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Verbatim Report

[VERBATIM REPORT]

STANDING COMMITTEE ON FOREIGN AFFAIRS & DEFENCE

ANNUAL REPORTS

- (1) 2019-2020 Annual Report**
- (2) 2020-2021 Annual Report**

ENTITY: Legal Aid Commission

VENUE: Big Committee Room, Government
Buildings, Suva

DATE: Tuesday, 5th November, 2024

VERBATIM REPORT OF THE MEETING OF THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE HELD IN THE BIG COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON TUESDAY, 5TH NOVEMBER, 2024, AT 9.03 A.M.

Interviewee/ Submitter: Legal Aid Commission

In Attendance:

(1)	Mr. Seremaia Waqainabete	-	Director Legal Aid Commission
(2)	Mr. Michael Fesaitu	-	Deputy Director/Head of Litigation
(3)	Mr. Abdul Rasheed	-	Manager Finance
(4)	Mr. Nikkil Singh	-	Manager IT
(5)	Ms. Meresimani Vuniwaqa	-	Manager Human Resources
(6)	Ms. Sivanjaleen Lata	-	Manager Administration
(7)	Ms. Swarvana Prakash	-	Principal Legal Officer

MR. CHAIRMAN.- Thank you, honourable Members, and to our guests, good morning. Welcome to this morning's meeting. At the outset, let me just say that we have a technical issue with our audio, so this is not aired live, but it is being recorded through the verbatim. It is still a public meeting so the members of the media will come around and sit at the back.

For information purposes, pursuant to the Standing Orders of Parliament, specifically Standing Order 111(2), all Committee meetings are to be open to the public. Therefore, this meeting, even though not aired live, is open to the public and the media and as I have said, if they come in, they will come in and sit at the back.

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

1. national security matters;
2. third party confidential information;
3. personnel or human resources matters; and
4. Committee deliberation and development of Committee's recommendation and report.

I wish to remind honourable Members and our invited submitters that all comments and questions to be asked are addressed through the Chairman. This is a closed parliamentary meeting and all the information gathered is covered under the Parliamentary Powers and Privileges Act and the Standing Orders of Parliament.

In terms of the protocols of this Committee meeting, please be advised that movement within the meeting room will be restricted. Please, minimise the use of mobile phones and they are to be on silent mode while the meeting is in progress.

I will now introduce the members of the Standing Committee on Foreign Affairs and Defence.

(Introduction of Members of the Standing Committee, the Secretariat and Hansard)

I will now hand over to the Director of Legal Aid Commission for the introduction of your Team and you may then proceed with your submission.

MR. S. WAQAINABETE.- Thank you, Mr. Chairman, Sir. I would also like to thank the honourable Members for having us this morning. I know that the weather is getting warmer, and I hope it will not make you hot today. I am Mr. Seremaia Waqainabete and by the grace of God, I am the Director of Legal Aid Commission. Perhaps, if I could allow our Managers to introduce themselves for our meeting this morning.

(Introduction of members of the Legal Aid Commission Team)

MR. S. WAQAINABETE.- Mr. Chairman, if I may proceed, just before I begin our presentation this morning, I would like to say that we are very grateful for this opportunity because this is an opportunity that we have never had before. I was the Deputy Director of the Legal Aid Commission for nine years and two months from 24th August, 2014 until I became the Acting Director in March last year, before I got appointed on 22nd September last year as well in this position. As I have said, we have never been on this platform since 2004 and since I joined the Commission in 2010, I can say that (as I have said) we have never been on this platform and, of course, this meeting. Again, we are very grateful.

The Legal Aid Commission is a statutory arm of Government established under the Legal Aid Act 1996. Of course, we are also one of the independent statutory bodies of Government that is also recognised under the Constitution and, of course, it is the responsibility of Parliament to fund us sufficiently.

In terms of the role of our Office, we provide legal services to the public, to those who cannot afford legal assistance offered by a private practitioner. In terms of our vision, in providing justice to our people, we look at three things - professionalism, efficiency and quality.

I must say, from the outset, that efficiency, of course, is always something that we are having challenges in, given the workload that we have and given the high number of applications we receive from our people, including those who make Fiji their home. Why I say that is because we have represented Chinese nationals who have been incarcerated in our courts and centres.

Of course, when they are in prison, none of them has any money to pay for their lawyers because they have been incarcerated. That is when they apply to us and we assess their means, just like anyone else, and that is when we give them legal services - our assistance.

In terms of the mission of the Commission, it is simple. As I have said, providing legal assistance to those who cannot afford a private practitioner and a particular focus is also given to women and children and, of course, those people who have special needs or our disabled people.

We do a lot of awareness to our people through legal rights. I am not sure whether this has probably come to your knowledge before, but the Legal Aid Commission is leading the enforcement of the United Nations Convention Against Torture (UNCAT) when Fiji ratified it in 2015. The Legal Aid Commission went ahead in terms of their commitment by Government to ensure that there is no Police brutality in our Police Stations. So, that is how we have come up with the First Hour Procedure.

The First Hour Procedure is 24 hours a day and 7 days a week. The First Hour Procedure is especially talking about legal awareness on the rights of our people, including those who have been taken in as suspects in our police stations and also those who have been detained. So, the First Hour Procedure is simply, when a suspect comes into our police station, the Police Force will need to contact us within their one hour so that the Legal Aid Commission lawyers can come in and provide

the legal rights to the suspects and the detained persons.

So, in that process, while attending, we will also be looking at other things, for example, asking the suspects or the detained persons whether they had been assaulted, whether they need medical assistance. So, that is the First Hour Procedure, and that links us to also ask the Police Officers if the suspects were assaulted or subjected to any oppression circumstance, that is when we ask the Police Officers if they could be referred to a medical practitioner so that they can be attended to.

Of course, there are pros and cons of that process with the Defence Counsels and, of course, the Prosecutors, but that is how they can be spread out. Then from the First Hour Procedure, we will then assist them at their first appearance in court. This is when the suspect is not even a client of Legal Aid - only for the first time, it is called the Duty Solicitor Scheme (DSS). So, from First Hour Procedure to the DSS. So, you would probably see that the Legal Aid lawyers, every working day from 12.00 p.m. until around 4.00 p.m., will be tasked to look after all the courts in Fiji.

That is to ensure that whoever comes in who does not have any lawyer, for the first time, we should be their voice in court. For example, if there were subjected to Police brutality. That is when we are going to alert the Magistrate or the Judge, "This person was assaulted in the hands of the Police while he was arrested or while in custody or during the record of the interview or caution interview, please, if it can be recorded on the record and also for this person to be referred to a hospital, if need be." Why at the first opportunity? Because that is when the credibility of the suspect who comes in is very important.

I am talking about credibility. Credibility is whether we can believe what they say in court. So, if they tell us at the first opportunity, that shows a lot of credibility, as compared to when they have gone to the Remand Centre and that is when they receive legal advice from those who are in prison. That would be a bit different, as compared to at that first instance when you come in. In other words, that shows genuineness. So, that is part of the awareness surprise that we do.

