



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-second session
3-21 March 2003

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination***

FIJI

1. The Committee considered the sixth to fifteenth periodic reports of Fiji, which were due from 10 February 1984 to 10 February 2002, respectively, submitted in one document (CERD/C/429/Add.1), at its 1566th and 1567th meetings (CERD/C/SR.1566 and CERD/C/SR.1567), held on 11 and 12 March 2003. At its 1582nd meeting, held on 21 March, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the sixth to fifteenth periodic reports, the supplementary report, and the additional oral information and responses from the State party's high-level delegation. It welcomes the resumption of the dialogue after a lapse of 18 years and appreciates, in particular, the efforts made by the State party to respond to the issues raised in the Committee's observations made in 2002 during a preliminary dialogue with the representative of the Government of Fiji.

* Please note that the symbol CERD/C/Session No./CO/... replaces the symbol CERD/C/304/Add...

3. The Committee hopes that the State party will hereafter ensure that all its periodic reports are submitted on time, as required by article 9 of the Convention.

B. Factors and difficulties impeding the implementation of the Convention

4. The Committee recognizes the challenges faced by Fiji in respect of its historical legacies, in particular the political, social and economic consequences of the deployment of numerous labourers from India, the establishment of an ethnically stratified labour market and the creation of an economic system during colonial rule which separated rather than united Fiji's different communities.

C. Positive aspects

5. The Committee notes with appreciation that the State party provided detailed information, including statistical data, relating to the composition of the Fijian population and the situation of the various Fijian ethnic groups.

6. The Committee notes the State party's intention to promote stability in the multi-ethnic and multicultural Fijian society, to restore and rebuild confidence among its citizens and communities and to strengthen the foundation for economic growth and prosperity for all in Fiji. It welcomes the creation of a Ministry of Reconciliation to help unite all Fijians.

7. The Committee notes with satisfaction that the State party considers the Convention as a solid basis for dialogue and cooperation with civil society. It appreciates that human rights non-governmental organizations were consulted in the compilation of the report, and the assurances that the State party would continue this dialogue in the future.

8. The Committee expresses its appreciation for the inclusion, in the 1997 Constitution of Fiji, of a Social Justice Chapter (sect. 44), calling for the elaboration of programmes designed to achieve, for all groups or categories of persons who are disadvantaged, effective equality of access to education and training, land and housing, and participation in commerce and all levels and branches of State public services.

9. The Committee notes with appreciation the creation in 1999 of a National Human Rights Commission, in compliance with section 42 of the Constitution and in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights ("Paris Principles"), endorsed by the General Assembly in its resolution 48/134.

10. The Committee appreciates the 2002 Agreed Statement by the Prime Minister and the Parliamentary Leader of the Fiji Labour Party urging their respective parties to refrain from making racial statements during parliamentary sessions.

11. The Committee welcomes the information given by the delegation that the Citizens' Constitutional Forum, which had been deregistered under the Charitable Trusts Act, should be registered under another appropriate law and that consultations in this regard are under way.

D. Concerns and recommendations

12. The Committee notes with concern that the State party formulated, upon accession, declarations and reservations relating to articles 2, 3, 4, 5 and 6 of the Convention. The Committee suggests that the Fijian authorities review those reservations, which are inherited from colonial times, with a view to withdrawing them, taking into account paragraph 75 of the Durban Plan of Action. The State party should ensure that the specific protection and enhancement of indigenous Fijians' rights comply with international standards relating to the prohibition of racial discrimination.
13. The Committee is deeply concerned about the damage to race relations caused by the 1987 and 2000 coups d'état in Fiji. It encourages the State party to address perceptions that the State party continues to politicize culture, identity and ethnicity in order to maintain indigenous Fijian hegemony.
14. The Committee is deeply concerned that section 99 of the 1997 Constitution, which ensures power-sharing between ethnic communities through the creation of a multiparty Cabinet, is not currently being implemented. The Committee welcomes, however, the assurances given by the State party that it will comply with the Supreme Court ruling to be issued later this year on this matter.
15. The Committee welcomes the commitment of the State party to ensure the social and economic development as well as the right to cultural identity of the indigenous Fijian community. None of these programmes, however, should abrogate or diminish the enjoyment of human rights for all, which can be limited solely in accordance with the rules and criteria established under international human rights law. In this regard, the Committee strongly urges the State party to ensure that the affirmative action measures it adopts to pursue the above objectives are necessary in a democratic society, respect the principle of fairness, and are grounded in a realistic appraisal of the situation of indigenous Fijians as well as other communities. The Committee further recommends that the State party guarantee that the special measures adopted to ensure the adequate development and protection of certain ethnic groups and their members in no case lead to the maintenance of unequal or separate rights for different ethnic groups after the objectives for which they were taken have been achieved (article 1, paragraph 4, and article 2, paragraph 2, of the Convention).
16. The Committee notes that despite reports that levels of poverty among all Fijian nationals, including Indo-Fijians and Banabans, have worsened over the years, the State party's affirmative action programmes, as adopted under the Social Justice Act of 2001 and the 50/50 by year 2020 plan, mainly target indigenous Fijians and Rotumans. The Committee strongly recommends that the State party ensure that its poverty alleviation programmes benefit all poor Fijian citizens, irrespective of their ethnic origin, to avoid undue stress on already strained ethnic relations. It also recommends that the adoption of any affirmative action programme be preceded by consultations involving all ethnic communities.

