



# PARLIAMENT OF THE REPUBLIC OF FIJI

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## MEMBER OF PARLIAMENT – Honourable Lorna Eden

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### SPEECH

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Australia-New Zealand Scrutiny of Legislation Conference  
PARLIAMENT HOUSE, Perth, Western Australia, July 11<sup>th</sup> -14<sup>th</sup>  
**PARLIAMENTARY SCRUTINY, PARLIAMENTARY SOVREIGNITY: WHERE ARE  
WE NOW AND WHERE ARE WE HEADED?**

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Dear Distinguished Ladies and Gentlemen

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**A very good afternoon to you all, Ni sa bula Vinaka.**

At the outset, I would like to thank this august body for the opportunity to share on the key issue of scrutiny in the Parliament of Fiji. I will submit my views on what scrutiny is, methods of scrutiny and the importance of having scrutiny in Parliament and will describe the processes of scrutiny in the Parliament of Fiji.

Let me begin by saying that in all democratic governments, it is clear that Parliament has three key roles to play. It passes legislation, it enables government to authorise government expenditure and to scrutinise and challenge the work of government. And it is the third role that of scrutiny which is the focus of this paper.

To begin with, I shall consider briefly the concept of scrutiny. Scrutiny is intrinsic to all democratic parliamentary work. Since we all know that power without restraint was and is dangerous, it is imperative to stress on the importance of parliament as a necessary safeguard to scrutinise and be separate from and at times opposed to the Executive.

Broadly, Scrutiny is any activity that involves examining (and being prepared to challenge) the expenditure, administration and policies of the government of the day. It can be argued that its primary purpose is to improve processes and outcomes and improve the effectiveness of government.<sup>1</sup>

Scrutiny is an interconnecting activity where wealth of information from various sources especially stakeholders or agencies outside who contribute when consulted by Committees, to ensure transparency and accountability. This can be facilitated by the media. Scrutiny can pre-empt the decisions of those who are scrutinised thus motivating them to behave in a way that can bring about the anticipated potential impact.

The Parliament and Executive both have important roles to play for scrutiny to be effective. Part of Parliament's scrutiny activities are through consultations with stakeholders, investigations, verification and analysis and can make recommendations for changes. But the important role for the Executive is to hear and respect the recommendations and implement good recommendations accordingly.

According to Dr Hannah White in her article Parliamentary Scrutiny of Government the principal methods of scrutiny are questioning Government Ministers, debating and the investigative work of committees. The government can publicly respond to explain and justify policies and decisions.

- Members of Parliament both from the Government side and members of the Opposition get the opportunity to question government ministers either directly on the floor of the House during the regular oral question times or in writing.
- Debates in the Parliament are opportunities also for MPs to look at the creation and amendment of laws as well as national and international issues and can be on any subject. Votes are often taken to see whether a majority of Members either support or reject any discussed laws or proposals.

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<sup>1</sup> <<http://www.instituteforgovernment.org.uk/publications/accountability-top>>. Scrutinising legislation: a starting point

- In Parliament, Committees which are smaller groups of MPs look at specific policy issues or legislation in detail. Different committees have different roles ranging from offering advice, to producing reports or amending legislation.

In my view, as parliamentarians we have a unique role to play in the shaping of policies and legislations. We need to effectively scrutinise bills, legislations and expenditure etc. and give worthwhile suggestions or recommendations during debates so that whatever is passed by the Government is transparent and of benefit to everyone. So as to be effective in scrutiny, it is imperative that Members of Parliament in the Committees will have to step up and capacitate themselves on what to scrutinise in Parliament. Scrutiny is important for Parliament so its members should undergo training and workshops on how to scrutiny, what to scrutinise and how to contribute constructive comments so that as members they are seen to be effective. Though Cabinet Ministers are not part of Committees that do scrutiny, it is still important that they also equip themselves with scrutinising skills in order to contribute effectively in any debate.

In the Parliament of Fiji, the process of scrutiny is provided for in the Constitution. Section 70 of the Constitution says the Parliament must “establish committees with the functions of scrutinising Government administration and examining Bills and subordinate legislation” and such other responsibilities as the Parliament might determine.

The Parliament is obliged constitutionally to create committees to oversight the Government and its administration; to examine proposed legislation and to assess subordinate legislation.

Any other functions and activities that the Parliament might want to send to committees are left to the discretion of the Parliament.

As outlined under the Constitution of the Republic of Fiji and further elaborated under the Standing Orders of the Parliament of the Republic of Fiji, Parliament and its Standing Committees must be open to the public, including the media, unless in exceptional circumstances when the Speaker has ordered the exclusion of the public on grounds that are reasonable and justifiable.

There are four types of parliamentary committees – Business Committee, the House Committee; the Privileges Committee; or the Standing Orders Committee. The purpose of the four select committees is to promote the good order and operation of the Parliament itself. Parliamentary committees are small groups of members of Parliament who work together to investigate and consider issues on behalf of Parliament. They are able to meet with people and call for documents to assist them in their work. They usually report their findings to Parliament and can make recommendations for changes to laws and administration. Parliament must officially respond to the recommendations made by Committees.

The six standing committees of Parliament are Standing Committees on Economic Affairs; on Social Affairs; on Natural Resources; on Public Accounts; on Foreign Affairs and Defence; and on Justice, Law and Human Rights.