The mission of the Commission is to become an employer of choice in the legal sector and part of it is making recommendations to Government on legal matters, for example, the charges that have been going on right now. We were asked to make submissions, and it took us almost one day to submit our submissions to AG's Office as regards to the Child Justice Bill and Child Care Bill that came to us together. That is what we do as well. We also look to other countries, in terms of best practice, to also assist us in raising our standard.

There are four values of the Commission. One is clients -focussed. Clients are always important to us. In other words, the members of the public are important to us. The members of the public may not necessarily be our clients, but our clients are those who apply to us and we are on record in terms of representing their case.

It is not only in court, Sirs and Madams, but also outside of court. For example, we do civil matters, probates, Wills, the transfer of properties, transmission by debt – all those processes, we also assist in that, including the drafting of Wills. We love the slogan, "leaving no one behind" because we believe in that and by God's Grace, aspire to do that as well.

Talking about leaving no one behind, for example, if they cannot come to us, especially if they are immobile – where they cannot move, for example, they are lying down on their sick bed at the hospital, they will not be able to come to us to do a Will, so that is when we go to them. I still remember, some years ago when I was Deputy Director, I was asked to assist someone who was lying

on sick bed at our CWM Hospital. Unfortunately, after they did his Will, four days after that he passed on. So, that is our mission, even when they cannot reach us, we reach out to them.

Our second value is quality in service delivery. Despite many cases that we deal with, I must say that the Legal Aid Commission is the only Government legal agency that does everything. What do I mean by that? We represent our people in family matters, we defend our people in criminal matters, and we also assist our people in civil matters both, in court and also outside of court. For example, for DPP's Office, they only focus on criminal matters, so prosecuting and that is all. At the AG's Office, they only focus on civil matters but representing Government. We are the only one that the Government is relying on to help our people. So, that is what I meant when I say that we are the only Government legal agency that does everything, especially for our people.

Good governance is, of course, a cornerstone of our democracy and, of course, that is also what we believe in; transparency, accountability and professional advancement or development. Unfortunately, I must say that in the Legal Aid Commission, we hardly get invitation for this to be able to do this - professional development. Assistance is given to other Government legal agencies, for example, the DPP's Office and the AG's Office, but not us.

We had to really look elsewhere to be able to get development and, of course, capacity building for our people. For example, just last week, we conducted Trial Advocacy for Criminal Law. Trial Advocacy is simply how we teach law as to examine witnesses in court, including expert witnesses. How do we deal with them in court in a practical sense. Even how you deal with a child witness because they would be seen too as witness. Being a child and while recognising that, the same competency test is applied to all witnesses in the court of law whether they are adults or they are children. So, it is a matter of teaching the lawyers how to squeeze the juice out of the orange, but in an ethical manner. So, that is professional advancement.

Of course, we are always looking forward for any capacity building trainings anywhere, whether it is local or overseas, so that we can help our people. For example, the recent Cybercrime Workshop that our people had planned to attend, the information was we were never invited but we are the ones whom government is relying on to defend our people. How can we do justice to our clients if we are not being trained in this area?

Another area is money laundering. I have been asking around, unfortunately, we are not getting what we are asking for. But we are trusting in God that God will open the doors for us. Of course, innovation and to be innovative, we keep on looking at ways we can better things in the system.

Moving on, our reach in terms of the office, we have 24 Offices across Fiji - three are in Suva. In Vitilevu, we have 13, it is all around the country in every town and city. It is all over in Vanualevu, especially in the main centres - Labasa, Nabouwalu, Seaqaqa, Savusavu and Taveuni; and in the outer and maritime islands, we have three Offices located in Levuka, Rotuma and Kadavu.

As we speak, we have 215 lawyers on payroll, 103 Corporate staff and 112 lawyers. We are going to be recruiting 11 lawyers very soon by God's Grace. Some of these appointments are already underway, we are awaiting offer letters to be given and, of course, for the Commission to approve the recommendation of the panel of interview.

The key services provided by us, first is legal representation. This is when we take matters to court when they apply to us for their court case in court whether it be family, civil and criminal. Second is legal advice and education, which includes the First Hour Procedure that I had talked about.

That also includes community awareness when we are reaching out to schools and the community.

You probably would have seen from our presentation that we have reached out to communities. From last year to this year, we have reached out to over 8,000 people and in terms of students, we have reached out to about 7,000 students in high schools and also in primary schools. For this financial year, we have been reaching out to high schools because of age of criminal responsibility. Fiji, as we speak, it is still 11 years. I know that with the Child Justice Bill coming and would be passed soon in Parliament, it will be 14 years of age because we, unfortunately, have to follow what is happening globally. They have moved the age of criminal responsibility from 11 years to 14 years. Of course, Fiji as it is at the whim of the global community, so we cannot do much.

The third I had talked about is the First Hour Procedure and the Duty Solicitor Scheme.

Now, in terms of staffing, we have a good balance in our Office and certainly, female staff are more than the male staff. This is also including our lawyers and also those who are in leadership. If one looks at the data, for example, our women in leadership, we have 21 of them who are Officer in Charges, who are also principal level supervisors, including managers. I think two beautiful women are here with us this morning and that is a testament to our commitment to also authorise women. I prove the fact that women beautify any people in any meeting. So, that is in terms of staffing, 215 as we speak. Male, as we speak are 92 and female are 123. So, women in leadership, there are 21 of them.

Looking at the brief summary of the work at the Legal Aid Commission, this is with regards to the total applications that we received by location or by office. The Nadi Office received the most applications which is 2,538. Next to it is the Labasa Office – 2,472, and then the Nasinu Office received 1,987; and our Kimberley Street Office – 1,143. That is just from August last year till today.

Looking at all these data, it just tells all of us that we have received a lot of applications. Of course, you would have probably read from the papers, I think, in the last three or four months where I was talking about the workload that our lawyers get in terms of the case file numbers. That is in terms of the summary of the work that we do.

In looking at the total active files that we have, we have 13,766 files from August last year to date. When I say active files, these are files that are before the courts Fiji-wide - Vanualevu, Vitilevu and also in the maritime areas. I had talked about First Hour Procedure earlier on, so the data that is before us shows the number of our people whom we have attended to.

From January this year to October, we have attended to 1,511 suspects in our Police Stations Fiji-wide. This project initially started in Suva at Totogo or the Central Police Station and CID HQ included, but now with the permission of the Acting Commissioner of Police, we have gone down to other stations Fiji-wide because that is what we do not want, we want to rule out every possibility of Police brutality. I must say that the Police is doing a very good job, as we speak, because we are working closely with them in terms of getting this problem out of our system.

The First Hour Procedure is also important in the sense that it not only brings credibility to the Police Force but also reduces the *voir dire* trials in the courts – trial within a trial. Trial within a trial is when the hearing or the trial focusses on the confession that was made by the suspects to the Police in their record of interview and there were allegations of Police assault, or intimidation, or coercion or threat. That is why the courts have set aside trials or hearings just to focus on that, it is called *voir dire* or ‘trial within a trial’. So, when we have this First Hour Procedure, it reduces the

'trial within a trial', so it is getting a bit easier for the courts in terms of dealing with the matters and, of course, in also disposing of matters.

