on Serious Offences

The Committee agreed that the Bill should focus on minor offences only, noting that the inclusion of serious offences undermines the overall purpose of the Bill. The Committee recommended the removal of Sections 20 —27 and related provisions, as well as all related headings and references.

Rehabilitation Period

The Committee considered the current rehabilitation periods excessive and recommended reducing them from 4 to 2 years and 7 to 5 years respectively.

COVID-19 Related Offences

The Committee considered including expungement for COVID-19 related minor offences but not serious crimes such as robbery.

3.4 Submission received via public consultation

All the submissions received during the public consultation were considered and deliberated on extensively. The main points and issues noted from the submissions are summarised below.

Submissions received provided a range of comments and suggestions, which cover various issues pertaining to certain Clauses of the Bill.

1. Strong Support for Second Chances

There was strong support for the Bill, especially its focus on giving people a second chance. There was a common consensus that minor offence should not affect someone for life, particularly young and first-time offenders. The Bill is seen as a positive step that reflects values of forgiveness, rehabilitation, and helping individuals rebuild their lives. Criminal records can limit employment and education opportunities, both locally and overseas and young people are especially affected due to fewer job options. There were

even some suggestions that once a person completes their penalties, their record should be cleared to improve their chances.

2. Keep Serious Crimes on Record

While a considerable amount of support towards removing records of minor offences, the majority agreed that serious crimes must remain on record permanently. This is important to ensure public safety, maintain accountability, and prevent weakening respect for the law.

3. Rehabilitation Timeframes

Many feel that current rehabilitation periods are too long and unfair. Suggestions include shorter timeframes for minor offences, with majority proposing reducing 4 years to 2 years. These periods should match the seriousness of the offence, and good behaviour should allow for earlier clearance.

4. Repetition of Offending Rules

There were concerns raised that the current system is too strict, given that a new offence can restart the rehabilitation period. This is seen as discouraging and unfair, and many recommend that only serious repeat offences should reset the timeline.

5. Community and Cultural Approaches

Many submissions recommended that rehabilitation should be community-centred, involving village-based work, reconciliation, and ongoing local support rather than relying solely on formal institutions. Cultural and religious values strongly support forgiveness, moral guidance, and helping individuals reintegrate as productive members of society. It was suggested that village headmen and community leaders play an active role in monitoring rehabilitated individuals within the village, ensuring they do not cause further problems, promoting good behaviour, and facilitating access to guidance, work, and reconciliation processes. This approach is seen as strengthening accountability while restoring trust, reinforcing positive values, and ensuring rehabilitation is genuinely sustained within the community.

A copy of the oral and written submission can be obtained from the online Appendices of the Report, which can be accessed via the Parliament website: www.parliament.gov.fj

3.6 Sustainable Development Goals Impact Analysis

Consideration was placed on the SDG 10 and 16 which focuses on reducing inequality within and among countries and promoting peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.¹

SDG 10.2 – *Empower and promote the social, economic and political inclusion of all, irrespective of status.*

The Committee notes that criminal records can create long-term barriers to employment, education, housing, and mobility, exacerbating social and economic inequality. The Bill addresses these challenges by allowing eligible convictions to become spent or expunged, thereby reducing systemic disadvantages faced by rehabilitated individuals.

SDG 16.3 – *Promote the rule of law at the national and international levels and ensure equal access to justice for all*

The Bill promotes rehabilitation by giving individuals who have wronged a second chance without being held back by historical convictions. This reinforces public confidence in the justice system as one that balances accountability with proportionality and human dignity, thereby strengthening institutional integrity and the rule of law.

In this regard, the Committee following its review of the Bill, fulfilled its obligation as prescribed under Section 110(2) of the Standing Orders of Parliament.

¹ [THE 17 GOALS | Sustainable Development](#)

3.7 Outcome of Review

The outcomes of the review are reflected in the revisions to the Criminal Records Bill proposed by the Committee to Parliament.

We are firmly of the view that the revisions made maintain the spirit of the intent of the original bill, whilst making improvements in key areas that have been highlighted in this report.

1. Omission of Clause 33

The Committee is of the view that larceny constitutes theft and should not be confined in its application to indigenous persons only but must apply equally across all ethnic groups. Clause 33(1)(a) is therefore considered discriminatory in this respect. Accordingly, the Committee resolved that Clause 33 be omitted from the Bill. Consequential amendments have been made to remove all provisions related to Clause 33.

2. Omission of ‘Indigenous person’

Pursuant to the Committee’s resolution to delete the offence of larceny under Clause 33, the Committee is of the view that the definition of “Indigenous person”, which is directly linked to that clause, is no longer necessary and therefore redundant. Accordingly, the Committee recommends that the definition be omitted from the Bill.

3. COVID-19 Notices

The Committee resolved that there shall be a provision that covers COVID-19 notices relating to breaches of public health orders. These minor offences shall be subject to automatic expungement. In relation to this, the following clauses have been amended accordingly by insertion of provisions to provide for the expungement of such offences and to ensure that no permanent criminal record arises from these breaches;

- **Clause 2** - Definition of “*COVID-19 related offence*” is inserted in clause 2;
- **Clause 17(1)** - after “*Fiji*,”, inserting “*including a COVID-19 related offence*”;
- **Clause 18** - after “*Fiji*,”, inserting “*including a COVID19 related offence*,”

4.0 CONCLUSION

As highlighted above in its deliberations, the Committee has conducted extensive public consultations and consulted independent legal experts in the Solicitor-General's Office for the purpose of improving the current Bill.

At the conclusion of the review, the Committee believes that the proposed amendments are adequate for achieving the objectives of the **Criminal Records Bill 2025**.

The Committee through this report commends the *Criminal Records Bill (Bill No. 41 of 2025)* to the Parliament.

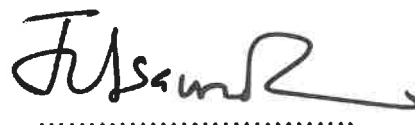
MEMBER'S SIGNATURES



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Hon. Ratu Rakuita Vakalalabure
(Chairperson)



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Hon. Faiyaz Koya
(Deputy Chairperson)



.....
Hon. Jone Usamate
(Member)



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Hon. Ratu Josaia Niudamu
(Member)



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Hon. Sachida Nand
(Member)



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Hon. Ratu Isikeli Tuiwailevu
(Member)

DATE: 25/05/26