

IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. 060 OF 2026

BETWEEN : **STATE**

AND : **LUI BALE VUIBURETA**

Counsel : **Mr T Naimila for the State**
Mr E Navuda for the Accused

Date of Hearing : **13 March 2026**

Date of Sentence : **17 March 2026**

SENTENCE

[1] The accused, Lui Bale Vuibureta, has pleaded guilty to one count of causing harm by posting an electronic communication, contrary to section 24 of the Online Safety Act 2018.

[2] The offence carries a maximum penalty of a fine not exceeding \$20,000 or imprisonment for a term not exceeding 5 years, or both, in the case of an individual.

Facts of the offending

[3] On 14 September 2025, while at his home, the accused went live on TikTok using a public account identified as "CUZ – ID: c9cuz."

- [4] During that live video, he directed a stream of vulgar, degrading and sexually explicit insults at the complainant, Hon. Lynda Tabuya, the Minister of Information, accusing her of sleeping with married men and repeatedly referring to her in grossly offensive sexual terms and as a "home wrecker."
- [5] The video was subsequently circulated to a Facebook group known as "Chat (Fiji)" which had approximately 41,200 members at the relevant time, significantly amplifying its reach and impact.
- [6] The complainant experienced serious emotional distress, including uncontrollable crying, loss of appetite, loss of energy and motivation, embarrassment and withdrawal from public engagement, and her family also suffered distress in witnessing the abuse and its effect on her.

Victim Impact

- [7] In her victim impact statement, the complainant explains that, as a woman, mother and public servant, the public nature of the abuse was extremely painful and humiliating, and damaging to her character and reputation.
- [8] She describes that the incident disrupted her ability to function normally, caused her to feel embarrassed to appear in public and affected her family who were distressed by the abuse and its consequences.
- [9] She accepts that public figures will face criticism, but correctly distinguishes this offending as going well beyond criticism into abusive and degrading language intended to insult and humiliate her publicly.

Approach to Sentencing

- [10] In determining sentence, I am guided by section 4 of the Sentencing and Penalties Act 2009, which requires the Court to have regard to the purposes of punishment, deterrence, protection of the community, denunciation of the offending, rehabilitation of the offender, and making reparation where appropriate.
- [11] Section 15 of the Act sets out the range of sentencing options available, including imprisonment, suspended sentences, fines, community-based sentences, and other orders.
- [12] Section 26 permits the suspension of a term of imprisonment not exceeding 3 years in the High Court where it is appropriate to do so in the circumstances.
- [13] The Online Safety Act 2018 is closely modelled on New Zealand's Harmful Digital Communications Act 2015, and it is appropriate to have regard, by way of guidance, to New Zealand sentencing practice for the offence of causing harm by posting a digital communication.
- [14] The New Zealand cases emphasise that the offence targets intentional online abuse causing serious emotional distress, and that the Court will take into account factors such as the extremity of the language, the extent of circulation, whether the communication was repeated, and the vulnerability and characteristics of the victim.

New Zealand Guidance

- [15] In *Millar v R* [2019] NZHC2700 (22 October 2019), the New Zealand High Court upheld an 18-month imprisonment starting point for a harmful digital communication charge where the offender posted naked photographs of the complainant with demeaning comments, in the context of intimate partner

violence, and emphasised the seriousness of upper-range harmful digital communications.

- [16] In *Police v Valli* [2017] NZDC 17182 (4 August 2017), a sentence of 9 months' imprisonment was imposed where intimate images were posted on a large Facebook page with degrading commentary, causing severe emotional and social harm, despite the offender's youth and lack of previous convictions.
- [17] In more serious and persistent campaigns of online harassment involving multiple victims over a prolonged period, New Zealand courts have upheld starting points in the range of several years' imprisonment, reflecting the higher culpability and cumulative harm (*Castillano v R* [2025] NZHC 1854 (9 July 2025)).
- [18] These cases illustrate that where offending involves highly offensive content, wide dissemination, significant emotional harm, and breach of trust or intimate material, immediate custodial sentences are often warranted, whereas less protracted or single-episode offending at a lower level of harm may justify shorter or community-based sanctions.