Talking about School Awareness, we have reached out about 7,000 students and that is the whole of Fiji. We have been to Queen Victoria School and to other schools, and in Tailevu, we have also been to Levuka High School. We have also been to Vanualevu schools, for example, All Saints, Labasa College and Labasa Sangam. We have also gone to the Western Division to Natabua High School, St. Johns College, and I must say that this awareness is very, very important because as you have seen that we do a lot of legal presentation in the court of law and talking about the drugs cases happening in Fiji now with *cannabis sativa*, marijuana, or even hard drugs, a lot of our students are also involved in that and they are being charged. That is how the courts had directed the Legal Aid Commission to assist in representing juvenile clients - children who are below the age of 18 years.

When we are reaching out to our high school students, we are trying to be proactive. Instead of being at the receiving end representing our children in court, we need to go back and try to help them not to even come to the court, that is all. So, that is why I mean of being proactive, and that is why this awareness is very, very important. Unfortunately, we have a limited budget for this, so with the limited budget, we are trying our very best to reach out.

Now, what we are doing is we are just trying to work smart. We are trying to look at events that we can be part of, to make sure that there is coverage in terms of awareness. For example, for those who are going to the islands now, the Kadavu Court Sitting is happening every four times a year, the Rotuma Court Sitting is happening every two times a year and Levuka Court Sitting is happening every month. The Lau/Lomaiviti Court Sitting is happening every four times a year as well, so while we are going out on these court trips in the islands, in the maritime and wherever, we are also trying to kill two or three birds with one stone, also making sure that as soon we are done from court, we are reaching out to schools to make sure that we are reaching out to them. We are thankful to the Ministry of Education that has given us approval, and this is for high school students that wherever we find ourselves in, delivery-wise, we can reach out to them. All we have to do is liaise with the Head of School, to make sure that they are not caught by surprise when we are coming. At least, a notice is given to them before we come. So, again, that is part of school awareness.

On Community Awareness that we have done, that is for adults, and we have been going from village to village. We have reached up to about 9,000 of them and that is something that we want to focus on, moving forward.

Our achievements, I must say that it is not much, but this is something that we are trying to do, not only to focus within Fiji but also to focus outside of Fiji. For example, the regional conference that we hosted some years back, I think in 2021, we brought in other Pacific Islanders, especially for those who are working in the same Ministry as us - the Public Solicitor's Office of Solomon Islands and Vanuatu and, of course, Papua New Guinea. In those countries, they are called 'Public Solicitor's Office' but in Fiji, it is called Legal Aid Commission, but we are still the same. So, that is the platform that we collaborate and network with.

We also build relationship to help each other and that has also led to something that we have just had recently, the Twinning Programmes. We have signed a Twinning Programme with Solomon Islands in April this year, then followed by Nauru in September, and we recently signed a Twinning Programme as well with Kiribati. I think in the next three weeks, we should be signing a Twinning Programme with Vanuatu and Papua New Guinea.

Fiji, I must say with all humility and with all the respect to all countries in the Pacific, we are leading in this area. Our Pacific Island families are coming over to Fiji to learn from us, so we in Fiji need to also look out for our brother and sister countries in terms of having to come to where we are. From next week, we will be having one of our senior lawyers training our Solomon Islands lawyers in Solomon Islands but fully paid by the Australian Government, for us to go and assist them, help them in terms of legal services but especially in the civil area.

We have kept on improving our efficiency and effectiveness in service delivery. What do we mean by this practically? For example, last year, when we used to draft Wills, the Wills will all come to Suva from wherever they are, to be vetted and then will be sent back. By the time, we send them back it is over six months, seven months and sometimes those who the Wills belong to have passed on. Since March last year when I took over, I made sure that we re-strategize and become efficient in this area. So, what we do is, we issue instructions for our Officer-In-Charge, wherever they are, to do that. Only when the Will is complicated, then they refer to us but even when the referral is done, we need to expedite the vetting and not even one month later, we send out the Will again after it is done. That is just on efficiency.

Another area that we looked at is before. we used to have this 14 pages application form. We relooked at the form last year and we worked on only three principles - we want to make sure that it is simple, it is practical and user-friendly to our people. So, we have reduced it from 14 pages to only four pages, which is very relevant and suitable for our people. So, that is what I am talking about efficiency and, of course, effectiveness.

Effectiveness also includes the training that we have been doing with the lawyers. As I have said, we are not getting any training from outside Fiji like others, we are using our own people who have been in practice for quite some time like me, to train our people with the little that we have, to make sure that we do the things we do with the best of our ability. By the Grace of God, we have been succeeding in doing this.

Another achievement that we have done is Community Outreach, like it was never done before. We have been to the maritime islands, and we thank the Government for their assistance. As I have said, we have never reached out to the maritime areas, so we are trying to reach the unreachable and help those who are out there in the islands.

Professional development, I have talked about that. That is one of the areas that we are working on. Even with the limited resources that we have, we are trying to build capacity spirit within our people and, of course, providing equal job opportunities as well is something that we have focused on. Regardless of race, colour or creed, we must offer our people equal job opportunities.

Another achievement we have as well is the digital platform. Like never before, we have moved into this online services, for example, now there are people who can apply from anywhere in Fiji through our online portals and using legal services from wherever they are, so we want to enhance that moving forward.

In terms of challenges, Mr. Chairman and honourable Members, lack of staff in all offices is still an issue. That is why we have asked the Ministry of Finance if they could help us so that we can reduce the number of files that our lawyers carry so that they can be efficient and be effective in what they do. One thing that I discovered when I took over the Office is that the quality of work is compromised because of the so number of cases that we have. We cannot do much.

I remember, I was asked by one of the consultants way back in 2015. He asked me a frank question looking at the number of files that we carry, "Do you agree with me that the quality of the work is compromised because of the high workload?" I said, "Yes, we cannot run away from that in an escapable act." So, that is something that we are dealing with. We are grateful to Government for allowing us to take another 30 staff and right now, the recruitment is underway in this financial year.

Another challenge is the lack of proper training on current developments in the law, for example, cybercrime, child representation, white collar crimes such as money laundering. I know that we should be able to do justice to our people if we are properly trained in this area.

Another challenge is the language barrier - the lack of translators that we have, clients and, of course, members of the public with special needs. I do want to tell you a story that happened some years back. The thing was, we did not have the budget to get translators. I was conducting this case and it was so fortunate that I had attended QVS where I remembered we used to do sign language back in school. This is with regard to cases, like rape cases. All I could do was, with the little knowledge of sign language, I managed to convey to him the allegation because there was no translators. There was no one there to do the sign language, et cetera. I tried to use my lips, he could not read my lips, he was saying something else, and I thought to myself, "No, this is not connecting". So, did another sign so that I can get the message across, so there is still a challenge with us.

Another challenge is lack of funding for awareness and, of course, generally our budget as well. We cannot do much, but we just have to work within the budget given to us. Of course, most of our Offices are not disability friendly in terms of accessibility. This is something that we are working on but with the new office that is about to open in Nausori, we have made sure that that is also factored in. We made sure that we are sensitive to our special needs members of our community in our country. I think those are basically our operations, Sir.

