



PACIFIC ISLANDS LAW OFFICERS' NETWORK

39TH ANNUAL MEETING (VIRTUAL)



COUNTRY REPORT: REPUBLIC OF FIJI

5 November 2020

CONTENTS

<i>Topics</i>	<i>Pages</i>
1. Major Law and Justice Sector Achievements.....	3
2. Significant Court Decisions.....	6
3. Significant Law Reforms.....	7
4. PILON Strategic Priorities.....	10
5. Significant Initiative/Project in the Law and Justice Sector.....	11
6. Technical Legal Assistance.....	12
7. Contact Information for Key Law and Justice Agencies.....	13

MAJOR LAW AND JUSTICE SECTOR ACHIEVEMENTS

Ministry of Justice

The Ministry of Justice is responsible for administering and delivering services through its main legal registries – the Registrar of Titles, Registrar of Companies, Registrar-General for Births, Deaths and Marriages office and Official Receiver’s office and further administers the Justice of the Peace services.

Births, Deaths and Marriages (BDM) Office

Online Birth Registration

[Integration of the Ministry of Health and Medical Services Patient Information System (PATIS Plus) at seven Divisional and Sub-divisional hospitals (that are currently online) to the BDM system]

The system implemented for the seven hospitals connected to PATIS Plus provides notification of birth information is automatically pushed to BDM system when it is entered. This information is accessible by the BDM officers to complete the process for birth registration once the informant visits the BDM office.

This is to meet our international obligations as birth registration is recognised as a fundamental human right, under article 24, paragraph 2 of the International Covenant on Civil and Political Rights and article 7 of the United Nations Convention on the Rights of the Child. The goal is to reach 100% birth and death registration and these initiatives are to achieve this and comply with BDM Act 1975.

Civil Registration Vital Statistics (CRVS)

The CRVS committee, which comprises the Ministry of Justice – BDM office; the Ministry of Health and Medical Services, Fiji Bureau of Statistics, the Ministry of Women, Children and Poverty Alleviation, the Ministry of Education; iTaukei Affairs, the Ministry of Communications; and the Fiji Police Force, has been re-established. A CRVS Assessment was conducted and a CRVS Action Plan formulated by the committee in 2019-2020, with the assistance of SPC and Brisbane Accord Group (BAG) partners. Fiji has been appointed as the Chair of the Regional Steering Group for Civil Registration and Vital Statistics in Asia and the Pacific

https://www.unescap.org/commission/76/document/E76_23E.pdf

Registrar of Companies (ROC)

ROC Online system

The Registrar of Companies has moved from manual processes to entirely online processes, whereby all applications lodged at the ROC office are received online as of 14 June 2019.

As of 14 June 2019, the ROC office does not accept any manual or physical forms for applications under the Companies Act 2015. The processing time for the manually processed

applications was 5 working days which is now reduced to 1 working day. Apart from the e-services for ROC, the transformation also saw the launch of a digital re-registration (re-registration) exercise for all companies and businesses which were registered prior to 14 June 2019. Comprehensive SOP's were also drawn up for the ROC officers to ensure standard and uniformity across ROC service delivery.

The following were the shortfalls in the structure which the online system has resolved:

1. The ROC had an inventory type of a system which registered companies and businesses using the ICT system but all activities in ROC conducted manually based on paper forms due to the limitation. The company/business information filed in paper form and stored in a secure room and was the primary source of information for ROC. Owing to the large volume of files, the company/business file index was no longer reliable due to storage limitation and high movement of the physical files.
2. To complete one application or the search service on business/company information, the applicant needed to queue multiple times to complete the entire transaction. This caused unnecessary movement at the ROC office. For example, an applicant needed to queue to access to the ROC paper files, queue to make payment for photocopies and queue again to get the photocopied documents.
3. At the ROC office, it was observed that there was no clear guidance to the applicants on how to make an application for service. The application forms were only provided on request from the ROC service counter and are not readily available to the public unless requested. There was also additional work for the ROC officers to answer general queries from applicants. The ROC officers also needed to help the applicants to fill the application forms and inputting the information from the form into the old system.
4. The processes of ROC were hand written on the paper forms, and it was difficult for an ROC officer to verify the data captured in the form. The business rule validation also could be implemented on paper form to ensure data integrity. It caused the data errors at the downstream activities and more rework thereby prolonging the processing time.
5. Lack of standardisation for the company/business data format, such as free text for address field and nature of business, made it difficult for further analysis and compiling of statistics. The update of information of company/business was done manually on paper, hence the existing ICT system data can no longer become a single consolidation data for a company/business query. This resulted in inefficiency as manual checks of the physical file were required for complete information.

