



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

Distr.  
GENERAL

CERD/C/429/Add.1  
15 November 2002

Original: ENGLISH

---

COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

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

**Fifteenth periodic reports of State parties due in 2002**

**FIJI\***

[7 August 2002]

---

\* This document contains the sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and fifteenth periodic reports of Fiji, due on 11 January 1984, 1986, 1988, 1990, 1992, 1994, 1996, 1998, 2000 and 2002 respectively, submitted in one document. For the fifth periodic report of Fiji and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/89/Add.3 and CERD/C/SR.629.

The appendices referred to in the document can be consulted in the files of the secretariat.

## CONTENTS

|  | <u>Paragraphs</u> | <u>Page</u> |
|--|-------------------|-------------|
| Introduction .....   | 1 - 18            | 3           |
| I.    GENERAL INFORMATION .....  | 19 - 28           | 6           |
| II.   INFORMATION RELATING TO SPECIFIC<br>ARTICLES OF THE CONVENTION ..... | 29 - 217          | 9           |
| Article 1 .....  | 29 - 42           | 9           |
| Article 2 .....  | 43 - 77           | 12          |
| Article 3 .....  | 78 - 81           | 22          |
| Article 4 .....  | 82 - 90           | 22          |
| Article 5 .....  | 91 - 191          | 24          |
| Article 6 .....  | 192 - 215         | 45          |
| Article 7 .....  | 216               | 53          |
| Article 14 .....   | 217               | 53          |

## **Introduction**

1. The Government of the Republic of the Fiji Islands submits its abridged periodic report on the legislative, judicial, administrative and other measures taken during the period beginning 25 October 1982 and ending on 30 September 2002 in order to give effect to the International Convention on the Elimination of All Forms of Racial Discrimination.
2. The last periodic report was submitted to the Committee on the Elimination of Racial Discrimination on 25 October 1982 and discussed at the twenty-eighth session of the Committee on 13 July 1983. The Committee under its review procedure discussed the situation in Fiji, without a report, for the first time, at the fortieth session on 13 August 1991 and for the second time, at the forty-ninth session in August 1996.
3. The compilation of this abridged periodic report covering the roughly 25-year period from 1982 to 2002 is not an easy exercise. In terms of implementation, 25 government departments have similar but specific duties to honour the Convention. The Ministry of Foreign Affairs was responsible for coordinating the compilation of the information required by the reporting guidelines formulated by the Committee on the Elimination of Racial Discrimination.
4. The draft report was presented to the Committee on 8 August 2002 in Geneva by Ambassador I.U. Mataitoga. The Committee transmitted its observations on the draft periodic report to the Government on 23 August 2002.
5. The Ministry will continue to compile the necessary information and the report improved in the approach to the Committee's March 2003 session when the situation in Fiji will be examined.

### **The benefits of the reporting process**

6. The Ministry of Foreign Affairs, in the arduous process of consulting with the various arms of Government, hopes to make permanent the interdepartmental drafting committee comprised of 26 ministries and departments. Departments have come to appreciate the provisions of the Convention and the obligations of the Government in this regard. Policies continue to be reviewed, as the implementation of the Convention over the last 20 years is a difficulty the Government hopes to remedy with an integrated approach to ensure implementation and non-duplication of services.
7. The treaty is now a living document and provides a solid basis for dialogue and collaboration with the civil society organizations where certain services are better provided by a particular agency. Informal consultations have begun and it is hoped that the formal process will begin in the near future, on which we will be reporting in March 2003.

### **Dialogue with non-governmental organizations**

8. The civil society organizations represent many different interest groups with different priorities as far as our commitment to race relations is concerned, but we must be able to discuss all issues frankly and sincerely. Government hopes in the period remaining until March 2003 to

improve collaboration with civil society organizations. It is hoped that this process will result in resolutions and programmes with which we can all live, and which does not make our neighbours and associates feel demeaned, threatened and disillusioned.

### **Parliamentary agreement between the two largest political parties in Parliament on race relations and the tone of debates**

9. In a recent significant development for the political tone of race relations in Fiji, the leaders of the two main political parties in Parliament, Prime Minister Laisenia Qarase and the Honourable Mahendra Chaudhry, leader of the Fiji Labour Party, agreed to urge their respective party parliamentarians to reduce racial remarks from this new session of Parliament. This agreement is significant given the tone of racial remarks in the immediate previous session of Parliament. The agreement is annexed as appendix 18.

### **Deregistration of the Citizens Constitutional Forum**

10. The Citizens Constitutional Forum (CCF) which holds the Chair and is the secretariat of the Fiji NGO Coalition on Human Rights, was deregistered by the Registrar of Charitable Trusts in April 2001. The Registrar had received a complaint questioning the validity of CCF incorporation pursuant to section 3 of the Act and the involvement of CCF in activities that are not “charitable purposes”. Subsequent to submissions from CCF in response to a notice to show cause why it should not be deregistered, CCF was removed from the Register of Charitable Trusts.

### **Court challenge on the composition of Cabinet**

11. The matter is still before the courts for final determination and therefore sub judice; no comment will be made at this time.

### **Reservations to the Convention**

12. Our 1973 succession to the International Convention on the Elimination of All Forms of Racial Discrimination also expressly affirmed the reservations and declarations subject to which the Government of the United Kingdom had ratified that Convention on behalf of the then colony of Fiji, but that such reservation and declarations were reworded as follows:

“To the extent, if any, that any law relating to elections in Fiji may not fulfil the obligations referred to in article 5 (c), that any law relating to land in Fiji which prohibits or restricts the alienation of land by the indigenous inhabitants may not fulfil the obligations referred to in article 5 (d) (v), or that the school system of Fiji may not fulfil the obligations referred to in articles 2, 3 or 5 (e) (v), the Government of Fiji reserves the right not to implement the aforementioned provisions of the Convention.

“The Government of Fiji wishes to state its understanding of certain articles in the Convention. It interprets article 4 as requiring a party to the Convention to adopt further legislative measures in the fields covered by subparagraphs (a), (b) and (c) of that article, only insofar as it may consider with due regard to the principles embodied in the

Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention (in particular the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association) that some legislative addition or variation of existing law and practice in those fields is necessary for the attainment of the end specified in the earlier part of article 4. Further, the Government of Fiji interprets the requirement in article 6 concerning ‘reparation or satisfaction’ as being fulfilled if one or other of these forms of redress is made available and interprets ‘satisfaction’ as including any form of redress effective to bring discriminatory conduct to an end. In addition, it interprets article 20 and the other related provisions of Part III of the Convention as meaning that if a reservation is not accepted the State making the reservation does not become a party to the Convention.

“The Government of Fiji maintains the view that article 15 is discriminatory in that it establishes a procedure for the receipt of petitions relating to dependent territories whilst making no comparable provisions for States without such territories.”

13. Both as a matter of administrative policy and legislative enactments, the Government of Fiji has not derogated from any of the terms of succession reproduced above. In particular, it is likely, to say the least, that the reservation and declarations will continue to provide some protection as a condition of the succession for Fiji for the considerable future.