Nature and seriousness of this offending

- [19] The accused's conduct here did not involve intimate images or a prolonged campaign, but it did involve extremely vulgar and demeaning language, repeated in a live broadcast on a public platform and then disseminated to a very large audience.
- [20] The complainant is a senior public figure, and the targeting of her reputation and dignity in such terms is particularly serious in the Fijian context, where public humiliation and sexualized insults carry significant social stigma.

[21] The offence was committed while the accused was intoxicated, but intoxication does not excuse or significantly reduce culpability; it may explain the immediacy and lack of planning, but the decision to broadcast on a public platform and persist in the abuse remains his responsibility.

[22] The objective seriousness is increased by:

- the extremity and sexually explicit nature of the language;
- the deliberate targeting of a named individual;
- the very wide circulation through TikTok and a large Facebook group;
- the actual serious emotional distress suffered by the complainant and collateral impact on her family.

Aggravating factors of the offence

[23] I treat the following as aggravating features:

- Extremity and targeted nature of language: the insults were grossly offensive, explicitly sexual and repeatedly invoked demeaning references to the complainant and her family.
- Deliberate public humiliation: the live TikTok broadcast and its sharing to a group of over 40,000 members were designed to maximize public exposure and embarrassment.
- Impact on the victim: the complainant suffered real and significant emotional distress, disruption of her public functions and reputational harm, as detailed in her statement.
- Breach of public trust and social norms: the complainant holds ministerial office, and the abuse undermines respect for public discourse and the objectives of the Online Safety Act to promote responsible online behaviour.

[24] In assessing seriousness, I also take into account the statutory objectives of the Online Safety Act 2018 to deter and reduce harm caused by electronic communications and to promote a safe online culture, which underline the importance of general deterrence for this type of offending.

Mitigating factors and personal circumstances

[25] The accused is 32 years old, in a de facto relationship, and has two young children aged 14 and 12, for whom he shares responsibility with his partner.

[26] He is currently unemployed but assists with the family farm and engages in small-scale online sales with goods supplied by his parents overseas, indicating some community and family support structure.

[27] He has no previous convictions and is therefore to be treated as a person of prior good character.

[28] He cooperated with police, admitted his conduct in a caution interview, and has from an early stage sought forgiveness for his actions.

[29] He has entered an early guilty plea at the first reasonable opportunity in the High Court, saving court time and sparing the complainant the ordeal of giving evidence.

[30] He expresses genuine remorse, has reflected on the shame brought upon himself and his family, and has attempted, within the confines of his bail conditions, to pursue a traditional apology process.

- [31] The offence arose from a single live broadcast while the accused was heavily intoxicated, rather than a sustained campaign of harassment, and there is no evidence that he continued to target the complainant after the incident.
- [32] The accused has already spent a significant period in pre-sentence custody: approximately 13–14 days in 2025 following his first arrest and a further period of about one month and several days following the revocation of bail in February 2026, for a total of approximately 50 days.
- [33] He is willing, as a tangible expression of remorse, to pay a monetary penalty within his means, and his strong family support suggests a good prospect of rehabilitation.

Starting point

- [34] In selecting a starting point, I follow the approach articulated by the Fiji Court of Appeal in *Laisiasa Koroivuki v The State* [2013] FJCA 15; AAU0018.2010 (5 March 2013). The Court must first assess the objective seriousness of the offence, without reference to personal mitigating factors, and select a starting point from the lower or middle range of the available tariff.
- [35] There is as yet no established tariff in Fiji for this specific offence but taking guidance from the New Zealand jurisprudence under the Harmful Digital Communications Act, single-episode but serious harmful communications without images and without a prolonged campaign have attracted starting points well below the most serious “revenge porn” or multi-victim harassment cases.
- [36] Balancing the seriousness of the language and impact, the wide audience, and the single-episode nature of the conduct, I assess this case as falling in the lower to mid-range of seriousness for intentional harmful digital communications.

