



## **THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

*Opening Statement at the Interactive Dialogue on Fiji's 3<sup>rd</sup> Universal Periodic Review at the 34<sup>th</sup> Session of the Human Rights Council by Director of Public Prosecutions, Mr Christopher Pryde, Geneva 6<sup>th</sup> November 2019*

Mr President;

1. Fiji's Office of the Director of Public Prosecutions (ODPP) is responsible for the conduct of criminal prosecutions in Fiji. The powers are outlined in the Fijian Constitution and allow the Director of Public Prosecutions (DPP) to initiate a prosecution, to take over a prosecution brought before the courts by police or another agency, or terminate a prosecution. Decisions on prosecutions are made by the DPP independently of the government and according to a 2-step process; firstly, we ask whether there is sufficient evidence for a reasonable prospect of conviction and, secondly, we ask whether the prosecution is in the public interest.
2. The police are responsible for the investigation of a criminal matter but the prosecution of the matter resides with the DPP who makes the final decision on whether to prosecute a matter or not.

3. Often this may mean the wishes of the victim are overridden when it appears that traditional methods of reconciliation and forgiveness are being used to justify a request to withdraw a charge and terminate the prosecution. Assault in a domestic context is not a reconcilable offence so any forgiveness sought or traditional apology offered will not affect the charge and cannot be accepted by the court as a defence.
4. In deciding whether a prosecution is in the public interest, the DPP is guided by its Prosecution Code. The Code sets out factors in favour or against prosecution. Where the offence involves violence or a child victim, it will almost always be in the public interest to prosecute. When the offence involves a child victim, processes are immediately put into place to ensure the child is supported throughout the criminal justice system.
5. This year we published updated Guidelines on prosecuting child sexual abuse cases in order to ensure that prosecutors deal with such cases in a manner that will ensure the best interests of the child are identified and met at every stage. Amongst other things, these Guidelines make it mandatory for the prosecutor to refer the child to counselling as soon as possible and we work closely with a number of civil society organisations (CSOs) in Fiji to ensure the child is supported throughout the criminal process. These CSOs also assist in producing victim impact statements which focus on the effect the crime has had on the child in order to assist the judge in sentencing.
6. Sentences handed down by the courts are continually reviewed and where it is thought the sentence is too lenient, we will lodge an appeal. Recently the Supreme Court recognised an increase in gender based violence and agreed with the State's appeal to raise the sentencing tariff for child rape to a sentence of between 11 and 20 years imprisonment.
7. The reporting of acts of gender based violence including domestic violence continues to increase which reflects a growing confidence that these matters will be taken seriously by the justice system but we

recognise that there is a need for a more concerted effort to encourage all members of the community to feel more comfortable in reporting gender based violence including those from the LGBT community and more work needs to be done here.

8. Although Fiji is becoming more tolerant of the rights of minorities, recent years have seen an increase in incidents of hate speech targeting vulnerable minority groups. Fiji has international obligations to protect vulnerable minority groups from hate speech attacks and one way it has done this is by enforcing its sedition laws against perpetrators since hate speech is a particular form of sedition. Naturally, before charges of this nature are filed careful consideration is given to balancing the need to protect minorities from being the targets of hate speech with the freedom of others to publicly express an opinion.
9. Seditious charges are serious charges and no charge is laid lightly or before a thorough analysis of the evidence and the degree of offending is considered and no charge is laid without carefully balancing the rights of all parties. Fiji's history makes it incumbent on us to remain vigilant whenever this type of sedition occurs.
10. Finally, it should be noted that there are no political prosecutions in Fiji. It should also be noted that no one person or organisation is targeted; it is the crime that is targeted not the individual or organisation. Whilst politicians or political leaders or trade unionists may find themselves investigated or charged with a criminal offence from time to time, they can be assured they are charged on the evidence objectively applied to the law and not due to their status or position in society.
11. As an independent constitutional office holder, the DPP remains an important safeguard in the criminal justice system against arbitrariness and the potential targeting of people based solely on their occupation or their membership of a particular organisation and all criminal prosecution cases are reviewed on a regular basis to ensure the charges match the evidence and are in the public interest.

Thank you Mr President.

-----END-----