#### **Protection of indigenous title to land and the draft United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169**

14. Fiji has been a strong exponent of the rights of indigenous peoples globally, in its support for the draft United Nations Declaration on the Rights of Indigenous Peoples and having ratified ILO Convention No. 169 concerning the Rights of Indigenous and Tribal Peoples in Independent Countries.

15. Most formulations of human rights, such as that found in the Universal Declaration of 1948, have been the rights of individuals which have been grouped into two categories, the first being civil and political rights, such as the right to a fair trial, the right to vote, freedom of association and so on. The second generation of rights concern economic, social and cultural rights to health, shelter, education, and so on. The Government considers that these “individual rights” are insufficient to guarantee the rights of indigenous populations, especially those subject to colonialism or other forms of political oppression. In this case, what is at stake is the survival primarily of a people and culture rather than particular individuals. Therefore, individual human rights are being supplemented by the “third wave” or “third generation” of rights, the rights of peoples.

16. The “third wave” or “third generation” of human rights include the right of a people to self-determination and others such as the right to social and economic development and the right to respect for cultural identity. It is recognized that these rights of peoples overlap with individual rights, for example, the right to the cultural survival of a people overlaps with the individual’s right to participate in the cultural life of the community. The individual is not a sufficient bearer of rights on his own. It is often necessary to see individuals as part of the larger

ethnic group from which they derive certain essential characteristics, such as cultural identity, a sense of shared history and values that must be collectively protected if they are to survive. The application of strict equality of rights, blind to any cultural or socio-economic differences, will likely entrench existing inequalities and encourage new ones rather than achieve genuine equality.

17. In the words of the draft Declaration, such peoples have been deprived of their human rights and fundamental freedoms, resulting, inter alia, in their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests. To this end, the provisions of the Native Land Trust Act which vest Trust ownership of all indigenous land in the Native Land, in respect of which a reservation has been entered to article 5 (v) (d) of the Convention, are in line with article 26 of the draft Declaration.

### **Parliamentary democracy under the SDL coalition Government since September 2001**

18. After elections held in September 2001, the President, Ratu Josefa Iloilovatu Uluivuda, appointed the Honourable Laisenia Qarase as Prime Minister. The current governing coalition is comprised of the Soqosoqo Vakavulewa ni Lewenivanua (SDL), the Matanitu Vanua Party (MV) and the New Labour Unity Party (NLUP) and two independent candidates. The other political parties represented in Parliament are the Fiji Labour Party and the National Federation Party; there are two independent members. Before the 2001 elections, Fiji was governed by a caretaker Government which was appointed in March 2001 by the President. This was after a Court of Appeal decision in Chandrika Prasad v. the Republic of Fiji declaring that the 1997 Constitution had not been abrogated in the unsuccessful coup d'état led by George Speight on 19 May 2000.

## **I. GENERAL INFORMATION**

### **Ethnic composition of the population of the Fiji Islands**

19. The 25 August 1996 census of population, like previous censuses of population, used eight categories to classify ethnic groups: "Chinese", "European", "Fijian", "Indian", "Part European", "Rotuman", "Pacific Islander", "All Other Ethnic Groups".

20. The results of the censuses of population held in 1956, 1996, 1976 and 1996 are given below:

| Ethnic group | Sex    | 1956<br>26 Sept. | 1966<br>12 Sept. | 1976<br>13 Sept. | 1986<br>31 Aug. | 1996<br>25 Aug. |
|--------------|--------|------------------|------------------|------------------|-----------------|-----------------|
| Total        | Total  | 345 737          | 476 727          | 588 068          | 715 375         | 775 077         |
|              | Male   | 178 475          | 242 747          | 296 950          | 362 568         | 393 931         |
|              | Female | 167 262          | 233 980          | 291 118          | 352 807         | 381 146         |
| Chinese      | Total  | 4 155            | 5 149            | 4 652            | 4 784           | 4 939           |
|              | Male   | 2 624            | 2 910            | 2 503            | 2 546           | 2 573           |
|              | Female | 1 531            | 2 239            | 2 149            | 2 238           | 2 366           |

| Ethnic group            | Sex    | 1956<br>26 Sept. | 1966<br>12 Sept. | 1976<br>13 Sept. | 1986<br>31 Aug. | 1996<br>25 Aug. |
|-------------------------|--------|------------------|------------------|------------------|-----------------|-----------------|
| European                | Total  | 6 402            | 6 590            | 4 929            | 4 196           | 3 103           |
|                         | Male   | 3 374            | 3 427            | 2 605            | 2 240           | 1 713           |
|                         | Female | 3 028            | 3 163            | 2 324            | 1 956           | 1 390           |
| Fijian                  | Total  | 148 134          | 202 176          | 259 932          | 329 305         | 393 575         |
|                         | Male   | 74 989           | 102 479          | 131 413          | 167 256         | 199 895         |
|                         | Female | 73 145           | 99 697           | 128 519          | 162 049         | 193 680         |
| Indian                  | Total  | 169 403          | 240 960          | 292 896          | 348 704         | 338 818         |
|                         | Male   | 88 359           | 122 632          | 147 194          | 175 829         | 171 796         |
|                         | Female | 81 044           | 118 328          | 145 702          | 172 875         | 167 022         |
| Part European           | Total  | 7 810            | 9 687            | 10 276           | 10 297          | 11 685          |
|                         | Male   | 4 008            | 4 951            | 5 358            | 5 396           | 6 052           |
|                         | Female | 3 802            | 4 736            | 4 918            | 4 901           | 5 633           |
| Rotuman                 | Total  | 4 422            | 5 797            | 7 291            | 8 652           | 9 727           |
|                         | Male   | 2 232            | 2 939            | 3 666            | 4 387           | 5 008           |
|                         | Female | 2 190            | 2 858            | 3 625            | 4 265           | 4 719           |
| Other Pacific Islanders | Total  | 5 320            | 6 095            | 6 822            | 8 627           | 10 463          |
|                         | Male   | 2 839            | 3 207            | 3 474            | 4 499           | 5 414           |
|                         | Female | 2 481            | 2 888            | 3 348            | 4 128           | 5 049           |
| All others              | Total  | 91               | 273              | 1 270            | 810             | 2 767           |
|                         | Male   | 50               | 202              | 737              | 415             | 1 480           |
|                         | Female | 41               | 71               | 533              | 395             | 1 287           |
| Growth rate             |        | 2.9              | 3.3              | 2.1              | 2.0             | 0.8             |

Source: Bureau of Statistics.

