



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

Review of the Electoral Commission Annual Report 2019



PARLIAMENT OF THE REPUBLIC OF FIJI
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CHAIRPERSON'S FOREWORD



The Standing Committee on Justice, Law and Human Rights was referred the *Electoral Commission Annual Report 2019* and mandated to review the Annual Report and table its findings back to Parliament.

This Report provides details of the Committee's review, which includes issues identified from the contents of the *Annual Report*. The Committee conducted extensive deliberation on these issues, which then formed part of its findings.

For the review, the Committee conducted extensive deliberation on the Annual Report, whereby issues were identified and correspondences in regard to these issues were made with the Electoral Commission and its representatives.

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

- The Electoral Commission had undertaken a review of the 2018 General Elections and have identified the main areas of improvements, which include continuous assessment and monitoring responsibilities in key areas of the electoral management, with a focus on improving the processes that guide the Commission's service delivery, and ensuring acceptability of the election processes.
- There have been key positive changes realised by the Electoral Commission, which strengthens its independence, and one of which is the ability of the Commission to control its own budget, which is separate from the Fijian Elections Office.
- The Electoral Commission's Annual Report had insufficient gender-related information, however, after consultation, it was encouraging to note the numerous activities and initiatives that the Commission is undertaking and is planning to undertake, which promotes gender equality and empowerment of women.
- The Commission had demonstrated that it also prioritises reducing inequality, and promotes political inclusion of everyone in Fiji even those that are living with a disability.

At the conclusion of the review, the Committee commends the great work carried out by the Electoral Commission in terms of its work post-election, and the strides it has taken in improving many areas of their service delivery in the electoral system in Fiji.

I would like to acknowledge the Honourable Members of the Justice, Law and Human Rights Committee, Honourable Rohit Sharma (Deputy Chairperson), Honourable Mosese Bulitavu, Honourable Salik Govind, Honourable Mikaele Leawere and former Member Ratu Suliano Matanitobua, for their deliberations and input, the alternate members who made themselves available when the substantive members could not attend and the secretariat for their support. Also acknowledging the representatives of Fiji's electoral management bodies who kindly answered the Committee's request and made

themselves available to answer pertinent questions, which assisted the Committee in its work.



Honourable Alvick Avhikrit Maharaj
Chairperson

COMMITTEE MEMBERSHIP



Hon. Alvick A. Maharaj
(Chairperson)

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



Hon. Rohit Ritesh Sharma
(Deputy Chairperson)

- Former Civil Servant – Education Sector
- Deputy Chairperson of the Standing Committee on Justice, Law and Human Rights
- Deputy Government Whip



Hon. Ratu Suliano Matanitobua
(former Member)

- Shadow Minister for Youth and Sports
- Former State Minister of Fijian Affairs
- Territorial Military Officer – Republic of Fiji Military Forces



Hon. Dr. Salik Govind
(Member)

- Public Health Specialist – United Nations (World Health Organisation)
- Deputy Chairperson of the Standing Committee on Foreign Affairs and Defence Committee



Hon. Mosese Bulitavu
(Member)

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

COMMITTEE SECRETARIAT

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1.0 INTRODUCTION

The Standing Committee on Justice, Law and Human Rights was referred the Electoral Commission Annual Report 2018 on 20 February 2020, to review and report back to Parliament on its findings.

1.1 Procedure and Program

The Committee began its review of the Annual Report in 17 March 2020. 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) Conducting of consultation meetings with the Electoral Commission

The Committee was committed to upholding the public's trust in Parliament and to also meet its obligation under the Standing Orders of Parliament, by ensuring that there is public participation. 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 public consultation via verbal submissions, but this was first done through virtual mode, given the existing restrictions placed around the country due to Covid-19. As the year progressed, the restrictions were slowly eased-off and as such the Committee was able to conduct in-person consultation meetings with the Electoral Commission. The submissions conducted were open to the public and the media and also recorded for subsequent reference.

iii) Review of evidence collected and seeking clarification on pertinent issues

The Committee reviewed all the evidence collected from interviewing the Electoral Commission. To maintain due diligence, the Committee also had further discussions and clarification done, via electronically generated correspondences and virtual meeting tools, with the Commission regarding any pertinent issue identified from the review.

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 forms its own independent view on all issues identified. The Committee then compiles a Report on the review of the Bill, which was also reviewed before being finalised for tabling before Parliament.

