



25 November 2022

## **LAWASIA STATEMENT ON CHARGE OF CONTEMPT AGAINST FIJI LAWYER RICHARD K NAIDU IN FIJI**

LAWASIA is deeply concerned about the Attorney-General of Fiji's pursuit of a charge of contempt against Fiji lawyer Richard K Naidu. This has led to the High Court of Fiji finding Mr Naidu guilty of contempt over a trivial post on his Facebook.

Mr Naidu has a long record of advocating for human rights, and particularly freedom of speech and expression. This advocacy has been critical of the unfair treatment of individuals by the military and governing authorities in Fiji.

The United Nations Basic Principles on the Role of Lawyers require States to ensure that lawyers are not subject to intimidation, harassment or interference, and are not threatened with prosecution, in the performance of professional duties, standards and ethics. The Declaration of Human Rights Defenders makes clear that States must take all necessary measures to protect human rights defenders, including lawyers. It is universally accepted that without lawyers, there is no defence and no protection of precious human rights.

In the recent report to the United Nations General Assembly (18.6.2022 – 8.7.2022), the Special Rapporteur on the independence of judges and lawyers recommended that *"States should take all necessary measures to ensure the free exercise of the legal profession, in all circumstances, so that lawyers may exercise their legitimate professional rights and duties without fear of reprisal and free from all restrictions, including judicial harassment"*

The charge of contempt for scandalizing the court by Mr Naidu is unduly harsh and disproportionate to his Facebook posting in relation to a spelling error in a judgment. It is to be noted that this category of contempt of court has either been abolished or is generally only resorted to in exceptional cases where there is bad faith on the part of the alleged contemnor that has caused a real risk of undermining public confidence in the judiciary. It does not appear that the burden of proof of the contempt has been satisfactorily met by the prosecution in Mr. Naidu's case.

The legal professions of our countries across the region including Fiji enjoy strong relationships developed over decades. These friendships are anchored in our mutual respect for the rule of law, and our shared commitment to promoting and upholding the rule of law both within and across our borders.

LAWASIA calls upon the Fiji Attorney-General to restore that respect for the rule of law and move the Court to set aside the conviction and take no further steps against Mr Naidu.

### **The Law Association for Asia and the Pacific (LAWASIA)**