Corporate Register Forum

Fiji became a member to the Corporate Register Forum in January 2020 -

<https://www.corporateregistersforum.org/>

The Corporate Registers Forum is an association of international corporate registries. The membership is open to government agencies and their officials responsible for the administration of body corporate register (a register of companies for example). The Forum's aim is to provide members with the opportunity to review the latest developments in corporate business registers internationally and exchange experiences and information on the present and future operation of corporate business registration systems.

Digital Registration (Registration)

An amendment was made to the Companies Act 2015 in 2019 through the Companies (Budget Amendment) Act 2019 to allow for digital registration (re-registration). This was specifically done to move all existing manual ROC records to an online portal.

Business name renewal

This amendment to the Companies Act 2015 also allowed for the renewal of business names for 1, 3, 5 or 7 years.

Registrar of Titles (ROT)

There has been a number of operational changes that were made to ROT's office and documentation of processes.

The Companies (Amendment) Act 2020 consequentially amended the Charitable Trusts Act 1945 which is administered by the ROT, to allow the ROT to publish the names of organisations that fail to comply with the Charitable Trusts Act 1945.

SIGNIFICANT COURT DECISIONS

✚ [Cheer v Director of Lands \[2020\] HBC205.2016 \(19 August 2020\)](#)

✚ [Pasifika Enterprise v Land Transport Authority \[2020\] HBC262.2019 \(16 October 2020\)](#)

Both cases are on appeal.

SIGNIFICANT LAW REFORMS

ACTS OF PARLIAMENT

1.0 Adoption Act 2020

- 1.1 The Adoption Act 2020 (**'Act'**) is the result of the review of the Adoption of Infants Act 1944 (**'former Act'**).
- 1.2 The former Act was out-dated (i.e. 76 years old) and did not comprehensively cater for the changing nature of adoption which now includes inter-country adoption.
- 1.3 The former Act focused primarily on the court process for approving an adoption application, and does not address the adoption process as a whole, such as screening of prospective adoptive parents and the matching and placement of adoptive children.
- 1.4 The Act domesticates the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.
- 1.5 Therefore, in line with common trends in other common law countries, the Act includes much more detail about the pre-court aspects of the adoption process and ultimately repeals and replaces the out-dated former Act.
- 1.6 The Act is aligned with international best practices. The Act ensures as much as possible that the child involved in the adoption process is not exposed to any form of abuse, deters the trafficking of children under the pretext of adoption and ensures that each adoption is in the best interests of the child.

2.0 Stamp Duties (Repeal) Act 2020

- 2.1 The Stamp Duties Act 1920 (**'former Act'**) was promulgated in 1920 as Ordinance No. 9 of 1920. The former Act imposed a duty on documents and instruments listed in the Schedule to the former Act, including mortgages, bills of exchange, leases, registration of vehicles, policies of insurance, security agreements, etc.
- 2.2 The Stamp Duties (Repeal) Act 2020 abolished stamp duty. As Stamp Duty is essentially a tax imposed on specific instruments integral to a long list of transaction types, abolishing Stamp Duty reduces cost of investment and doing business for all Fijians.

3.0 Business Licensing (Repeal) Act 2020

- 3.1 The business licensing system has proven to be an often lengthy and unnecessarily bureaucratic framework. Despite our best attempts to streamline these processes,

business licensing still proves to be an unnecessary hindrance to ordinary Fijians trying to do business and so we have opted to simply do away with it altogether.

- 3.2 One can complete an easy, online business and tax registration to be in business. There will no longer be a need to fork out the money or the time it takes to obtain a business licence. The philosophy behind this is to have a more efficient approach that places Fiji in a league with highly-developed economies that do not require business licences but instead focus their time and energy on the compulsory registration of all businesses.
- 3.3 However, this does not mean that any person can, for example, run a restaurant without complying with health standards. All necessary standards under Fijian law must still be complied with.
- 3.4 The Business Licensing (Repeal) Act 2020 repealed the Business Licensing Act 1976 to abolish the system of licensing of businesses.

4.0 Service Turnover Tax (Repeal) Act 2020

- 4.1 The Service Turnover Tax Act 2012 (**'former Act'**) was promulgated in 2012 to impose a tax on prescribed services and for related matters.
- 4.2 The Service Turnover Tax (Repeal) Act 2020 repeals the former Act to abolish Service Turnover Tax (**'STT'**).
- 4.3 The removal of STT will reduce total tax burden levied on the tourism sector. The intention of these policies was simply to make Fijian tourism more competitive during these times of crisis as the pandemic has severely impacted tourism.