Each has broad responsibilities for their areas of responsibility.

They must examine any Bill referred to them; oversee the Departments in their subject area, consider any petitions or papers referred to the committee; and review relevant international treaties and conventions. Of course, all Standing Committees must accept whatever additional

duties are referred to them by the Parliament. These committees do an effective job in keeping the Government accountable and ensures that proposed laws are properly drafted. Standing Committees is not only the avenue for good governance but people are actually encouraged to engage directly and actively with them. To achieve the aim of inputs from the public into their activities, all Standing Committees are obliged to allow sufficient time and public notice for the interested persons and groups to make submissions to committee inquiries.

Standing Committees are very powerful for they are invested with the powers and privileges of the Parliament which gives them the same powers as the High Court.

This means that a committee can summon any person to give evidence or provide information, which includes be able to demand documents or other materials as it feels it needs to complete its inquiry.

A failure to comply with the demands of a committee could mean being referred to the Privileges Committee.

To enable the Committee members to know what to scrutinise, a guide was developed. Basic questions were formulated by the Parliament Research Team to assist with scrutiny and the questions are:

<sup>2</sup>What is the purpose of the Bill? Is the purpose of the Bill clear?

- Does it amend or repeal any existing legislation? Is there any relevant existing legislation - how does it work alongside it? Are there any duplications or contradictions?
- Is the legislation necessary? Could the objective of the Bill be achieved through policy or existing law?
- Is the Bill in response to an international law or treaty?
- Who does the Bill affect? Which other parties may have an interest in the Bill? Who are the stakeholders?
- How much of the detail is „on the face“ of the Bill, and how much is left to regulations? Is this balance between primary and secondary legislation right?
- Are there any international examples of similar legislation? What approach have different countries taken? Is the approach taken by the Bill consistent with the approach taken in other countries?
- Are the definitions in the Bill clear? Are they consistent with definitions in other national and international legislation?
- What evidence is there to show that the Bill will achieve its aims?
- Will the legislation affect different people in different ways – women, men, disabled people, different ethnicities, etc?
- Standing Order 110(2) requires that full consideration will be given to the principle of gender equality. Has a gender analysis of the legislation been undertaken? Who will/can undertake a gender analysis of the legislation?
- When will the Bill come into force? What are the transitional arrangements?
- Are the punishments proportionate to the offence?
- What consultation took place during the drafting of the Bill? Will the legislation provide for consultations with stakeholders on the draft regulations? Does the government intend to hold consultations with stakeholders on the draft regulations?

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<sup>2</sup> Fijian Parliament Research and Library Service – Hannah Johnson (March 2016). Scrutinising legislation: a starting point]

- How will the legislation be evaluated and monitored for compliance?
- What are the financial implications of the Bill? Have sufficient resources been allocated to implement the Bill?
- Will there be any financial impact to the stakeholders who are affected by the legislation?
- In addition to gender analysis of the Bill, what other information or opinion is needed to scrutinise the Bill?
- What powers does it give to the Minister, permanent secretary, officials, etc.?

This guide has assisted Committee members to contribute positively in scrutinising Bills (proposed law) at Standing Committee stage after the Second Reading. As previously stated one of the primary roles of Parliament is to make laws for the country. If during a second reading, members after debate considering its merits, vote for the Bill to be further considered then it is referred to a Standing Committee for further detailed scrutiny. Here the parliamentary committee can seek the views of the community on the contents of the Bill and may suggest amendments to the Bill. Standing Committees have gone out to the various Divisions of Fiji to consult with stakeholders. After the consultations the committee is to make a report on its consideration of the Bill to Parliament within 30 days.

Debates in the Fiji Parliament has always been robust. It is always an opportunity for members to look at the creation and amendment of laws or talk on any issue of national or international significance and it can be on any subject or aspects of government activity such as policy or implementation. Subjects for debate may be chosen by the Government, Opposition or backbenchers, with each group allocated time for this purpose. Members from both sides of the house scrutinise the topic in question by looking at its merits and otherwise.

But I must stress here that whatever the level of scrutiny, politics play an important role. How effective scrutiny is, is faced with challenges. The Government of the day far outnumber the opposition so getting a consensus in committee deliberations is always a factor for committee members for politics may override their desire for consensus.

To conclude for effective scrutiny in the Parliament of Fiji, members of Parliament need to capacitate their potential scrutinising skills through training workshops on the various administrative processes, examine bills etc. Further members of parliament still have far to go in terms of weighing their options on working for the common betterment of parliament and Fiji or advancing party politics.

Sources :

1. <http://www.parliament.gov.fj/Parliament-Business/Select-Committees.aspx>
2. [www.parliament.uk/about/how/role/parliament-government](http://www.parliament.uk/about/how/role/parliament-government)
3. <<http://www.instituteforgovernment.org.uk/publications/accountability-top>>).  
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3. Fijian Parliament Research and Library Service –Hannah Johnson (March 2016).Scrutinising Legislation- A starting Point.
4. <http://www.parliament.gov.fj/Law-Making/How-Laws-Are-Made.aspx>
5. <http://www.instituteforgovernment.org.uk/sites/default/files/publications/Parliamentary%20scrutiny%20briefing%20note%20final.pdf>