Lastly, in terms of future outlook, we want to keep on strengthening what we have. We cannot be complacent, although we are re-strategizing. We are coming up with an initiative to make sure that our work is efficient and effective, but we do not want to be complacent, we want to keep on raising the bar in terms of our service.

On of the things too with accessibility, we will keep on reaching out to our people to make sure that no one is left behind in terms of the services, especially those in the maritime areas. These are the people who are mostly forgotten. We also want to continue to enhance the digital service that we have - the online services and, of course, collaborate with key stakeholders.

Right now, in Fiji, we do not have a system where we can connect from our office to the Judiciary - e-filing, e-services, and all those services, like in overseas. In that way, it speeds up the disposal of matters in court. But right now, we do not have that service, and that is something that we are trying to look for sponsors for so that we can get something on this important service.

Another one is staff development, as I have said. We are looking at those who can do trainings for us so that we can continue to enhance and maintain high quality service development and, of course, regional co-operation and collaboration.

In the next few days, I will be leaving for a meeting in the Solomon Islands to assist our sister countries in bringing their services up as well. I am not saying that Fiji is perfect, but they are looking at Fiji as Fiji is leading the way, and they want to tap on our strength. For example, in Tonga, they do not have any Legal Aid Commission office so we are trying to reach out to them. I know this is going to be a bit of work and it begins with a political will.

Mr. Chairman and honourable Members, I think that is our presentation and I am ready for any questions that you may have.

MR. CHAIRMAN.- Thank you, Director. We thank you for that presentation and thank you for sending it in advance to us. I have had a look at your presentation also last night. If I can just explain, I am not sure how many of you had appeared before in this Committee. I will explain to you the process that we go through.

When your Annual Reports are tabled in Parliament, it is then referred to a Standing Committee. Parliament has six Standing Committees and, as you have heard, this is the Standing Committee on Foreign Affairs and Defence. In normal circumstance, your report usually goes to the Standing Committee on Justice, Law and Human Rights but I think Parliament is trying to ensure that all outstanding Annual Reports that are tabled in Parliament are dealt with. Our Standing Committee were given some of the Annual Reports, reports that would normally go to other Standing Committees but they have some pending Reports to deal with, so we got hold of your Annual Report from the Legal Aid Commission.

For us, it is both educational for us to understand the Commission better, the reason why we had asked for this meeting this morning. It is a pity that our audio is not working, otherwise, this could have doubled up as one of your outreach programmes where the members of the public could also listen in and understand the work that you do. They may even have questions, and we could have generated back to you.

The Committee, after this, we then write a report which is called a Review Report of your Annual Report, plus what we gather from the discussions that we will have, and we will table that Report back to Parliament - the Review Report. It is that Review Report that will have recommendations from us and that is the report that is debated in Parliament. You will hear Parliament debating on your Annual Report but that we will be debating on the Review Report that we have put together and submitted back to Parliament. Usually, when we table in Parliament, the Report is sent across to you, including the recommendations. We will send a copy across to you and it is accessible in the Parliament website once that is tabled in Parliament. So, that is the process.

We are thankful, as a committee, to get your Annual Report. It widens the scope a little bit for us. Usually, we deal with all the Treaties and Conventions that come to us. We look after the Police and Military Offices. This is also educational for us but thank you for your presentation. Thank you for what has been said so far this morning.

I will open the floor for some questions and answers, a little bit of *talanoa* session, if you will, and I hope you can help put some meaning to this Report that we are going to write so that it becomes useful to you and also useful for Government and the debate that will ensue. Thank you.

HON. I. TUIWAILEVU.- Mr. Chairman, through that, I have a question to the Director, once the applications are received, how many were addressed by the Commission?

MR. S. WAQAINABETE.- As we speak, Mr. Chairman, we have 13,766 active files. These are the files that we have approved because we have a means test. Not all who apply to us will get their application approved. They will need to meet the threshold, criteria that is set by the Government through the Board, which is 15,000 and below. So, right now, those who have been approved, the number is 13,766. So, the matters are before the courts and, of course, for non-conventional matters, they are also before the registries, for example, probates, at the Titles Office, transfers, et cetera. So, all in all, 13,766.

MR. CHAIRMAN.- I have a question and I ask this question to all those who come in to do their submission. If you have a magic wand and I say, "Wave it and say whatever you want", which is the priority that you need for your organisation right now, what would it be?

MR. S. WAQAINABETE.- Right now, our need would be staffing.

MR. CHAIRMAN.- So, you have said you are recruiting an additional 11 lawyers?

MR. S. WAQAINABETE.- Yes.

MR. CHAIRMAN.- In your presentation, you have lawyers and also corporate staff. So, it is in the lawyers' side?

MR. S. WAQAINABETE.- In the lawyers side, we need the assistance, Sir.

MR. CHAIRMAN.- So, for those 11 that you are getting, will that fill in all the vacancies or you will still...

MR. S. WAQAINABETE.- Not all. We prioritise the areas that staff are needed more than others because we cannot get everything that we want. So, I think our need, as we put before the Ministry of Finance, it was around 58 but they have asked us if we could give them the number and they can assist, and I gave them 30. Even these 30, their salaries are taken out from our Trust Account and not from the Ministry of Finance. Unfortunately, we have not been given the budget to accommodate that, so we are covering, and they have given us approval to use our Trust Account for the 30 positions.

HON. R.R. SHARMA.- Mr. Chairman, through you, in terms of the walk-in and digital submissions. Firstly, I would like to know the response time when someone applies digitally? Which is working out for Legal Aid - walk-ins or digital submissions where you receive more applications or concerns and you have staffing within the Legal Aid who conducts these responses to the citizens or is it preferred that Legal Aid, in the future, outsource it?

MR. S. WAQAINABETE.- Mr. Chairman, first of all, in terms of outsourcing the work of receiving applications that are filed, right now, we are not considering outsourcing it to others because if we have to outsource to others, we have to pay others. For example, right now, we have to brief lawyers. When there is a conflict, for example, the mother is with us, the father is with us and the child is represented by someone else in the family, then that is a conflict matter for us. So, we need to brief on that matter too to someone else and we are paying good money as well to brief our lawyers to be able to do that. So, if we are going to brief this work again, of course, it is going to cost more to us. Right now, all we do is even lawyers are also helping in the front so we are trying to get the assistance from everyone, I mean, multi-skill them so that they can also assist our people, especially when we lack staff and do not have the staff complement.

Now, coming to the next question on digital time, digital application is very fast. I think it only takes a few days for an application to be written in terms of application online. Now, the numbers that we receive in terms of walk-ins and those who use digital services, walk-ins is far greater than those who are using the online portal. I think it is because of connectivity issues for those who work on the islands, and we understand them, qualitative issues and, of course, a lot of our people are still used to walk-ins. As much as we tell them that there is an online portal, they still walk in, so we cannot do much. We cannot push them away, so we just have to accept them. So, walk-in applications is far greater than digital applications.

MR. CHAIRMAN.- I will just go back to your staffing. I was looking at the number of resignations in your 2022-2023 Annual Report, you have 44. Those resignations are coming from the Corporate staff or from lawyers? Is there a reason for that number of resignations that you have?

