



FIJI HUMAN RIGHTS COMMISSION

GPO Private Mail Bag
SUVA, FIJI ISLANDS

Press statement - 7th March 2007

The Fiji Human Rights Commission expressed surprise and concern that the US Department of State had published a report on matters that are currently before the courts in Fiji and were subjudice. The US Embassy in Fiji could be taken to task under section 124 of the Constitution, which prohibits contempt of court, for producing the report without waiting for the court to determine the issue of legality of the December 5th events.

The Report of the US Government appears to have prejudged and pre-determined the outcome of the court and the court is not likely to take kindly to its authority being usurped in this way, not even by one of the most powerful nations of the world. The US Government may have some explaining to do if it is required to do so by the court under Order 52 of the High Court Rules.

Dr Shameem said that it was fortunate for the US Government that diplomatic immunity was granted to the US Government's representative in Fiji under the Vienna Convention. But such courtesies could not be abused and the Diplomatic Privileges and Immunities Act is still subject to the constitutional provisions on independence and authority of the courts. Article 41 of the Vienna Convention on Diplomatic Relations states that, 'without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving state. They also have a duty not to interfere in the internal affairs of that State'. The FHRC states that diplomatic immunity can only be used as a shield and not as a sword under the Vienna Convention which is an agreement entered into by all States Parties.

Although every person in Fiji has the right to freedom of expression in Fiji, and this includes the foreign governments with embassies here, the Constitution still limits freedom of expression to protect the independence and authority of the courts. By officially reporting on a matter that is currently before the courts, the US Government, through its representatives in Fiji, should be ready to answer to the courts on why it abused its freedom of expression rights granted in the Fiji Constitution by ignoring the

limitation provisions in that section giving the courts the power to do their work without interference.

The FHRC will formally refer the US State Department Report to the Chief Registrar of the High Court for the Court's attention since contempt of court is a power that can only be exercised under the jurisdiction of the court itself.

Nevertheless, while FHRC cannot yet make any response to the contents of the US Report because these matters are subjudice, it says that the US Government commenting on human rights in Fiji is like the proverbial pot calling the kettle black. Last year's human rights report on the United States by China shows that extra-judicial killings and deaths in custody are serious issues that have not been resolved in the United States. Moreover, the legality of detention of prisoners in Guantanamo Bay, who have not even been charged yet with a crime, is still a concern for the international community.

Further to this, the FHRC has often officially requested the US Government, particularly the state of Texas, to consider abolishing the death penalty which is a cruel and degrading form of punishment and impinges on the right to life provisions of the Universal Declaration of Human Rights and the International Convention on Civil and Political Rights.

FHRC is also aware that the United States has not ratified key international Conventions protecting women and children from abuse and exploitation. The only other country that has not ratified these key conventions, apart from the USA, is Somalia.

The FHRC will disregard the US State Department's Report until the court has had an opportunity to decide whether the matters discussed in the report are subjudice. FHRC will then comment on the contents of the report.



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Director
Fiji Human Rights Commission

