



# REPORT

## FIJI LAW SOCIETY

### I. Overview of the Member Organization

1. The Fiji Law Society (FLS) was first formed in 1956, although records indicate the existence of a legal profession in Fiji as early as the 1890s. FLS was established under the Legal Practitioners Act 1996 (1996 Act) as both a professional association and disciplinary body for lawyers. Mandated under the Act 1996, FLS was responsible for registration of lawyers, issuing of practicing certificates and handling complaints against its members. Under the 1996 Act, it was mandatory for all lawyers to join and become members of FLS.
2. However, in 2006. The 1996 Act was repealed and replaced by the Legal Practitioners Act 2009 (2009 Act). Under the 2009 Act, the responsibilities of FLS was confined only to maintaining and improving the standards of conduct of its members. While the responsibilities of registering new lawyers, issuing of practicing certificates and handling complaints was given to other judicial bodies. The new 2009 Act continues to recognize the establishment of the FLS but made membership of the FLS voluntary rather than mandatory.
3. The FLS Council is the governing body of the FLS. There are 8 members in the Council who are elected annually by the Annual General Meeting of the FLS. We are pleased to announce that two new members of Council were elected at our last AGM: Ms. Bhumika Khatri, a young lawyer who resides in Suva and Mr. Nemani Vakacakau, a young lawyer based in Lautoka. The current Council members for 2022 – 2023 are;

William Wylie Clarke	<b>President</b> <a href="mailto:fjilawsocietypresident@gmail.com">fjilawsocietypresident@gmail.com</a>
Wati Seeto	<b>Vice President</b> – <a href="mailto:wati@rbf.gov.fj">wati@rbf.gov.fj</a>
Arthi Swamy	<b>Secretary</b>
Seruwaia Nayacalevu	<b>Treasurer</b>
Mele Rakai	Council Member
Ashnil Narayan	Council Member
Nemani Vakacakau	Council Member
Bhumika Khatri	Council Member

### II. CURRENT ISSUES

#### General Elections

4. Fiji will hold general elections on 14 December 2022. The announcement was made on 31 October 2022 and a writ of elections was issued on 1 November. This follows a prolonged period of uncertainty about when elections would be held.
5. The Fiji Law Society expressed its strong concern about Electoral Amendment Bill No.49 which was introduced to Parliament on 29 August 2022 and passed on 2 September 2022 after one hour's debate. We were particularly concerned and remain concerned because the new law gives the Supervisor of Elections power to compel any person to produce any document or information notwithstanding that the information or document may be subject to legal professional privilege. There was no consultation whatsoever prior to the Bill being tabled in Parliament and passed.



### **Richard Naidu Contempt Case**

6. A prominent member of our bar, Mr. Richard Naidu, is currently facing a charge of contempt in relation to a Facebook post that was published in February 2022 and for which proceedings were issued in July 2022. The subject of the charge is that Mr. Naidu published a photograph of part of a recent judgment in which there were typographical errors by which the word “injunction” was wrongly spelt “injection” which he commented on and attached an emoji.
7. The core of the complaint is an assertion that as a legal practitioner, Mr. Naidu should have brought the errors to the attention of the High Court registry rather than publish them.
8. The Fiji Law Society applied to intervene in the proceeding on the grounds that the charge raises issues that concerns professional standards, are of great public interest, the rule of law and public confidence in the administration of justice. The application was refused.
9. The matter is set down for hearing on 10 and 11 November 2022. We will be paying close attention to the case.

### **Dismissal of the Solicitor General**

10. The Fiji Law Society also issued a very strong statement of concern regarding the dismissal of the Solicitor General, Mr. Sharvada Sharma, in November 2021. Mr. Sharma commenced judicial review proceedings and his leave application was heard in February 2022. No ruling has been issued as of yet.

### **“Women Voters Case”**

11. A number of women affected by an electoral law change that requires them to register to vote using the name on their birth certificate rather than their married name and/or name by which they are known, instituted a constitutional challenge to that law in the High Court. The matter was heard in February 2022 and no decision has been issued as of yet.

### **Other activities**

12. The main event for FLS this year was the LAWASIA ADR Conference which FLS had co-hosted, and it was held in Sofitel, Denarau from the 9<sup>th</sup> – 10<sup>th</sup> September, 2022.
13. The second main event that FLS will participate in is the 35<sup>th</sup> LAWASIA Conference that will be held face-to-face in Sydney, Australia from the 18<sup>th</sup> – 21<sup>st</sup> of November, 2022, at the Hilton Sydney.
14. FLS has also partnered with Citizens Constitutional Forum (CCF) to facilitate three workshops that will up skill CSO lawyers and other lawyers with the knowledge and skill-sets needed to tackle issues such as Constitutional Redress and Human Rights. So far FLS and CCF have successfully facilitated the first two workshops, the first one in Suva (22/10/2022) and the second workshop was held in Lautoka (05/11/2022). The third workshop will be held again in Suva but at the end of January 2023, or early February 2023.
15. Fiji Law Society is also developing a partnership with Fiji Council of Social Services to raise awareness about legal rights, legal issues and advocacy in relation to climate change and environmental law awareness for marginalized and affected rural communities in Fiji. We aim to do this with the support of Ashurst Australia and a number of Australian law firms.
16. Fiji Law Society is also developing a partnership with V-Lex that we hope to undertake with South Pacific Lawyers Association for the digitization of important South Pacific case law so that it is easily accessible and searchable.



17. FLS will partner with FCOSS and APR2P in the planning, drafting, establishment and funding of the project, “Early Warning Mechanism for Atrocity Prevention”.

William Wylie Clarke  
PRESIDENT  
08.11.22