

IBA visit to Fiji stopped in tracks

Fiji flag

The International Bar Association (IBA) has expressed dismay at the Fiji Government's decision to ban a visit by its six-member high-level delegation, which included senior jurists from Australia and Malaysia. The delegation was scheduled to visit from 18 to 22 February on a fact-finding mission, in particular to assess the independence of the judiciary there.

According to Fiji TV's "One national News", the interim government in Fiji issued a "stop arrival order" in respect of the delegation's members to border control officials at Nadi International Airport. The order was in force for the dates of their planned visit.

A member of the delegation, Felicia Johnston, the IBA Programme Lawyer, was unaware of the order until she arrived at Nadi airport on 16 February. Contrary to some reports, she was not detained but colleagues arranged for her to take the next flight to Brisbane because the mission's work could not be undertaken.

Fiji's interim Attorney-General Aiyaz Sayed-Khaiyum had previously said the IBA delegation would not be welcome to visit Fiji until high-profile constitutional cases before the courts had been concluded.

The IBA often sends such missions to countries to investigate the status of the rule of law and the administration of justice. Last year, for instance, inquiries were conducted in Zimbabwe, Poland, Iran, Colombia, Uganda, Pakistan and Venezuela. Government officials in most of these countries had met the IBA delegation members.

Usually prompted by concern that there has been erosion in the rule of law, the IBA, an independent apolitical organisation, appoints a panel of independent experts to make inquiry and report their findings, with recommendations. Where possible, those on the missions talk to lawyers, judges, bar associations, government and opposition representatives, non-government organisations, academics and so on.

In discussion with the IBA before the visit, Aiyaz Sayed-Khaiyum questioned the proposed inquiry's objectivity and said "... you are not welcome in Fiji at this time".

In its response, the IBA emphasised the wide range of people with whom it planned to meet while in Fiji and reiterated its invitation for the Attorney-General to meet the delegation and present his views and insights. IBA Executive Director Mark Ellis said the delegation would be hearing from all perspectives and would make its own objective analysis of the situation.

In a media release on 18 February, the IBA said:

"The IBA is apolitical, objective and professional, and the delegation was visiting Fiji with an open mind to assess the country's current state of justice and the rights and freedoms of its citizens, using international legal standards as yardsticks. The IBA delegation was to meet as wide a range of stakeholders as possible, in order to hear all viewpoints, and was not limiting its meetings in any way.

“The IBA has been monitoring the situation in Fiji, completely independently from any of its Fiji-based members. The recent events concerning the judiciary over the past year were the catalyst for the decision to undertake an in-depth assessment through a rapid response visit.”

Mark Ellis said: “We are disappointed that the Fiji government has taken such a draconian stance. The decision deprives Fijians of the opportunity to have an open discussion and objective feedback on issues that are clearly of concern for both the country and the international community.”

IBA President Fernando Pombo called upon the government of Fiji to reverse its decision immediately and allow the IBA the freedom to enter the country.

Fiji Law Society President Isireli Fa was quoted in the *Fiji Times* as saying that the interim government had missed out on a perfect opportunity to meet the IBA delegation and give its opinion on the situation in Fiji.

The NZLS is a member of the IBA and its president, John Marshall QC, is an IBA Councillor. He says the situation in Fiji is of great concern to the NZLS, which has offered assistance to the Fiji Law Society if required.

Former NZLS President Bruce Slane was made an honorary life member of the IBA last year for his services to that organisation. This included chairing the Interventions and Observations Committee of its Human Rights Institute. From that experience, he says, he can confirm the objectivity of IBA fact-finding missions.