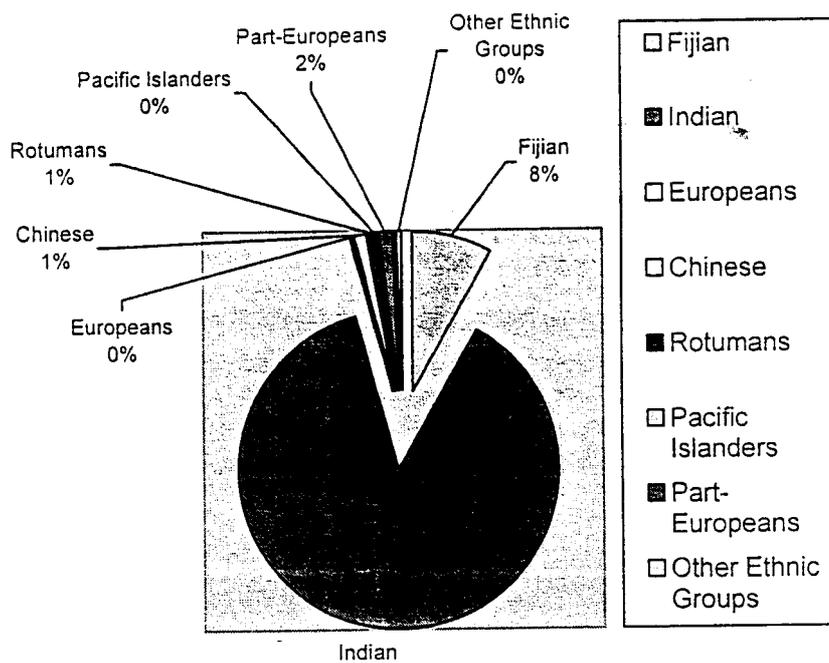
21. In 1996, Fiji's population stood at 775,077, of whom 403,302 were indigenous Fijians (52.0 per cent), 338,818 were Indo-Fijians (43.7 per cent) and 32,597 were members of other ethnic communities (4.25 per cent). There were 358,131 persons in the urban areas and 414,524 in the rural areas; approximately 54 per cent reside in the rural areas while 46 per cent reside in the urban areas. However, the majority of the indigenous Fijian population live in the rural areas as subsistence and commercial farmers. Of the 403,302 indigenous Fijians, 235,544 were rural dwellers, or 30 per cent of the total population, while the Indo-Fijian population comprises 170,783 rural dwellers, or 22.03 per cent. Fiji's urban population comprises the following: 167,335 indigenous Fijians (21.6 per cent); 168,035 Indo-Fijians (21.7 per cent) and 23,702 members of other ethnic communities (3.1 per cent). Compared with the 1986 census, there was a net increase of 57,280 persons during the 1996 census. Fijian numbers had increased by 65,694 persons; Indian numbers registered a decrease of 12,125 persons because of high international emigration and a lower rate of natural increase. The net population loss of Indians through emigration between the censuses was estimated at 58,300 persons. The number of other components increased by 3,711 persons. The annual average growth rate between the last two censuses was 0.8 per cent. Fiji has a relatively young population with about 53 per cent, or 413,100 persons, below the age of 25 years.

22. This percentage has declined from the 1986 figure of 58.7 per cent. The economically active population in 1986 was 62 per cent of the total population, or 441,852 persons, and in 1996, it was estimated at 67 per cent, or 523,428 persons. The number of people aged 60 years and over was estimated at 47,027 persons, or 6 per cent of the total projected population in 1996. This figure has risen from 4.9 per cent, or 35,395, in 1986. The dependency ratio in 1986 was 71 but declined to 70 in 1990 and to 68 in 1996. This means that the percentage of people dependent on those who are working is decreasing. However, with the increasing life expectancy this trend may change in the future.

23. More than 60 per cent of Fiji's current population live in the rural areas. The other 40 per cent is spread over eight urban centres and number about 167,421 in Suva, 42,917 in Lautoka, 30,791 in Nadi, 14,596 in Ba, 24,187 in Labasa, 7,940 in Sigatoka, 3,745 in Levuka and 21,645 in Nausori.

24. Out-migration in recent years of predominantly highly skilled and qualified professionals and their families has affected the nation profoundly. Compared below are the 1986 and 2001 emigration figures:

**Fiji citizens emigration - 2001**



## **Women**

25. Women in Fiji, about 49 per cent of the population, have a literacy rate of 89 per cent. Government is committed to involving women as equal partners in the national, political, economic and social development of the country. In recognition of women's contribution, the Ministry of Women was established to look after their interests.

26. Government aims to promote equity for women in their economic and social development and to eliminate all forms of discrimination. The National Plan of Action for Women provides the main platform for its efforts. It supports the mainstreaming of gender concerns to attain parity at decision-making levels, training, promotion and appointments, the promotion of women in business, protection from domestic violence and sexual abuse, and the review of laws which disadvantage women. The Plan of Action recognizes the necessity of women fully and actively participating, and therefore seeks to strengthen the institutional capacity of the Ministry of Women as well as its interlinkages with NGOs. The National Women's Advisory Council advises the Minister for Women on women and gender issues.

27. The policies of the Ministry of Women are focused on accessibility of all women, irrespective of race, to assistance provided under various programmes. These are: Women's Social and Economic Development (WOSED), a micro-credit scheme; grants to women's NGOs; Women's Plan of Action (1999-2008).

28. There are measures addressing racial equality which have been put in place in other sectors which impact on women, e.g. Citizenship (Amendment) Act, 1997, which allows for Fiji women who marry non-Fiji nationals to have their husbands acquire Fiji citizenship. Previously, this was automatic or permissible only for non-Fiji wives of male Fiji citizens.

## **II. INFORMATION RELATING TO SPECIFIC ARTICLES OF THE CONVENTION**

### **Article 1**

29. It is an objective of the Government of the Republic of the Fiji Islands to enable all members of Fiji Islands society to participate freely and fully in the economic, social and public life of the nation, with all the benefits and responsibilities which that entails, while still being able to maintain their own culture, traditions, language and values. Government action is directed towards addressing problems of discrimination and disadvantage, which prevent members of ethnic groups from fulfilling their potential as full members of Fiji Islands society.

30. All citizens of the Fiji Islands have the same rights under the law. This underlying principle underpins the Fiji Islands's position on all the articles of the Convention covered in the report, even when in this report specific reference to Fiji Islands action has not been made under individual articles.

31. The Fiji Islands Government is firmly committed to the elimination of all forms of racial discrimination and to the promotion of equality of opportunities. Its commitment to eliminating the barriers to full participation is expressed in two main ways: through legislation and programmes to reduce economic differences between communities.

32. First in legislation: the Fiji Islands has the most stringent and comprehensive anti-discrimination legislation in the Pacific Islands, consisting of an internationally acclaimed Constitutional Bill of Rights and the comprehensive anti-discrimination provisions of the Human Rights Commission Act. These laws make racial discrimination in employment, in the provision of goods and services, education and training, the provision of professional accreditation, membership of employees' or employers' organizations, access to public places and the provision of land, housing and accommodation unlawful.

33. Section 38 (2) of the Bill of Rights of the 1997 Constitution expressly prohibits discrimination on the grounds of race, ethnic origin, primary language, colour and place of origin, in addition to gender, birth, sexual orientation, age, disability, economic status, opinion and belief.