MR. S. WAQAINABETE.- Mr. Chairman, that is a very good question, a very interesting question to me. In terms of the resignation of staff, more lawyers are leaving. The reason being, yes, for greener pastures because we cannot afford the salary that is offered by others. For example, between the three Offices and I am not saying this because I have anything against the two Offices - DPP's Office and FICAC, but our lawyers are the lowest paid lawyers.

MR. CHAIRMAN.- Between FICAC and DPP?

MR. S. WAQAINABETE.- Yes, both FICAC and DPP. However, when you look at the workload, they both agreed that our workload is far greater than them because we do all and we are the ones who receive the members of the public. As for them, they focus on their own crime, on their own victims, and they mainly deal with the police officers with their own investigations. As for us, we are the only Government Ministry that the Government is relying on to serve the people.

My Office receives referrals from everywhere and looking at the salary, we cannot afford that. For example, to be frank, the salary of our Assistant Director begins at \$62,000 and up to \$85,000 but for DPP's Office, their Assistant Director begins at \$106,000. So, how can we deal with that? I am not also ashamed of saying this. The Director salary is from \$126,000 to maximum of \$150,000 but the baseline of the payout of DPP is \$200,000 to \$400,000. So, the maximum with Legal Aid Commission is not even close to the baseline, not even Step 1 of DPP's Office, and FICAC is even more. So, it is the passion of the work that keeps our staff going. I have been with the Commission for almost 15 years, and it is because of my desire to serve our people.

MR. CHAIRMAN.- Just to add on to that question, but you do not have a shortage of lawyers that come in when you advertise and say for example, we need 11 more lawyers? You do not have a shortage of people that can...

MR. S. WAQAINABETE.- We do not have a shortage but in terms of the expertise, that is where the shortage comes in because it takes time to build someone to come to that level again. In this area, just like any other area, it takes time to invest in our people. It takes time to build capacity with them. For example, for those who are very good with criminal matters, especially with High Court, for murder cases, you need to, at least, have five, six, seven or eight murder cases before you can master that area. For sexual offence cases, you need a number of cases to begin with to have that expertise in that area.

Another big area now is cybercrime. Fiji has just passed its Cybercrime Act, I think it is two years or three years old now, and still very new. When you look at the Cybercrime Act, a lot of offences there are to do with computer offences and none of us has had any training in that area. There were trainings conducted but for DPP's Office and FICAC, none for Legal Aid Commission. That is why we have been asking, "Please, do remember us." I know that it is also their own interest that we should be kept out so that we can build ourselves up, but it is unfortunate because we will not be able to do justice to our people who are facing charges in those areas.

HON. R.R. SHARMA.- Mr. Chairman, through you, just to add on to that, we went through the Fiji Intelligence Unit Report as well and one recommendation that was taken in is they deal with the Fiji Police Force, FRCS, FICAC and you see, Fiji as a drug hub, that means a lot of huge money is broken down into small sums and comes through mobile network, money laundering, et cetera. I

hear you out clearly to be part of as recipient of FIU and that they also helps in your professional capacity building as well. In terms of IT, in terms of when a tangible application is written, do you have a process where you convert to digital? Is it stored? How is that updated and protected? Can you just elaborate on this aspect?

MR. S. WAQAINABETE.- Thank you, honourable Sharma. Perhaps, if I could just ask our Manager IT to answer that question.

MR. N. SINGH.- Mr. Chairman, Sir, all the applications we receive through digital platform or even walk-in are converted on a digital platform called Client and Case Management System (CCMS). This is protected through Microsoft, and we are using a special software called WatchGuard for any ransomware or malware attacks. We do have security certificates which is confidential between Microsoft and Legal Aid Commission at all given times, so any data breach would be known by us, if there is any.

HON. R.R. SHARMA.- Mr. Chairman, through you, has there been ever any?

MR. N. SINGH.- There has not been any for the past five years.

HON. R.R. SHARMA.- Thank you.

MR. S. WAQAINABETE.- Mr. Chairman, for us at Legal Aid Commission, we do not go through ICT as well, we are on our own. So, our system is very secure through Microsoft, but we have to pay a lot of money for licences in terms of maintaining all these data with them. But as I have said, it comes with the cost, but it is secure. So, when ICT system was down, we were never affected.

HON. R.R. SHARMA.- Mr. Chairman, previously, you spoke about the salary. I know that there is a big disparity in terms of what we get here and overseas. With the Civil Service wages increment, has there been increment?

MR. S. WAQAINABETE.- Unfortunately, we do not fall under the Civil Service, but they gave us an increment of 8 percent, for us and DPP's Office. The DPP's Office has already but again they are given.

We have also done our Job Evaluation Exercise last year and, of course, the new salary has been raised after being approved by the Board. Unfortunately, we did not get the budget for that. At least, we have come closer to them, not equal with them but come close to them. That has also been denied but we are looking forward in the future that this will be considered. Otherwise, we will keep on losing our people.

We have lost a lot of our lawyers to Nauru, Marshall Islands, the Federated States of Micronesia. Twelve of them have left for the bench for Judiciary. You have probably heard of a lady, Ms. King, who is now the Magistrate in Nadi. She left, I think, about three months ago and I do not have the money to keep her. In fact, her salary is far more than the Director, so I myself cannot keep her.

MR. CHAIRMAN.- Just a quick one as we round up, do you have a toll-free number that people can call very quickly when they need some help from the Legal Aid Commission?

MR. S. WAQAINABETE.- Unfortunately, Mr. Chairman, we do not have a toll-free number but we have our mobiles all over Fiji for people to contact, especially the First Hour Procedure phone is always on. I know that sometimes, there are some problems with it, but we are trying to make sure that they are always online. For example, for the First Hour, the lawyer is there, and a lawyer can pass it to another lawyer, sometimes they do not charge it.

MR. CHAIRMAN.- Just the mobile phone?

MR. S. WAQAINABETE.- Yes, being passed all over Fiji. In one office, we put one mobile phone for that purpose and, of course, for any new case as well that comes in and that is how we have been looking after those who call. But for toll-free line, that is something that we are thinking about in the future but, again, it comes with a cost. If we can get a budget for that, then it can be a good way to increase or enhance our assistance to our people.

MR. CHAIRMAN.- That is a valid recommendation, if I can say now, for the Commission to have a dedicated line where someone answers the call and then pass it on to whoever.

MR. S. WAQAINABETE.- I was even thinking, Mr. Chairman, because this is what I saw in South Africa, for them they have a Call Centre. They have about 20 of them they also work in shifts as well. All those who work there focus on this online, calling and those who are doing this kind of contacting, they just respond to all that.

MR. CHAIRMAN.- I know that the Civil Service have a call centre and it is outsourced to CentreCom and they are 24/7. I may be wrong in 24/7, but they work definitely after working hours. That could even work if we call that number which is available and then they direct it to you. But we will see what we can put in. I see that perhaps, there is a need to help, given the number of people that require your services and to make sure that you are accessible to the public. That can be done.

HON. R.R. SHARMA.- Mr. Chairman, just for clarity, for the First Hour Procedure, my understanding was that the Police would contact you?

MR. S. WAQAINABETE.- Yes.

HON. R.R. SHARMA.- Let us say it happens on a Saturday night or someone comes in on a Sunday morning, so what happens then?