INTERNATIONAL TREATIES

TREATY	DATE APPROVED BY PARLIAMENT FOR RATIFICATION/ ACCESSION/ ACCEPTANCE
Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer	Approved by Parliament on 19 February 2020. Ratified on 16 June 2020.
International Labour Organisation Protocol 2002 and the Occupational Safety and Health Convention 1981	Approved by Parliament on 28 May 2020. Ratified on 25 June 2020. The Protocol will enter into force for Fiji on 25 June 2021.
International Labour Organization Violence and Harassment Convention 2019	Approved by Parliament on 28 May 2020 Ratified on 25 June 2020. Instrument not in force.
Treaty on the Prohibition of Nuclear Weapons	Approved by Parliament on 28 May 2020 Ratified on 7 July 2020.
Madrid Agreement Concerning the International Registration of Marks 1981 (Madrid Agreement)	Approved by Parliament on 2 September 2020 Ratification in process.
Protocol Relating to the Madrid Agreement (Madrid Protocol)	Approved by Parliament on 2 September 2020 Ratification in process.
Paris Convention for the Protection of the Industrial Property 1883	Approved by Parliament on 2 September 2020 Ratification in process.
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	Approved by Parliament on 2 September 2020 Ratification in process.

PILON STRATEGIC PRIORITIES

1.0 Cybercrime

- 1.1 The Cybercrime Bill 2020 (**'Bill'**) was tabled in Parliament on 26 May 2020. The Bill was referred to the Standing Committee on Justice, Law and Human Rights for consideration and review.

2.0 Sexual and Gender Based Violence

2.1 Office of the Director of Public Prosecutions Rape and Sexual Offences Statistics – October 2020

There were 28 people charged with a total of 60 counts of separate incidents in October. The offences were rape (46), attempt to commit rape (1), abduction of a young person (1), indecent assault (2), defilement (2) and sexual assault (8).¹

2.2 Registration of Sex Offenders Bill 2018

In its efforts to reduce sexual and gender based violence, the Fijian Government re-introduced the Registration of Sex Offenders Bill 2018 (**'Bill'**) in the 2018 November sitting of Parliament. The Bill provides for the establishment of the Register of Sex Offenders to help monitor sex offenders in the community.

The Bill was referred to, and is still before, the Standing Committee on Justice, Law and Human Rights (**'Standing Committee'**) for consideration and review.

The Standing Committee has tabled its report on the Bill in Parliament.

¹ Office of the Director of Public Prosecutions Rape and Sexual Offences Statistics – October 2020 <http://odpp.com.fj/wp-content/uploads/2020/11/ODPP-Rape-and-Sexual-Offences-Statistics-October-2020.pdf>

SIGNIFICANT INITIATIVE/PROJECT IN THE LAW AND JUSTICE SECTOR

3.0 Fiji National Identification Card Project

- 3.1 The goal of the Fiji National Identification Card Project is to give every Fijian a national identification card replacing several identification cards and numbers that are currently being used by Fijians.

TECHNICAL LEGAL ASSISTANCE

Asian Development Bank

Fiji has received technical legal assistance from the Asian Development Bank on the review of the Financial Management Act 2004 and Fijian Competition and Consumer Commission Act 2010.

World Bank

Fiji has received technical legal assistance from the World Bank on the review of the Foreign Investment Act 1999.

World Intellectual Property Organization

Fiji has received technical legal assistance from the World Intellectual Property Organization on the review of the draft Designs Bill, Patents Bill and Trade Marks Bill.