34. Whereas section 38 (2) enumerates the grounds on which discrimination is unlawful, there are exceptions to this right, i.e. where discrimination would not be unlawful; these are found in four subsections of section 38 - section 38 (2) (b); section 38 (6); section 38 (7) and section 38 (8). Significantly, section 38 (8) provides for measures for the good governance of Fijians and Rotumans in relation to land, fishing rights and chiefly titles. These measures may limit a right or freedom set out in the equality provision (sect. 38) for providing for the governance of Fijians or Rotumans or of the Banaban community and of other persons living as members of a Fijian, Rotuman or Banaban community. However, such a limitation is valid only if it accords to every person to whom it applies the right to equality before the law without discrimination other than on the ground of race or ethnic origin, and does not infringe a right or freedom set out in the Bill of Rights.<sup>1</sup>

35. Section 42 of the 1997 Constitution establishes the Fiji Human Rights Commission. The Commission is tasked with educating the public about human rights and to investigate and resolve complaints of unfair discrimination as prohibited under its principal Act (No. 10 of 1999) and to investigate allegations of violations of the Bill of Rights of the 1997 Constitution. Section 17 of the Human Rights Commission Act makes discrimination unlawful in the areas of employment, education, vocational training, professional partnerships, trade or vocational accreditation, membership of trade unions and employers' unions, housing and accommodation, provision of goods and services, including loans and insurance, and access to public places. The Commission became operational in October 1999 with the funding and support of the Government which continues to assist the thriving independent Commission.

36. The Commission continues to promote the law, offer citizens advice and guidance on how to avoid racial discrimination and investigate allegations of racial discrimination, and is empowered to take legal action against persons and organizations found to be in breach of the unfair discrimination laws and of the constitutional Bill of Rights.

37. Since the 1997 Constitution came into force on 12 July 1998, the courts in Fiji have applied appropriate provisions of the Bill of Rights chapter IV:

(a) Mandatory sentences for drug offences violate the right to a fair trial (including the right to mitigate) and violate judicial independence and the doctrine of the separation of powers;

(b) Corporal punishment in schools and prisons contravenes the right to be free from cruel, inhuman and degrading treatment or punishment;<sup>2</sup>

(c) The incarceration of prisoners awaiting trial for more than 12 months constitutes a violation of the right to be free from cruel, inhuman and degrading treatment or punishment and violates the international standards on the treatment of prisons.<sup>3</sup>

(d) Reduced diets of prisoners who offend against prison rules violate the right to be free from cruel, inhuman and degrading treatment or punishment.<sup>4</sup>

(e) A subject's right to a lawyer includes the right to consult with a lawyer without delay.

38. The second limb of Government's policy to eliminate racial discrimination and to promote equality of opportunities is in the many programmes and initiatives which have been introduced to regenerate the economy, and special programmes of assistance to reduce the economic differences between the Fijians and other communities. There are a number of programmes aimed at tackling discrimination and disadvantage, several of which are set out in this report.

39. The Fiji Islands Government is committed to providing strong protection for ethnic minorities against harassment and violence within the overall framework of the criminal law and of the pattern of rights and principles enjoyed by the population at large, which fit into the broader systems of freedoms and rights to individual expression and free speech that the Fiji Islands enjoys.

### **Government policy on racial discrimination**

40. Chapter 5, section 44 (Social Justice and Affirmative Action), of the 1997 Constitution supports equality of opportunity for all races and peoples of the Fiji Islands. Section 44 requires Parliament to make provisions for programmes designed to achieve for all groups or categories of persons who are disadvantaged effective equality of access to a range of activities and services, which includes education and training, land and housing, and participation in commerce and in the service of the State.

41. Government's policies are committed to strengthening special programmes of assistance to reduce the economic differences between the Fijians and other communities. These are in line with policies in place since independence and are provided for in the Constitution. They are also in accordance with measures adopted in many other countries. At the moment, the Fijians are

falling behind in education, the professions, business and income. The poorest and most disadvantaged people in Fiji are Fijians. Fijian households generally have the lowest incomes.

### **Reconciliation and unity**

42. The Government also promotes national reconciliation and unity between all communities, primarily through the Ministry of Reconciliation. The National Council of the Ministry of National Reconciliation meets on a quarterly basis. Various line ministries carry out the work of reconciliation on the ground. Ministerial project managers meet on a monthly basis, chaired by the Permanent Secretary for National Reconciliation and Unity.

### **Article 2**

43. The introduction to this report set out the statutory framework which underpins the Fiji Island's anti-discrimination strategy and which seeks to ensure that all individuals have the same rights and duties. The Fiji Islands Government's objective is to pursue by all appropriate means a policy of eliminating racial discrimination and promoting understanding among all races. While the Government plays the primary role in ensuring that there is an adequate statutory framework, it also encourages promotion, cooperation and dialogue in a variety of ways.

44. The Constitution of Fiji is the main instrument of implementation of the terms of the Convention. The Convention contains provisions that not only confer and guarantee to every person in Fiji the protection of his/her fundamental rights and freedoms, but also prohibit the violation of any of those rights. Section 2, proclaiming the supremacy of the Constitution, and chapter IV, the Bill of Rights, are clear in that regard. In particular, section 38 is significant. Section 41 is the remedial provision. (See appendix c, the Bill of Rights of the 1997 Constitution.)

45. The constitutional provisions referred to also form the present government policy on the concept of the Convention. Section 38, the equality provision, proclaims equality before the law; however, programmes to improve the situation of the disadvantaged do not contravene this and indeed are encouraged by section 44, the social justice provisions.

46. There are few legislative provisions where discrimination is prohibited. These are:

(a) Sections 15 and 17 of the Public Order Act 1969 (see appendix 4). Section 17 is more comprehensive for the purpose of the Convention; it was invoked once in the Supreme Court and a conviction obtained. The Supreme Court action is Regina v. Sakeasi Butadroka, Iona Walisoliso and Another, decided in 1977;

(b) Sections 65, 66, 67 and 68 of the Penal Code include in the offence of seditious the issue or circulation of publications whose commencement or continuance would appear to have the object of promoting feelings of hostility between different classes or races of the community (see appendix 5);

(c) Other than the provisions referred to above, there is other legislation having a more direct bearing on the spirit of the Convention and clearly reflecting government policy and the constitutional provisions prohibiting racial discrimination. Examples include the Immigration Act and education legislation;

(d) The Fiji Human Rights Commission, established by section 44 of the Constitution and whose functions are elaborated and regulated by the Human Rights Commission Act No. 10 of 1999 (see appendix 10);

(e) The Office of the Ombudsman is prescribed in the Constitution. His powers of redress, investigations into and recommendations on complaints made to him extend to alleged contraventions of the fundamental rights recognized and guaranteed in the Constitution. He can conduct these investigations also on his own initiative (see appendix 9).

### **The public service**

47. Under our Constitution, and specifically under section 140, it is the central duty of the public service to ensure that government policies are carried out efficiently, and with due economy.