MR. S. WAQAINABETE.- Coming into the police station?

HON. R.R. SHARMA.- Yes.

MR. S. WAQAINABETE.- This First Hour Procedure service is 24 hours a day, seven days a week. So, the lawyers are rostered all over so you will see our vehicles going at night and in the morning all around and lawyers, as I have said, are rostered. We do not only wait for the Police to give us a call, but we also rely on the tip-off from the members of the public. For example, a father will call one of us and say, "My son has been taken by the Police this morning, please ..." For me, a lot of times I attend to these tip-off calls and when we turn up, the Police are asking again, "Who told you to come?" We will try to put it to them, "It is someone, but you do not have to really focus on who called. Please, is this person in? Please, can I afford the First Hour Procedure?" In a kind way, knowing that that is the different territory on its own. So, we have taught our lawyers to be very police, to be very humble and be so kind like a dove but to be wise like a snake because we know that, that is not a civil matter. From there, it will end up ultimately in court. So, how you build a

case from the very beginning is very, very important. And, of course, our lawyers are being taught that since we do not have any investigators, they have to be wearing two hats all the time - as a lawyer and as an investigator.

HON. I. TUIWAILEVU.- Mr. Chairman, through you, Director can you enlighten us regarding the contribution of the main source of revenue for the Commission?

MR. S. WAQAINABETE.- Mr. Chairman, we do not receive any funding from anywhere but from gGovernment through the Ministry of Finance. The Trust Account, as I have talked about, is only a little portion from the private lawyers that gets into the Trust Account and comes to us. It is very little money, but we have been keep it for any rainy day. For example, the 30 new staff that we have got, we have been directed by Ministry of Finance to take it from the Trust Account, but with their approval.

HON. I. TUIWAILEVU.- Mr. Chairman, is there any fee charged for the general public?

MR. S. WAQAINABETE.- We do not charge any fees.

HON. I. TUIWAILEVU.- Thank you.

MR. S. WAQAINABETE.- Even if we have to charge, we have to amend the Act again. I know that there have been talks to review the Act but well, we can only talk about it now, until the Act is reviewed, then we can charge. Otherwise, we will be doing something illegal, and my head will be on the chopping board, doing something illegal. Unlike in Papua New Guinea, they charge fees and they get some fees from others as well. Perhaps, we can consider that in the future but, again, the Act needs to be reviewed first.

MR. CHAIRMAN.- So, First Hour is just one hour means test - \$15,000 and below, and then they get the services for free?

MR. S. WAQAINABETE.- Yes. For criminal matters and family matters, it is just means test but for civil matters and the appeals cases, they need to pass the merit test. In other words, they have a chance of success for their matters. Otherwise, there is no point in taking over their matters.

In talking about merit test, although it is \$15,000 but we can still consider in our exceptional circumstances, for example, a female medical officer applied to our office, and we gave her assistance. Although she was earning around \$67,000, that is far above the \$15,000. But we will need to look at her income and expenditure, for example, for her, she has been separated from her husband, they have five children, and the husband never assists her. So, she is paying for the house, she is paying for the land, she is paying for her three children's fees at USP (private students), as well as their daily sustenance. So, that is how we approve. Again, it is on a case-by-case basis.

MR. CHAIRMAN.- It is \$15,000 net?

MR. S. WAQAINABETE.- Yes, but for those of you \$15,000 below, it is clear, but for those above \$15,000, we really need to look at the means test properly. But when it comes to income and expenses, it is almost they are saving nothing.

MR. CHAIRMAN.- I think we will end it there and I hope that if we have further queries, we will direct it to your office and if you can just send us some clarification from you if there is any. Our aim is to get this report written ready and to be tabled in Parliament in the next Sitting in

December, so between now and then, I am asking that if we have points to clarify, we will write to your office and you can help us in that regard.

On that note, if I may, on behalf of the Committee Members, thank you very much Director and your team. First of all, thank you for the work that you do, in providing that services to the members of the public. We have heard the challenges that you face, and we thank you for continuing this big service to the public when it comes to allowing our citizens to access legal services as a right, I suppose, as it is enshrined in the constitution.

Thank you so much for accepting our invitation - a very quick invitation, to come in and speak with us this morning. As I have said, this is a little bit out from our mandate - Standing Committee for Foreign Affairs and Defence, from the usual ones that we deal with and we are very familiar with, however, this is very educational as well for us and also allowed us to make sense of your Annual Report and to be, perhaps, correct (if you like) in the Review Report that we are going to write and table back to Parliament.

Thank you and I wish you well in the work that you do. Thank you members and I forgot to introduce hardworking Secretariat - Sue and Tatila from *Hansard*, who is with us this morning. With that, I declare this meeting closed.

The Committee adjourned at 10.20 a.m.

Written Responses



LEGAL AID COMMISSION

PRESENTATION BY : SEREMAIA WAQAINABETE
DATE: 05TH NOVEMBER 2024

WHO WE ARE

Statutory body governed by the Legal Aid act 1996 and the Legal Aid Amendment act 2009.

Given recognition under the Fijian Constitution 2013.

ROLE

To provide free legal aid services to those members of the public who cannot afford the services of a private legal practitioner.

VISION

To provide access to justice through professional, efficient and quality legal aid services.

Mission

To provide access to justice through quality legal aid services:

- To those who are unable to afford such legal assistance including women, children and those with special needs.
- By raising awareness on legal rights.

WHO WE ARE

Mission

- By creating a work environment wharaby the Legal Aid Commission becomes an employer of choice.
- By making representations to Government on Legal Aid Commission matters.
- By ensuring that the Legal Aid Commission operates in accordance with best international practices.

Values

As the Legal Aid Commission navigates the complex and dynamic landscape of the legal profession, these values serve as the compass that steers us towards excellence, integrity, creativity, and client-focused service.

Client Focus

We will serve our clients with diligence and passion.

Quality Legal Service Delivery

We are committed to providing legal services that are of a high standard.

Good Governance

We will ensure that the principle of good governance is upheld.

Professional Advancement

We are committed to the development of our people.

Innovative

We are committed to continuously develop and improve our services through creativity.



OUR REACH

- 24 Offices across Fiji
- Suva - 3 Offices (Head quarters /2 Specialized units)
- Viti Levu - 13 Offices (Nasinu, Nausori, Vunidawa, Korovou, Navua, Sigatoka, Keiyasi, Nadi, Lautoka, Ba, Tavua, Rakiraki and 2 Specialized Units)
- Vanua Levu - 5 Offices (Labasa, Nabouwalu, Seaqaqa, Savusavu, Taveuni)
- Outer Island - 3 Offices (Levuka, Rotuma and Kadavu)
- 215 Total staff (103 Corporate Staff and 112 Lawyers)



KEY SERVICES PROVIDED

- **Legal Representation:** Family , Criminal, selected Civil cases and Child Rep.
- **Legal Advice & Education:** Free advisory services, community outreach, and workshops.
- **First Hour Procedure & Duty Solicitor Scheme:** Immediate legal support for detainees.