1.2 Electoral Commission

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

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

“

- (a) registration of voters;
- (b) registration of political parties;
- (c) determination of the number of members of Parliament in accordance with section 54(2) of the Constitution;
- (d) receipt and return of the writ for an election;
- (e) declaration of the election results and allocation of seats in Parliament;
- (f) adjudication of electoral disputes, including disputes relating to or arising from the right to be nominated as a candidate, but excluding petitions and disputes subsequent to the declaration of election results;
- (g) monitoring and enforcing compliance with the Electoral Act and any law governing political parties, on its own initiative or in response to a formal complaint; and
- (h) adopting Rules and instructions consistent with the Electoral Act and the Constitution that are necessary for the transparent and orderly conduct of free and fair elections.¹”

The *Electoral Commission Annual Report 2019* provides an overview of the Commission’s work in 2019, specifically in relation to the work of the Commission post 2018 General Elections. Specifics of the work of the Commission is captured in later parts of this Report.

2.0 DELIBERATION AND FINDINGS BY THE COMMITTEE

2.1 Initial deliberation by the Committee

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

To begin with, the Committee noted that the Commission had a lot of support from development partners including the Election Commission of India and the Australian Electoral Commission. These support included visits to the two respective jurisdictions for the purpose of observing their electoral operations.

The Commission undertook various activities including:

¹ Section 3, *Electoral Act 2014*.

- Consideration of the Final Report by the Supervisor of Elections on the 2018 General Elections;
- Conducting meetings for the purpose of addressing general matters and correspondences regarding the Commission;
- Attending a meeting with the Manager International, New Zealand Electoral Commission, Ms. Deidre Brook;
- Attending election related programmes such as the Election Visitors Programme on 2019 General Elections to the Lok Sabha (House of the People) and some State Assemblies in India, and the Building Resources in Democracy, Governance and Elections (“BRIDGE”) Strategic Planning Workshop; and
- Attending official engagements, such as the launch of the Laws of Fiji website, Announcement of the 2019-2020 Budget Address, Fiji Day Celebration 2019, 243rd Anniversary of the Independence of the United States of America and the 50th Anniversary of the Apollo II Lunar Landing and the Presentation of the Electoral Commission Annual Reports (2017 and 2018) and 2018 General Elections Joint Report by the Electoral Commission and the Supervisor of Elections, Opening of the Melanesian Spearhead Group (MSG) meeting at the Fijian Elections Office and Opening of the 21st Attorney-General’s Conference.

Furthermore, there were a few other standout matters noted from the Annual Report, that the Committee felt needed further deliberation and these included the key achievement and learnings in the reported year (2019), insufficient financial information (expenditure against the budget) recorded in the Annual Report, a few discrepancies noted in the budget references, and discrepancy in the recording of the number of Commission meetings.

2.2 Evidence received via discussions with the Electoral Commission

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

Firstly, the Committee noted the commendable work by the Commission in conducting the 2018 General Elections, however, the Committee believed that there should be a more substantive discussion on some of the key achievements and learnings from the election year and the reported year (2019). The Commission advised that the Report on the Election should be used as a preliminary guide to the lessons learnt together with opportunities to enhance the delivery of elections. The Commission reiterated the key goals, which arose from the completion of the 2018 General Election and is the continuation of focusing on improving the processes that guide the Commission’s service delivery, monitoring of performance, and ensuring acceptability of the election processes.

Additionally, there were two (2) significant achievements for the Commission in 2019, which include the review of the 2018 General Election and the approval of the Fijian Elections Office four (4) year Strategic Plan.

In regard to the Committee’s query on the discrepancy of recording of the number of Commission’s meetings; the Commission advised that meetings are scheduled for every

month, however, decisions regarding postponing meetings were made to accommodate post-election reports and responsibilities of the Electoral Commission and the Fijian Elections Office and to accommodate availability of the Commissioners and to ensure the prudent expenditure of public funds.

The Committee also queried certain discrepancies in the budget and financial information of the Commission, specifically in regard to expenditure for certain budgeted items such as ‘marketing costs’, ‘staff salaries’, and ‘superannuation deductions’ (Fiji National Provident Fund). The Commission advised of the following:

- That ‘marketing costs’ included publications and advertising expenses that were carried out via all forms of media, and that is pursuant to section 5 (4) (a) of the *Electoral Act 2014*, which states that the Electoral Commission must within 5 days of its meeting, publish a copy of the decisions taken by the Commission at the Meeting.
- That the discrepancy noted in the ‘staff salaries’ was due to change in the budget sourcing of the Commission; the Commission is to have a separate budget to include its staff. This would ensure that the Commission controls its own budget, and this was also a recommendation by the Multinational Observer Group as it would bolster the independence of the Commission.
- That the discrepancy noted in the ‘superannuation deduction’ was due to the change of the allocation budget head for the financial year (2018-2019), whereby the Commission’s budget was separate from the Fijian Elections Office budget.

Written copies of the submissions and Verbatim Reports of discussions between the Committee and the Commission are uploaded along with this Report and can be accessed from the Parliament website: www.parliament.gov.fj.