48. The public service is fully accountable to the Government. It is responsible to the Government in providing candid, honest, comprehensive, accurate and timely advice, and implementing the Government's policies and programmes.

#### *Public service reforms*

49. The purpose of the Public Service Commission (PSC) is to promote excellence in public service delivery. To achieve this, the PSC has the statutory powers to review the machinery of government in order to ensure its efficiency and effectiveness in fulfilling Government's public sector management objectives. PSC also has the constitutional and statutory powers to be the central personnel authority in the public service. Following the delegation of much of its constitutional authority to departments in 1998, the PSC focus will be on strengthening leadership capacity in departments and developing a human resources management framework for the public service workforce that ensures continuing innovation and improvement in the delivery of public services.

50. The Service Excellence Programme is now being communicated to ministries/departments. The Cabinet endorsed the programme on 8 August 2002. A senior management team from the Commission is now conducting introductory meetings with ministries to inform them of the programme and the Senior Executive Service Framework. The PSC team have completed sessions with the Ministry of Tourism, Cultural Heritage and Civil Aviation, the Ministry of Public Enterprises, the Ministry of Fisheries and Forests, the Ministry of Works, Telecommunications, Energy, Road Transport and Shipping, the Ministry of Regional Development and the Ministry of Youth and Sports. The team will continue these sessions with the intention of visiting all ministries by the end of November 2002. We encourage staff of the ministries we visit to air their views and concerns as we have gained valuable feedback from the ministries we have visited. The issues raised will be taken into consideration in the development

of further reform policy initiatives as well as policy implementation. The Public Service Commission through the Management Information Systems Unit is upgrading its current Personnel Information System to a complete, computerized Human Resource Information System for the whole service that will be accessible by all ministries/departments. The new system will enable complete integration of human resource across the service, an activity highlighted as one of the objectives of the Civil Service Reform. Moreover, it will assist not only the Commission but also the Ministry of Finance in its budget forecasts and various ministries/departments in better human resource planning.

#### *Public service values*

51. Public service values are set out in section 4 (see appendix 8) of the Public Service Act of 1999. They provide that:

- (a) Employment decisions in the public service are to be made without patronage, favouritism or political influence;
- (b) Selection should be through an open and competitive process;
- (c) The public service must at all times be apolitical, performing its functions in a neutral, impartial and professional manner;
- (d) The public service must operate in a working environment that is free from discrimination on any grounds;
- (e) The public service should be the living and perfect example of the kind of country we all want Fiji to be, where one is recognized, respected and rewarded on the basis of one's professional merit, and where there is a prevailing spirit of mutual concern and care, of cooperation and team effort, and of togetherness and unity.

#### **Code of Conduct**

52. Section 156 (see appendix 11) of the Constitution sets out a Code of Conduct and binds and embraces all public officials, as well as ministers and members of Parliament. In carrying out their public duties:

- (a) Public officials must not place themselves in positions where there could be a conflict between their private interests and their public duties;
- (b) They must not compromise the fair exercise of their public duties;
- (c) They must not allow their integrity to be called into question; and
- (d) They must not cause respect for, or confidence in, the integrity of the Government to be diminished

53. Appointments and promotions in the public service are guided by certain fundamental principles. These are, firstly, that appointments and promotions should be based on merit; secondly, that men and women equally, and members of all ethnic groups, should have adequate and equal opportunities for training and advancement; and thirdly, that the composition of the whole service at all levels should reflect as closely as possible the ethnic composition of the population, taking into account, when appropriate, of occupational preferences.

#### **Public service equal opportunity policy**

54. As a constitutional requirement, it is pertinent that we address the issue of Equal Employment Opportunity (EEO). EEO is defined to encompass equality of opportunity in all forms of paid employment and therefore rejects unfair discrimination on any grounds, including gender, ethnicity, age and disability. This is promoted by having workplace policies, rules, practices and behaviours that are fair and just.

55. The Public Service EEO policy is intended to provide all public service employees with a guide to fairness and equity in employment decisions in the areas of recruitment, promotion, transfer and training based on merit. These are good business practices, recognizing the aims and aspiration of individuals in a competitive manner.

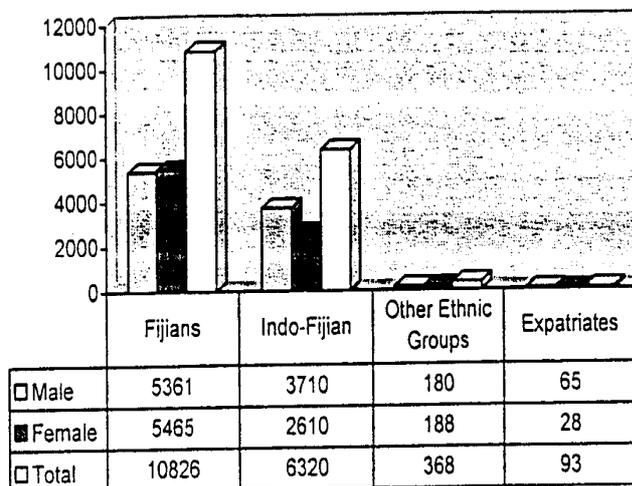
56. In order to arrive at a fair, appropriate and realistic policy framework, ministries and departments were requested to provide feedback on the EEO policy. Comments and suggestions have been noted and incorporated in the policy. Each ministry and department has adopted the EEO policy human resource programme in its day-to-day operations. The Statement of Commitment and the EEO policy are widely publicized among all staff and potential applicants for employment in the public service. Ministries and departments are required to include the EEO policy as part of their programmes/projects, in their corporate plans and their performance agreements. The Public Service Commission is monitoring the overall effectiveness of the EEO policy. Where possible, PSC draws on data held and collected centrally, but ministries and departments are required to present to PSC an interim report by 30 June annually and the final annual EEO report by 31 December each year, indicating the following:

- Analysis of the gender, ethnic origin and background of staff;
- A description of the actions taken to train and develop members of the EEO groups;
- An analysis of the number of applicants from women and from Fijian and Indo-Fijian backgrounds;
- An assessment of the access of EEO group members of training and development opportunities based on monitoring;
- The representation of EEO group members in key decision-making bodies, including selection panels, staff boards and boards under the control of the ministry.

**Racial and gender composition of the civil service (December 2000)**

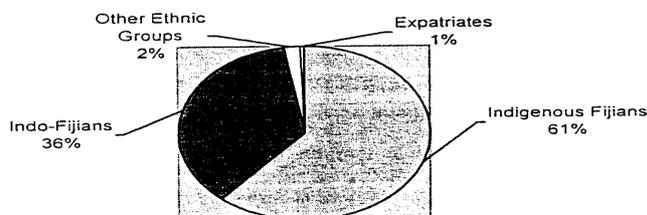
57. Below is the tabulation of the racial and gender composition of the civil service:

**Racial and gender composition of the civil service December 2000**



58. As at December 2000, indigenous Fijians comprised the majority of the civil service (10,826 officers). Indo-Fijians numbered 6,320 and officers of other ethnic groups, including Rotumans, Chinese, part-Europeans and Melanesians, numbered 368.