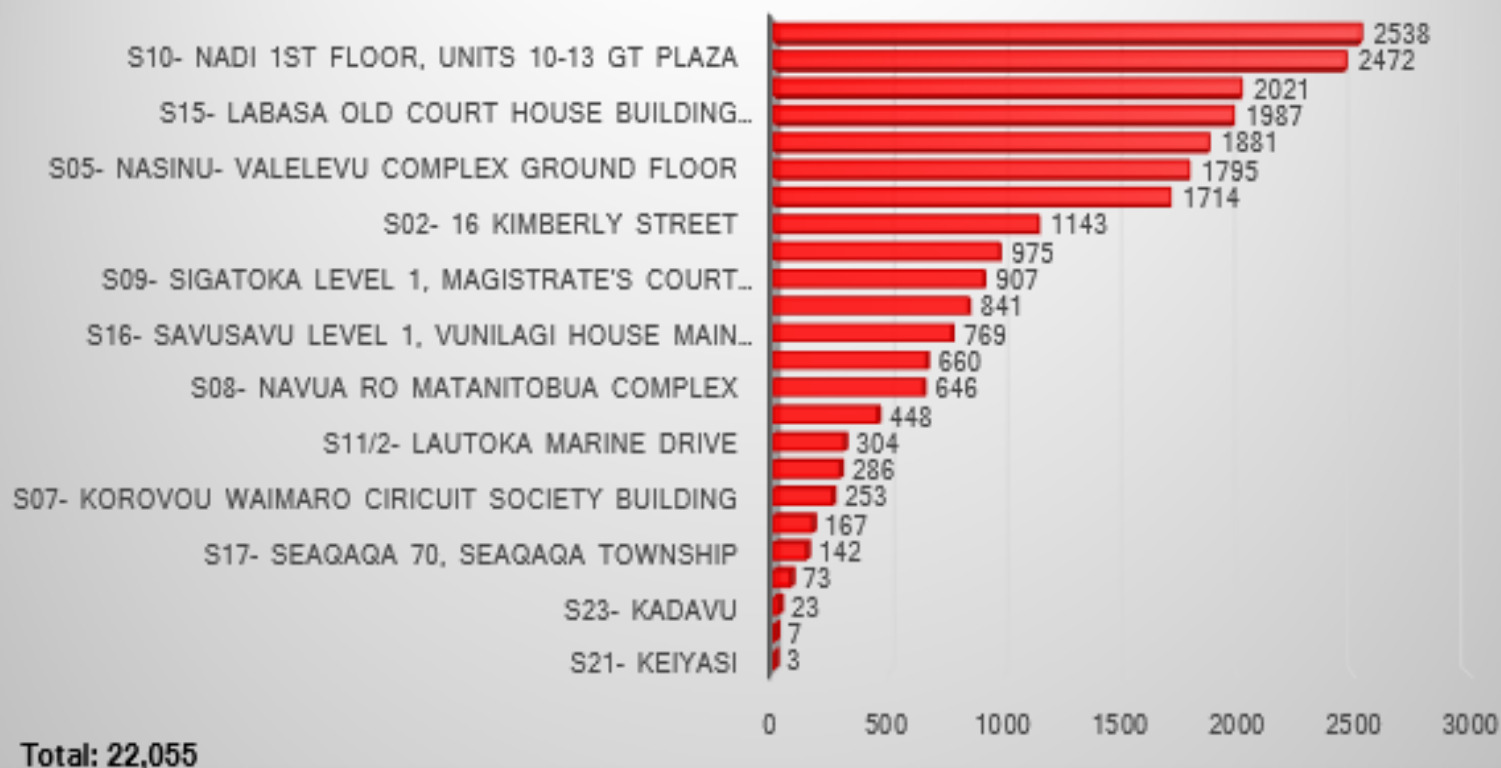
STAFF GENDER SEGREGATION

Year	Total Employees	Male	% Male	Female	% Female	# Women In Leadership Role	% Women in Leadership Role
2018-2019	188	72	38%	116	62%	15	13%
2019-2020	189	76	40%	112	59%	18	16%
2020-2021	188	74	39%	114	61%	14	12%
2021-2022	176	68	39%	108	61%	17	16%
2022-2023	212	88	42%	124	58%	19	15%
YTD	215	92	43%	123	57%	21	17%



BRIEF SUMMARY OF THE WORK AT LEGAL AID COMMISSION

Total Applications Received By Location (August 1st 2023 To Date)