17. The Committee is concerned about current perceptions amongst some Fijians that the State party is not paying enough attention to the issue of reconciling the different population groups in Fiji. It encourages the State party to explicitly promote a national identity that unites rather than divides indigenous and Indo-Fijians, as well as other communities, and to include this objective in its development plans.

18. The Committee expresses concern about the underrepresentation of Indo-Fijians and other ethnic minorities in the police, the army and other public services in general, and recommends that specific programmes be adopted to ensure appropriate representation of all ethnic communities in these services. The Committee requests that updated statistics on poverty, unemployment and education, disaggregated between and within ethnic groups, be elaborated and included in the next periodic report. It also requests the State party to inform it of the results of all its affirmative action programmes, in particular those relating to poverty alleviation.

19. The Committee is concerned that the expiry of many leases of Native land has allegedly led to the “eviction” of numerous farmers, mainly Indo-Fijians, and that the resettlement programme of the State party appears to be insufficient. The Committee underlines the State’s responsibility to provide assistance to “exited tenants”, and recommends that it increase its efforts to compensate and resettle affected families. The Committee urges the State party to develop measures of conciliation between indigenous Fijians and Indo-Fijians over the land issue, with a view to obtaining a solution acceptable to both communities.

20. The Committee wishes to receive more detailed information in the next periodic report about the exact number of “exited”, resettled and compensated persons, disaggregated by ethnic membership, as well as on the way the State party plans to respond to the expected expiry of many more leases.

21. The Committee is concerned that, according to some information, hate speech and assertions of the supremacy of indigenous Fijians occur regularly. The Committee recommends that the State party adopt all necessary measures to put an end to the dissemination of doctrines of superiority based on ethnic origin, which are socially unjust and dangerous, as well as in breach of the Convention. The Committee wishes to receive, in the next periodic report, information relating to the effectiveness of the 2002 Agreed Statement relating to the prohibition of racial statements in Parliament, and to any other measures adopted to strongly oppose such statements in other public forums, including the media.

22. The Committee notes that the word “person” in the relevant provisions of the Penal Code concerning sedition and in the Public Order Act concerning incitement to racial antagonism also includes organizations, and would like to receive further details on this matter. The Committee notes, however, that the legislation provides for sentences such as imprisonment and fines, but not for the prohibition of racist organizations. While taking note of the State party’s declaration on article 4 of the Convention, the Committee considers that the State party’s legislation does not fully comply with article 4. The Committee recommends that the State party adopt specific and unambiguous legislation relating to the prohibition of racist organizations. The Committee is furthermore concerned that the State party has expressed, in its periodic report, its reluctance to prohibit racist organizations in order to preserve the freedoms of expression and association, and refers the State party to its general recommendation XV (42) of 17 March 1993 on article 4.

23. The Committee is concerned about information relating to racist attacks and acts of religious intolerance against Indo-Fijians, in particular during the 1987 and 2000 coups. It underlines that no in-depth information relating to the prosecution of the authors of such acts, or on the adoption of preventive measures for the future, has been provided. The Committee therefore requests that such information be provided in the next periodic report. Information, including statistical data, on the practical implementation and efficiency of legislation implementing article 4 of the Convention is also requested.

24. The Committee takes note of information on the growing rate of suicide among Indo-Fijians, and recommends that the State party conduct research into the causes of this phenomenon and keep the Committee informed.

25. The Committee recommends that the State party continue to support the activities of the National Human Rights Commission. It would like to receive more information about the results of its activities, as well as on the practical implications of article 27 of the Human Rights Commission Act, authorizing the Commission not to investigate a case when it “has before it matters more worthy of its attention” or when the “resources of the Commission are insufficient for adequate investigation”.

26. While welcoming the assurance given by the State that schools are not racially separated in Fiji, the Committee wishes to receive more information on the consequences and the practical implementation of the Education (Establishment and Registration of Schools) Regulation, which states that “while a registered or recognized school may, when selecting pupils for admission give preference to pupils of a particular race or creed, no admission shall be denied solely on grounds of race or religion”. The Committee also wishes to know whether the State party enhances and financially supports multiracial schools. It would appreciate disaggregated data relating to any support provided to the various community and religious schools.

27. The Committee wishes to receive, in the next periodic report, information on the legal status of persons of mixed ethnic parentage and of the various languages spoken in Fiji.

28. The Committee notes the State party’s view that the remedies provided under national and international law are sufficient, and that making the declaration provided for in article 14 of the Convention is not necessary. The Committee, stressing that the State party has not provided enough information to demonstrate that the available remedies are sufficient, reminds the State party that the remedies provided in article 14 of the Convention may be considered as complementary to the existing ones. It therefore invites the State party to reconsider its position and to envisage the possibility of making the declaration.

29. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

30. The Committee encourages the State party to consult with organizations of civil society working to combat racial discrimination during the preparation of the next periodic report.

31. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level. It also suggests that the State party envisage elaborating a national plan of action to combat racism and, to this effect, avail itself of the technical assistance offered by the Office of the United Nations High Commissioner for Human Rights.

32. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted to the United Nations and that the observations of the Committee on these reports be similarly publicized.

33. The Committee recommends that the State party submit its sixteenth periodic report jointly with its seventeenth periodic report, due on 10 February 2006, and that it address all points raised in the present concluding observations.