CONTACT INFORMATION FOR KEY LAW AND JUSTICE AGENCIES

AGENCY	KEY RESPONSIBILITIES	CONTACT PERSON(S) AND DESIGNATION	CONTACT INFORMATION
Ministry of Justice and Anti-Corruption	<p>The Ministry of Justice and Anti-Corruption is responsible for maintaining records of births, deaths and marriages, companies registered in Fiji and the transfers of ownership of freehold land and property, as well as <i>inter alia</i> the development of policies in the law and justice sector.</p> <p>The following offices exist within the Ministry of Justice and Anti-Corruption:</p> <ul style="list-style-type: none"> (a) Office of the Administrator-General; (b) Office of the Registrar-General; (c) Office of the Registrar of Companies; (d) Office of the Official Receiver; and (e) Office of the Registrar of Titles. 	<p>Mr Sharvada Sharma Permanent Secretary for Justice and Anti-Corruption</p> <p>Ms Kamni Naidu Administrator-General</p>	<p>T: (+679) 3309866 F: (+679) 3305421</p> <p>T: (+679) 3308600 F: (+679) 3303676</p>
Office of the Solicitor-General	<p>The Office of the Solicitor-General is responsible for:</p> <ul style="list-style-type: none"> (a) providing legal advice to the Government and the holder of a public office, on request; (b) preparing draft laws on the request of Cabinet; (c) maintaining a publicly accessible register of all written laws; (d) representing the State in court in any legal proceedings to which the State is a party, other than criminal proceedings; and (e) performing any other functions assigned by this Constitution, any written law, Cabinet or 	<p>Mr Sharvada Sharma Solicitor-General</p>	<p>T: (+679) 3309866 F: (+679) 3305421</p>

AGENCY	KEY RESPONSIBILITIES	CONTACT PERSON(S) AND DESIGNATION	CONTACT INFORMATION
	the Attorney-General.		
Office of the Director of Public Prosecutions	<p>The Office of the Director of Public Prosecutions is responsible for:</p> <p>(a) instituting and conducting criminal proceedings;</p> <p>(b) taking over criminal proceedings that have been instituted by another person or authority (except proceedings instituted by the Fiji Independent Commission Against Corruption);</p> <p>(c) discontinuing, at any stage before judgment is delivered, criminal proceedings instituted or conducted by the Director of Public Prosecutions or another person or authority (except proceedings instituted or conducted by the Fiji Independent Commission Against Corruption); and</p> <p>(d) intervening in proceedings that raise a question of public interest that may affect the conduct of criminal proceedings or criminal investigations.</p>	<p>Mr Christopher Pryde Director of Public Prosecutions</p>	<p>T: (+679) 3211250 F: (+679) 3302780</p>
Legal Aid Commission	<p>The Legal Aid Commission provides free legal aid services to members of the public who earn not more than \$15,000 per annum and cannot afford the services of a legal practitioner.</p>	<p>Mr Shahin Ali Acting Director</p>	<p>T: (+679) 3311195 F: (+679) 3303023</p>
Fiji Intellectual Property Office	<p>The Fiji Intellectual Property Office is responsible for the registration of trademarks and patents, as well as copyright disputes.</p>	<p>Ms Sophina Ali Acting Director</p>	<p>T: (+679) 3309866 F: (+679) 3303646</p>

AGENCY	KEY RESPONSIBILITIES	CONTACT PERSON(S) AND DESIGNATION	CONTACT INFORMATION
Human Rights and Anti-Discrimination Commission	<p>The Human Rights and Anti-Discrimination Commission is responsible for:</p> <ul style="list-style-type: none"> (a) promoting the protection and observance of, and respect for, human rights in public and private institutions, and to develop a culture of human rights in Fiji; (b) education about the rights and freedoms recognised in the Constitution of the Republic of Fiji ('Constitution'), as well as other internationally recognised rights and freedoms; (c) monitoring, investigating and reporting on the observance of human rights in all spheres of life; (d) making recommendations to the Government concerning matters affecting the rights and freedoms recognised in the Constitution, including recommendations concerning existing or proposed laws; (e) receiving and investigating complaints about alleged abuses of human rights and take steps to secure appropriate redress if human rights have been violated, including making applications to court for redress or for other forms of relief or remedies; (f) investigating or researching, on its own initiative or on the basis of a complaint, any 	<p>Mr Ashwin Raj Director</p>	<p>T: (+679) 3308577 F: (+679) 3308661</p>

AGENCY	KEY RESPONSIBILITIES	CONTACT PERSON(S) AND DESIGNATION	CONTACT INFORMATION
	<p>matter in respect of human rights, and make recommendations to improve the functioning of public or private entities;</p> <p>(g) monitoring compliance by the State with obligations under treaties and conventions relating to human rights; and</p> <p>(h) performing any other functions or exercising any powers as are conferred on the Commission by a written law.</p>		
Fiji Independent Commission Against Corruption	<p>The Fiji Independent Commission Against Corruption is responsible for:</p> <p>(a) investigating, instituting and conducting criminal proceedings;</p> <p>(b) taking over investigations and criminal proceedings that fall under its responsibility and functions as prescribed by law, and which may have been initiated by another person or authority; and</p> <p>(c) discontinuing, at any stage before judgment is delivered, criminal proceedings instituted or conducted by it.</p>	Mr Rashmi Aslam Deputy Commissioner	T: (+679) 3310290 F: (+679) 3310297