TOTAL ACTIVE FILES

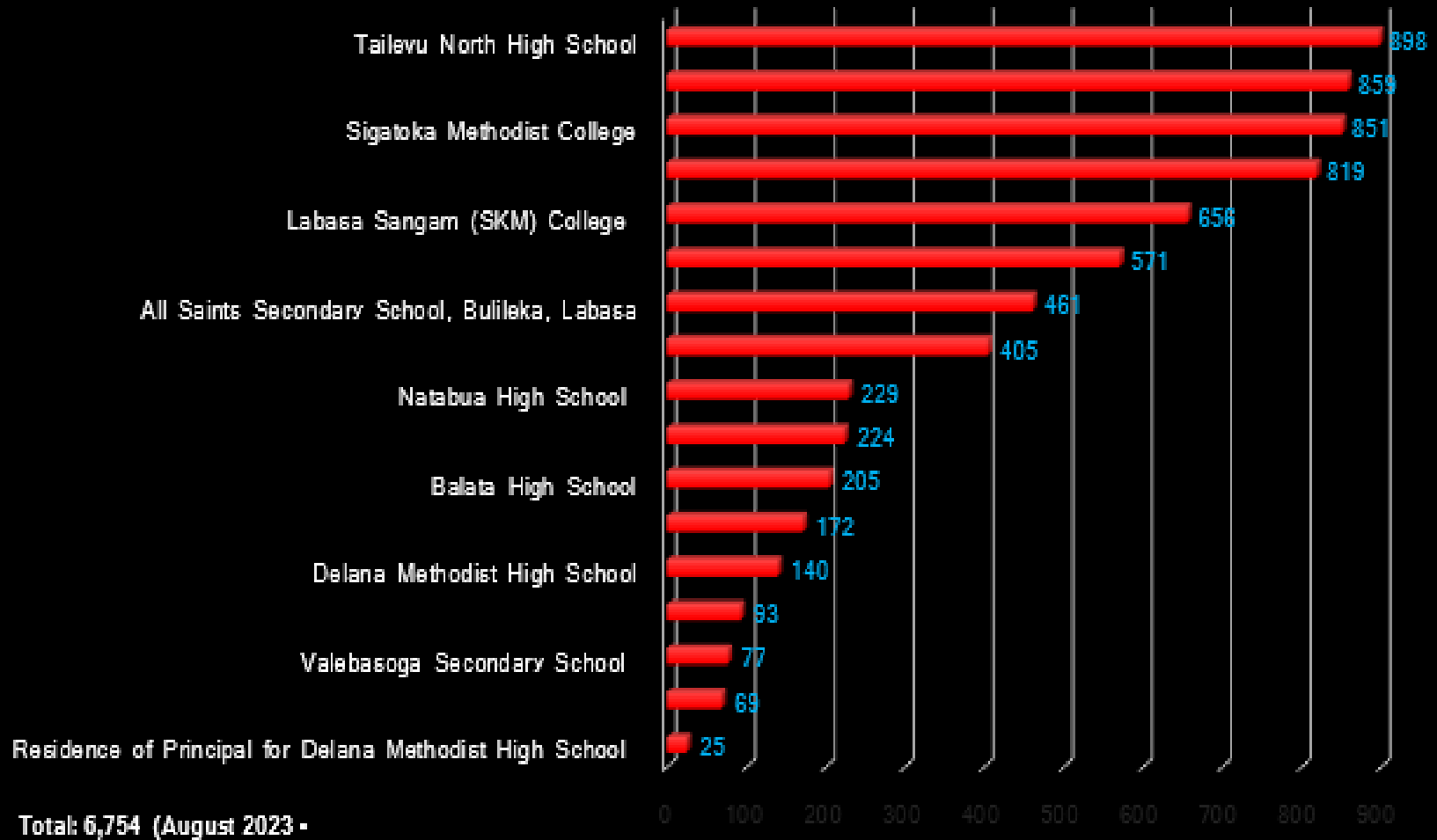
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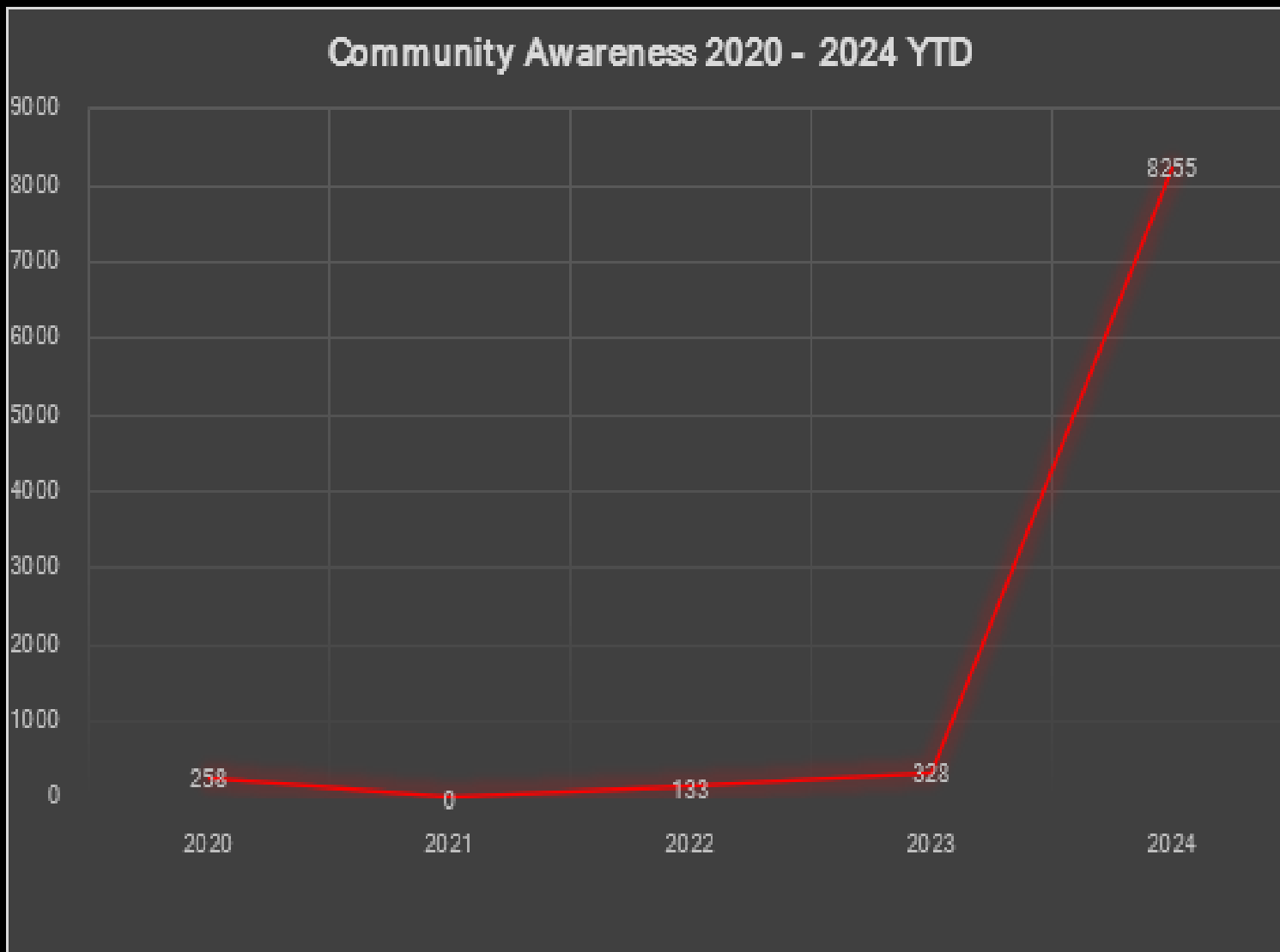
FROM AUGUST 2023 TILL DATE

First Hour Procedure Per Year (YTD 30th October 2024)

	Adult			Juvenile			Total
	Adult Male	Adult Female	Adult Total	Juvenile Male	Juvenile Female	Juvenile Total	
2016 (OCT-DEC)	204	33	237	9	2	11	248
2017	1237	134	1371	20	2	22	1393
2018	1534	268	1802	34	6	40	1842
2019	1390	232	1622	24	6	30	1652
2020	894	138	1032	29	9	38	1070
2021	1087	154	1241	32	5	37	1278
2022	1797	279	2076	92	8	100	2176
2023	1880	269	2149	108	15	123	2272
2024 (Jan - Oct 2024)	1228	199	1427	78	6	84	1511
Grand Total	11231	1703	12934	426	59	485	13,442

TOTAL SCHOOL AWARENESS ATTENDANCE BY LOCATION





Total: 8,974

ACHIEVEMENTS

Regional Recognition: Hosted Pacific Legal Aid Conference, fostering international collaboration.

Improved Access to Justice (Client Focus) - Efficient and Effective Service Delivery.

Community Outreach: Increased awareness through roadshows and local office openings.

Professional Development: Workshops, staff training (Local and Oversea) and retention program, promoting mental health and wellbeing.

Providing Equal Job opportunities.

Digital Platforms: Allowing Clients and Public to use Legal Aid services from across the world.



CHALLENGES :

- Lack of staffing In All Offices (Ratio as of October 2024 was 121 Cases/ Lawyer).
- Lack of Proper Training for Current Developments In The Law (E.g, Cybercrimes, Child Representation, White Collar Crimes Such As Money Laundering And Etc.)
- Language Barrier : Translators for Clients And Mops With Special Needs (Sign Language) And Foreigners.
- Lack Of Funding For Awareness To Be Conducted In The Remote / maritime areas of Fiji.
- Most Of The Offices Are Not Disability Friendly In Terms Of Accessibility
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FUTURE OUTLOOK :

Expansion: Enhance accessibility to Legal Aid Services.

Enhance the Digital Services (Online Services and Collaboration with key Stakeholders).

Staff Development: Focus on training programs to enhance and maintain high-quality service delivery.

Regional Cooperation and Collaboration.