**Ethnic composition of the civil service December 2000**



**The Fiji Human Rights Commission**

59. The Fiji Islands Government funds and strongly endorses the work of the Fiji Human Rights Commission (FHRC), a statutory body which seeks to promote good race relations and eliminate artificial barriers throughout the Fiji Islands. The Fiji Islands Government also encourages dialogue with members of minority communities to ensure that their concerns and issues are addressed and to enable problems to be resolved.

60. FHRC is mandated by the 1997 Constitution to promote work of the United Nations bodies responsible for promoting human rights, including the Human Rights Committee (although Fiji is not yet party to the International Covenant on Civil and Political Rights) and the United Nations Committee on the Elimination of Racial Discrimination. The constitutional provision establishing FHRC reads as follows:

“42.-(1) This section establishes a Human Rights Commission.

“(2) Its functions are:

“(a) to educate the public about the nature and content of the Bill of Rights, including its origins in international conventions and other international instruments, and the responsibilities of the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and other organs of the General Assembly of the United Nations for promoting respect for human rights

“(b) to make recommendations to the Government about matters affecting compliance with human rights, including the making of a recommendation that a particular question about the legal effect of a provision of the Bill of Rights be referred to the Supreme Court for its opinion; and

“(c) to perform such other functions as are conferred on it by a law made by the Parliament.”

#### **Work of line ministries carrying out reconciliation work following the events of 19 May 2000 and their aftermath**

61. The Ministry of Reconciliation coordinates the work of various line ministries and civil society to rehabilitate and reconcile those who suffered in the events of 19 May 2000 and their aftermath.

(a) The Ministry of Regional Development is responsible for the resettlement of displaced families who live at Girit Centre in Lautoka, Valelawa Camp, in Labasa and others who were displaced as a result of the political commotion of May 2000. Its role is to liaise with the families, provide the means of transportation, and ensure that they are properly accommodated at their place of resettlement. This has been successful and to date, there are only five displaced families left at the Girit centre in Lautoka;

(b) The Ministry of Housing and Local Government is responsible for the resettlement of squatters. Squatters are illegal tenants and the main aim is to provide means by which they can have legal tenancy. The Ministry has embarked on development plans for squatter land that has been acquired. It is envisaged that development of Jittu Estate will begin shortly. The composition of settlers in this settlement reflects the major racial groups, i.e. Fijians and Indo-Fijians;

(c) The Ministry of Home Affairs is responsible for the security of our nation, both internally and externally. The major security risk now is internal. In this area, the Fiji Islands Military Forces and the Fiji Islands Police Force provided the needed security for our nation. The Republic of Fiji Islands Military Forces only engage in building projects, for which they are responsible for providing human resources. In terms of security, only a small unit is present in the Monasavu Dam area. At this moment, the police force is the main security force. It provides security by patrolling the streets and through various police posts. The police force also has a robust and dedicated public relations team which travels extensively throughout Fiji. They bring together people of different ethnic, religious and social backgrounds. They also conduct workshops on reconciliation, beginning in certain targeted areas, and it is hoped that this can continue and expand to other parts of Fiji;

(d) The Ministry of Agriculture is responsible for the resettlement of former tenants under the Agricultural Land and Tenant Act (ALTA). The Ministry had acquired land for resettlement of ex-ALTA tenants in 1999 and currently has [278] (sic) lots available for resettlement. The Ministry is also providing assistance through the Family Assistance Scheme under ALTA. A total of 889 applications have been approved at a cost of \$6,185,281.99. These applications come from different racial groups;

(e) The Ministry of Social Welfare provided financial assistance to affected families in Muaniweni settlement. Family assistance is given if no other government department is providing for these families. The total amount of assistance is \$100 per month;

(f) The Assembly of Christian Churches (ACCF) was formed in may 2001. The main purpose of the Assembly is to foster unity amongst different Christian denominations. ACCF had organized Christian festivals throughout Fiji and their festivals brought people of different social, political and ethnic backgrounds together. ACCF is also responsible for organizing prayer breakfasts for the President and Prime Minister. These target leaders in the business communities, religious bodies, NGOs and other members of the private sector . The Ministry of Reconciliation broadcasts live on Radio Fiji programmes on culture and tradition. The Fijian cultures and traditions are explained in Hindi while Hindi culture and traditions are explained in the Fijian vernacular. Access to the public is also through Fiji Television programmes. Trinity TV has agreed to air local programmes of reconciliation. This Christian TV station has garnered a loyal following among Christians in Fiji, who make up the largest religious group.

62. As the Department for Reconciliation progresses, it begins to realize the enormity of the task ahead. The task of reconciliation cannot be brought about by legislative authority. Reconciliation is about real people. It therefore demands the effort of every community. The Ministry is moving to ensure that all the needs of our diverse communities will be identified. Research work and analysis are being carried out which will in the long-run assist in the formulation of sound policies for the framework for reconciliation. Reconciliation cannot be achieved overnight. It requires the will of every citizen of our country. The Ministry of Reconciliation is determined to realize the vision that we have a united Fiji where all communities live in peace and harmony and where prosperity is achieved.

## **Refugees**

63. Paragraph A (V) of the general guidelines on article 2 specifically requests State parties to provide information on measures taken to give effect to the undertaking to encourage means of eliminating barriers between races. In respect of refugees, Fiji has ratified the 1951 Convention relating to the Status of Refugees although we have not received any and procedures are not in place to deal with them, as we recognized upon succeeding to the Convention. The Government is considering its options after initially refusing the proposal of the Government of Australia for processing centres to be situated in Fiji.

## **Affirmative action programmes**

### *Social justice and affirmative action policies*

64. Affirmative action affirms Government's commitment to secure basic economic rights and a fairer distribution of wealth. The aim is to remove inequities and inequalities, which pose a threat to Fiji's social stability. The Government also supports programmes of assistance for the poor and needy in other communities. These include social welfare programmes, family assistance, low-cost housing, scholarships, student loan schemes and poverty alleviation projects.

65. The report of the Fiji Constitution Review Commission, which reviewed the 1990 Constitution, acknowledged the fact that merely to prohibit discrimination without taking any affirmative action is tantamount to perpetuating the social and economic disparities between Fijians and Rotumans and other ethnic groups living in Fiji. It is for that reason that the Commission recommended that Government should be obligated to put affirmative action programmes in place.

66. The affirmative action policies implement articles 1 (4) and 2 (2) of the Convention. In line with the Convention, these policies and programmes are being implemented for the sole purpose of securing the adequate advancement of the various ethnic groups and to ensure that they enjoy their human rights and freedoms.

67. Historically, Government since independence has as a matter of policy tended to require that special treatment should be accorded to members of races that were not or poorly represented in specified fields. This tendency has emerged as the special favours allowed to Fijians in education as regards the distribution of government scholarships and in commerce as regards the facilities for making advice available to them. Non-Fijians also have access to scholarships through the Ministry of Multi-Ethnic Affairs. Under the Social Justice Act, these programmes are regularly reviewed.