[37] Having regard to the 5-year statutory maximum, and the need for consistency with the guidance available from New Zealand for similar offending, an appropriate starting point in this case is 18 months' imprisonment.

Adjustments for Aggravating and Mitigating Factors

[38] The aggravating factors of the offence, extremity of language, wide circulation, and serious impact on the complainant are already substantially reflected in that starting point and do not call for a further uplift.

[39] There are no personal aggravating factors such as breach of court orders at the time of offending, or use of intimate images.

[40] I then consider the mitigating factors personal to the accused:

- For his prior good character, cooperation with police and prospects of rehabilitation, I allow a 15% discount.
- For his remorse and willingness to accept responsibility, including the attempted and online apology, I allow a further 5%.
- For his early guilty plea in the High Court, I allow a 25% discount, consistent with established practice for pleas at the first real opportunity.

[41] These combined mitigating factors warrant a total discount of 45% from the starting point of 18 months.

[42] Applying that discount reduces the sentence to just under 10 months' imprisonment as the provisional end point before accounting for time spent on remand.

Time Spent in Custody

- [43] The accused has been in custody for approximately 50 days in total prior to sentence.
- [44] Consistent with sentencing principle and fairness, that time should be credited against the custodial term to avoid double punishment.
- [45] A period of 50 days is roughly equivalent to 2 months of imprisonment, and I therefore reduce the provisional end sentence of 10 months by that amount, resulting in an effective custodial term of approximately 8 months' imprisonment.

Suspension and other Orders

- [46] I must next decide whether that term should be served immediately or suspended, and whether a fine is also appropriate.
- [47] The offence is serious and calls for a sentence that clearly denounces the conduct and deters others from using social media to vilify and humiliate individuals, particularly women in public office.
- [48] At the same time, the accused is a first offender, the offending was a single episode, he has good prospects of rehabilitation and strong family support, and he has already had the sobering experience of remand.
- [49] In these particular circumstances, I am satisfied that the legitimate aims of denunciation and deterrence can be met by recording a conviction and imposing a short term of imprisonment which is wholly suspended, coupled with a substantial fine, rather than requiring further immediate custody.

[50] Section 26 of the Sentencing and Penalties Act permits suspension of a term of imprisonment not exceeding 3 years, and I consider this an appropriate case to exercise that discretion.

[51] The accused has indicated ability to pay a fine of \$1,000, although not immediately a very large sum.

[52] In view of the seriousness of the harm, and to reinforce the deterrent and denunciatory aspects of the sentence, I consider that a fine at that level is appropriate and proportionate in addition to the suspended term.

Result

[53] On the single count of causing harm by posting an electronic communication, contrary to section 24 of the Online Safety Act 2018, you, Lui Bale Vuibureta, are convicted.

[53] You are sentenced to 8 months' imprisonment, which term I suspend in full for a period of 2 years from today, pursuant to section 26 of the Sentencing and Penalties Act 2009.

[54] The suspension is on condition that during the operational period you do not commit any offence punishable by imprisonment.

[55] In addition, you are ordered to pay a fine of \$1,000, to be paid within 1 month from today; in default of payment, you will serve 3 months' imprisonment, cumulative on any other sentence you may be required to serve.

[56] The periods you have already spent in remand are taken into account in arriving at the suspended custodial term and will not be separately ordered.

- [57] You must understand that this conviction and sentence reflect the Court's firm view that online platforms are not a licence to abuse, degrade or humiliate others, and that words broadcast to large audiences carry real consequences.
- [58] You now have the chance to show that this was an isolated lapse in judgment, to give effect to the remorse you have expressed, and to demonstrate responsible online behaviour to your family and community.



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Hon. Mr Justice Daniel Goundar

Solicitors:

Office of the Director of Public Prosecutions for the State

August Legal for the Accused