

The following is a media query from Fiji Times for Dr Shameem with her response below

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From: Amelia Vunileba <avunileba@fijitimes.com.fj>

Date: Mon, 10 Dec 2007 09:59:22 +1200

To: <sshameem@humanrights.org.fj>

Cc: Erica Lee, Amelia Vunileba <avunileba@fijitimes.com.fj>

Subject: Proposed Pac Island regional human rights commission

Bula vinaka Dr Shameem,

Just following up on a story on page 5 in today's Fiji Times – Region Push for Rights Body – where a call has been made for the setting up of a Pacific Island regional human rights commission and would just like to ask what the FHRC thinks of such an initiative?

Do you think there is a need for regional body as Ratu Joni Madraiwiwi says the setting up of a such a commission would strengthen the respect for human rights?

This idea was mooted at a four day consultation in Brisbane last week where regional magistrates and judges supported it as it 'would harmonise human rights law between Pacific countries' – you comments on this please?

Further details and comments are welcomed.

Kind regards,

Amelia.

Amelia Vunileba

Reporter

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From: Shaista Shameem <sshameem@connect.com.fj>

Date: Mon, 10 Dec 2007 11:25:50 +1300

To: Erica Lee <erica.lee@humanrights.org.fj>

Subject: Re: Pacific Islands judiciary deliberate human rights

Hi Amelia,

This is not a new idea- it has been an Australian and NZ government proposal for a long time. They also mooted the idea of the regional court. FHRC expressed our doubts about it as far back as 2005.

Our view at that time, and remains so, was that the proposed regional court and commission will be beset with problems of jurisdiction. Apart from the European Commission, the other regional commissions have been faced with huge organisational and jurisdictional issues. Before setting up a regional commission and court, member countries have to set up a regional Convention, like the European Convention on Human Rights.

The question is whether NZ and Australia will accept regional jurisdiction for human rights complainants from their own countries. Neither Australia nor NZ have a supreme constitution with entrenched bill of rights like we do in most Pacific Island countries; unless of course, Aust and NZ think they should not be a part of this regional commission or court, which will be an interesting question to ask them.

The other problem I have with this proposal is that it may be used by the Aust and NZ Govts to influence and even dictate the development of human rights in the region and lead it in a particular direction, mainly to benefit these two countries. In 2006 the Fiji Human Rights Commission took the NZ Human Rights Commission and NZ Law Commission to task for trying to impose a particular kind of human rights perspective on the Pacific, backed by enormous funding, in order to retain and expand their political influence in the island Pacific. The Brisbane proposal for a regional commission and court looks like just another form of chequebook diplomacy on the part of Aust and NZ. I would also like the media to ask the organisers, in the public interest, who funded this obscure conference in Brisbane and how people were chosen to attend it. It also appears to have been a thinly disguised attempt to undermine the judiciary of Fiji, judging by some of the simplistic observations that came out of it.

On the regional courts issue, we should be careful about this idea. We are aware that a number of Australian and NZ judges who used to sit on our bench in Fiji are now unlikely to be re-appointed to the Fiji courts because of the new trend emerging in our judicial appointments- and that is, our preference to source our judges from a much broader common law field. In the past, the Pacific islands has seen heavy traffic in the form of NZ and Aust judges which will now change. Thus the recent flurry of activity by some judges in non-transparent judicial meetings in Tonga and Brisbane on the issue of regional court may have something to do with that sudden surplus of Aust and NZ judges that has recently been created in the judicial market.

I am sure the new Australian Govt will take advice from Pacific island leaders, including Fiji, before entertaining any neo-colonial ideas of a regional court or regional commission backed and funded by Australia and NZ. It is high time Pacific Islanders began to trust their own judgment on human rights rather than being at the beck and call of Aust and NZ who are members of the Western Europe and Other group of countries in the UN human rights system any way, and may merely be exercising their influence on behalf of the old colonial powers.

Thanks

Shaista Shameem
Ombudsman and Chairperson, FHRC