68. The current Government's blueprint also contains proposals on Fijian land issues, strengthening the role of the Great Council of Chiefs, enhancing participation by Fijians in commerce and industry, village improvement, education and a fairer sharing of natural resources. Government's policies are in line with the Constitution in terms of protecting the rights of minority as well as indigenous groups through social justice and affirmative action programmes. Nevertheless, it seeks to ensure that all Fiji citizens enjoy basic human rights on an equal footing.

69. At the National Economic Summit held on 12 and 13 September 2002, Government launched a 20-year plan to address, in an integrated, systematic and focused way, one of the disparities dividing the country - the disadvantaged socio-economic position of the indigenous Fijians and Rotumans in comparison to the other ethnic groups in the country.

70. In accordance with the social justice provisions<sup>5</sup> of the 1997 Constitution, government affirmative action programmes are regulated by the Social Justice Act<sup>6</sup> No. 5 of 2001 enacted in December 2001.

71. Current programmes established or continued under the 2001 Social Justice Act include:

- The Small Business Equity Scheme;
- Enhancement of Fijian and Rotuman education;
- Micro-enterprise development;
- Increasing Fijian and Rotuman business participation;
- The Student Loan Scheme;
- Renting of premises owned by Fijians and Rotumans;
- Scholarships administered by the Ministry of Multi-Ethnic Affairs;
- Self-help projects administered by the Ministry of Regional Development;
- The Family Assistance Scheme;
- The Poverty Alleviation Scheme; and
- Rehabilitation of disabled persons.

72. The target group for the above programmes includes:

- Fijians (as defined in the Vola ni Kawa Bula<sup>7</sup>), Rotumans (as defined under Rotuman Act);
- Fijian and Rotuman students in government and non-government schools;
- Students with low academic achievements;
- School leavers in rural and peri-urban areas without formal education;
- Students who are mentally, physically and intellectually disabled;

- Women, youth, the disabled, the unemployed and low-income earners;
- Students from low-income families as prescribed in Act;
- Fijian and Rotuman legal entities such as provincial councils;
- Serving prisoners;
- Non-Fijians and non-Rotumans whose income does not exceed the limits in the Act;
- Fijian resource owners;
- Landless Fijians, Rotumans and other communities;
- Fiji nationals with no regular sources of income and who are over 60 years and are disabled, widowed, etc.

73. The goals and objectives of the above programmes include:

- Providing access to and promotion of small business;
- Strengthening the administrative structure of Fijian schools and upgrading school facilities;
- Enabling the target group to have access to quality education at all levels;
- Helping the target group to acquire employable skills;
- Establishing and developing microenterprises for disadvantaged groups;
- Promoting and facilitating the participation of Fijians and Rotumans in commerce and business;
- Providing equal access to training and education;
- Widening access to housing;
- Providing for the basic needs of the disabled in order to relieve social hardship;
- Providing for the rehabilitation of the unemployed and the street children;
- Providing land and housing for squatters;
- Providing access to education and training for indigenous Fijians and Rotumans so that they may achieve parity with other ethnic communities in the professional and technical fields.

74. Bearing in mind the need to address the economic, social and educational disparity between Fijians and Rotumans as compared to other ethnic groups in Fiji, the affirmative action programmes are intended to be temporary and not continued after the goals or objectives of the programmes have been attained.

75. Section 6 of the Social Justice Act obligates the relevant department or agency to monitor the effectiveness of the programmes with reference to the performance indicators set out in the schedule. Further, section 6 (1) (b) requires the relevant minister, as defined in the Act, to submit annual reports to Parliament.

76. It should be noted therefore that identified programmes are being monitored by a unit established in the Ministry of National Planning. As part of its role, the unit will be making quantitative and qualitative assessments of the programme on an ongoing basis, culminating in an annual report at the end of each year. Monitoring ensures that recipients belong to the designated category of beneficiaries, that there is no wastage of resources and that the targets are achieved.

77. Section 44 (7) of the 1997 Constitution provides that any programme so established must lapse on the tenth anniversary of its commencement.

### **Article 3**

78. Apartheid is not practiced in the Fiji Islands. The Fiji Islands Government condemns all forms of apartheid or any other form of racial segregation. The Fiji Islands works towards a society where all individuals, whatever their race, can feel safe, secure and able to contribute to, and benefit from, what has been achieved. The Fiji Islands Government strongly believes that there should be no artificial barriers on racial grounds.

79. However, there is no special legislation giving effect to the article of the Convention prohibiting and condemning apartheid. Internally, of course, the prohibitive provisions of the Constitution cannot be contravened. It would seem that that factor alone negates the need for any such legislation.

80. Fiji firmly supported United Nations resolutions on apartheid and advised national sporting organizations against accepting invitations to or from countries practising apartheid until 1990 when apartheid was abolished in South Africa.

81. In the context of the Commonwealth organization of countries, Fiji is a signatory to the Gleneagles Agreement condemning apartheid.

### **Article 4**

82. The Fiji Islands maintains its interpretation of article 4 which it stated upon succeeding to the Convention in 1973: that article 4 requires a party to the Convention to adopt further

legislative measures in the fields covered by subparagraphs (a), (b) and (c) of that article only if it considers, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention (in particular the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association), that any additional legislation or variation of existing law and practice is necessary to meet those ends.

83. The views of extremist or racist organizations are not supported by the Fiji Islands Government. If the activities of such groups or their members breach the law, they are liable to be dealt with by the police under public order and criminal legislation.

84. There is already provision under the present criminal law in the Fiji Islands which deals effectively with conduct which is intended or is likely to stir up racial hatred and conduct which involves the incitement of others to racial hatred. The Public Order Act sets out this legislation and a copy is at appendix 4. The Penal Code definition of the offence of sedition is also to be noted (appendix 5).

85. The combined effect of the provisions of the Constitution, the Penal Code and the Public Order Act referred to above, it would seem, is to show that within the context of the terms of Fiji's succession to the Convention there is virtually full compliance with this article, if not with the Convention itself, by Fiji.

86. It should be noted that the Public Order Act is perhaps the only penal legislation that clearly represents the adoption of article 4 (a) and (b).

87. In short, the initial constitutional prohibitions largely render unnecessary the need for specific legislation. Strictly speaking, the reservation relating to the national electoral system and Fijian land still form an integral and essential part of the central government administration. The reservation therefore remains to date a matter of national policy on the basis of national agreement.

88. The Fiji Islands Government has noted the Committee's strong view that the law should prohibit all organizations of a racist nature. This view is expressed in paragraph 6 of the Committee's general recommendation XV of 17 March 1993.