2.3 Sustainable Development Goals impact analysis

As in the other Committee’s reports on the Electoral Commission’s work, this part will reiterate the Committees scrutiny of the Annual Report via a gender lens and taking into consideration Fiji’s obligations towards the 2030 Global Agenda by nationalising these goals via the National Development Plan.

Just like the other Annual Reports, it was noted that the current Annual Report had insufficient information regarding gender and women and girls empowerment, which the Committee sought clarification on.

Thus, this part reiterates the information gathered on the work of the Commission towards the promotion of women and girls empowerment and inclusion of all person. These information include:

- The information on the Commission’s work, which shows that it is based on gender-neutral principles and a non-discriminatory legal framework, such as the the *Constitution of the Republic of Fiji*, the *Electoral Act 2014* and the *Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013*. These provide enough room that enables non-discriminatory policies, which ensures full and effective participation and equal opportunities for women within Political Parties. It was also advised that it is for Political Parties to manage their own candidate selection and are free to create policies on inclusion.

- That there are certain initiatives put in place by the Commission that contributes to and promote equal opportunities for women participation in politics and these include:
 - the Electoral Commission to have induction programs for new political parties that will include awareness on women inclusiveness in political participation;
 - the Electoral Commission to conduct workshops on inclusivity with political parties;
 - the Electoral Commission to work with civil society organisations in developing voter awareness on importance of women participation in elections.

- The Commission has been able to successfully conduct two General Elections (2014 and 2018) whereby the Fijian Parliament has one of the highest percentage of women Parliamentarians in the Pacific region².

Based on the National Development Plan it is encouraging to note that the Commission's work is geared towards being committed to conducting free and fair elections, which are important enablers and fundamental for a democratic and accountable governance under the Constitution³.

Another aspect of the electoral system in Fiji which also contributes to the efforts towards achieving Fiji's development goals is the commendable support put towards improved access and participation in the electoral process, for persons with disabilities. This demonstrates the Commission's efforts in reducing inequality, and promoting political inclusion of everyone in Fiji, irrespective of disability.

2.4 Findings

At the penultimate stage of the review, the Committee has reviewed all the evidence it has collected, both from its preliminary findings and the evidence received from the discussions with the Electoral Commission. The following is a summary of the key findings by the Committee.

- i) The Commission has undertaken a review of the 2018 General Elections and have identified the main areas of improvements, which include continuous assessment and monitoring responsibilities in key areas of the electoral management, with a focus on improving the processes that guide the Commission's service delivery, and ensuring acceptability of the election processes.

- ii) There have been key positive changes realised by the Commission, which strengthens its independence, and one of which is the ability of the Commission to control its own budget, which is separate from the Fijian Elections Office.

- iii) The Commission's Annual Report had insufficient gender-related information, however, after consultation, it was encouraging to note the numerous activities and

² Ibid 4, page 55.

³ Fiji 5-Year and 20-Year National Development Plan, page 15.

initiatives that the Commission was undertaking which promotes gender equality and empowerment of women.

- iv) The Commission had demonstrated that it also prioritises reducing inequality, and promotes political inclusion of everyone in Fiji even those that are living with a disability.

3.0 COMMENDATION

After extensive deliberation, the Committee acknowledges and commends the Electoral Commission for the strides it has taken in improving many areas of their service delivery in the electoral system in Fiji. As noted in the findings of the Committee; there were numerous achievements by the Commission including the successful General Election in 2018, which was considered by the Multinational Observer Group, as having processes that were transparent and credible overall and the outcome broadly represented the will of Fijian voters. Additionally it was noted that there were further improvements of election processes and numerous initiatives that the Commission was undertaking, to promote gender equality and empowerment of women and inclusion of all persons in Fiji.

4.0 CONCLUSION

After reviewing the *Electoral Commission Annual Report 2019*, the Committee recommends that the Parliament takes note of its contents.

The Standing Committee on Justice, Law and Human Rights has fulfilled its mandate approved by Parliament, which is to examine and review the *Electoral Commission Annual Report 2019* with due diligence.

The Committee's review highlighted numerous findings including various achievements, which are reflected in this Report.

The Committee through this report commends the *Electoral Commission Annual Report 2019* and the contents of its Report to the Parliament.

MEMBER'S SIGNATURES

Hon. Alvick Maharaj
(Chairperson)



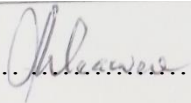
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Hon. Rohit Sharma
(Deputy Chairperson)



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Hon. Mikaele Leawere
(Member)



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Hon. Dr. Salik Govind
(Member)



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Hon. Mosese Bultavu
(Member)



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Date: 19/ 08/ 2022