89. Such powers of proscription do not exist in the Fiji Islands. It is the considered view of the Government that to ban extremist organizations, or to attempt to curtail their activities, on the grounds of their political principles would not be seen as in keeping with the right to freedom of speech and would, almost certainly be counterproductive. The Government believes that such action is likely to lead to greater publicity and support for the groups in question. The Government has therefore concluded that the effects of banning such groups would run counter to the object and purpose of the Convention. The fact that such groups are not banned does not give their members any immunity from prosecution if they commit criminal offences.

90. However, the provisions of the Public Order Act<sup>8</sup> concerning organizations whose aim is to usurp the functions of the police or the military or whose aim is to employ physical force to promote political or other objects are relevant although there is no record of prosecutions having taken place.

### **Article 5**

91. All of the rights set out in article 5 are, in the Fiji Islands, subject to no restrictions as to race, colour, or ethnic or national origin, apart from the exercise of voting rights which, as in other countries, is subject to certain restrictions on the grounds of nationality.

92. Section 38<sup>9</sup> of our supreme law, the Constitution, proclaims the equality of all people in the Fiji Islands, subject to some limitations. The Government considers this constitutionally guaranteed right to equality and freedom from discrimination on various grounds including race, ethnic origin, nationality and primary language to be sufficient.

93. The administration of justice is regulated by the Constitution, by specific statutes and by rules of the courts. These provide and protect the rights of equal access to the courts and other tribunals and to legal representation without distinction as to race, colour or ethnic origin. The judiciary is completely independent of the legislative and executive branches of Government.

94. The judicial power of the State is vested in the High Court, the Court of Appeal and the Supreme Court and in such other courts as are created by law. The final appellate court of the State is the Supreme Court. The High Court consists of the Chief Justice and no fewer than 10 puisne judges. It has unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other original jurisdiction as is conferred upon it under the Constitution.

95. The Court of Appeal consists of a judge, other than the Chief Justice, also appointed as President of the Court of Appeal, such other judges as are appointed as Justices of Appeal, and the puisne judges of the High Court. This court has jurisdiction to hear and determine appeals from all judgements of the High Court and has such other jurisdiction as is conferred by law.

96. The Supreme Court is made up of the Chief Justice as the President of the Supreme Court, such other judges as are appointed as judges of the Supreme Court and the Justices of Appeal. The Court has exclusive jurisdiction to hear and determine appeals from all final judgements of the Court of Appeal.

97. The President appoints the Chief of Justice on the advice of the Prime Minister following consultations by him or her with the leader of the opposition. Judges of the Supreme Court, the Justices of Appeal (including the President of the Court of Appeal) and the puisne judges of the High Court are appointed by the President on the recommendation of the Judicial Services Commission. This follows consultations by it with the Minister for Justice and the sectoral standing committee of the House of Representatives responsible for matters relating to the administration of justice. The term of appointment of the Chief Justice, a Justice of Appeal (including the President of the Court of Appeal) or a judge of the Supreme Court expires upon his or her reaching the age of 70.

98. The official language in the courts is English, but section 190 of the Criminal Procedure Code provides that evidence given in the accused's presence in a language not understood by him/her shall be interpreted in open court. Legal aid is made available under the Legal Aid Act 1968, but is limited to criminal trials in the Supreme Court and entitlement is made subject to a means test.

99. Violence against or bodily harm of a person are offences under the Penal Code. The courts are empowered to order flogging only in certain circumstances.

### **Training of law enforcement officials in the avoidance of racial discrimination**

#### *Recruitment and training of police officers*

100. During the recruitment and selection stage, the processing and vetting are done in accordance with the respective ratios present in the population. Since the Fijian population dominates the Indian and the other groups, Fijians make up 50 per cent. Competency-based training was formally implemented in 1997. There is no provision for discrimination on the grounds prohibited by the Constitution<sup>10</sup> including ethnic origin and gender; candidates need only to meet the selection criteria to join the Force. During training, the candidates are in mixed racial groups with no segregation or any special treatment. All undergo the same training.

#### *In-service courses*

101. For all in-service training, the Police Academy establishes an annual training calendar of courses in various aspects of the needs of the organization. Apart from the calendar forecast, each course before it commences is published in the weekly Force Routine Orders and police personnel are invited to apply. Those who meet the selection criteria are invited to undergo the training. The candidates are not hand picked from the stations.

#### *Examination and assessment*

102. All exams and assessments are done in strict conformity with the rules of the Academy. The use of index numbers for written exams is in place to ensure impartiality and to remove the possibility of favouritism. If the candidates are not satisfied with the results, they have the right to raise their grievances with the Director of Training through the normal channels.

#### *Content of police training courses*

103. In the delivery of courses, emphasis is placed on the Bill of Rights, ethics and professionalism and the Code of Ethics of the Fiji Police. The issues relating to community and customer needs are also emphasized. The Academy does its best in delivering these issues which have direct impact in society.

104. Fiji Police Manpower Distribution. The current structure shows: 1,118 Fijian officers, 717 Indian officers, 27 Rotuman and 53 others, for a total of 1,915 police officers. The gender ratios show that 91.4 per cent of the officers are male. The aim of the Department in the next few years is to recruit more females so that the correct ratio of 75 per cent males and 25 per cent females is attained.

### **Security of person**

105. It is government policy to encourage the full and equal enjoyment of human rights and fundamental freedoms by all citizens of the Fiji Islands. It is fundamental to the policy that all sectors of the population should enjoy adequate protection against crime and criminal violence.

106. Members of the police service usually form the first level of response in any situation. It is vital therefore that the police service is adequately trained.

107. The Government remains fully committed to developing policies that address the continuing problem of racial violence in the Fiji Islands, and fully supports police efforts to tackle these crimes as a high priority. The full force of the criminal law is available to deal with offences of racial violence and harassment.

108. It is in the best interest of ethnic minorities to ensure that legislation is framed in such a way as to ensure that those who commit such offences are dealt with as effectively as possible. Whilst the introduction of an offence of racial violence may have a short-term declaratory effect, the Fiji Islands Government believes that it would not deliver any additional practical protection or be conducive to good race relations in the long term.

109. The Fiji Islands Government does not believe that it is right in principle to introduce a separate class of violent crime of racial motivation which would attract a greater penalty than all other similar violent offences. There would also be extreme practical difficulties in proving racial motivation beyond reasonable doubt. The Government may consider arrangements whereby a court can take into account racial motivation as an aggravating feature within existing maximum penalties when sentencing, to ensure that perpetrators of racial violence are properly convicted and punished.

110. The Fiji Islands Government believes that much can be done to ensure that the existing law is applied effectively and consistently in racially motivated crimes. Where there is a clear understanding of the scope and purpose of the present law the Fiji Islands Government believes that there are no substantial obstacles to the effective prosecution of an offender.

111. The Fiji Islands Government is aware from work it has recently carried out that there are administrative issues, including procedures, training and guidance, which need to be addressed before it can be confident that the law is being used to the full.

112. The police statistics unit does not collate racial incidents reported to the various police stations although the police continue to focus their efforts on improving recording and encouraging victims to report.

### **Political rights**

113. The right to vote is restricted to Fiji Island citizens. Voting for local governments is based on universal adult and equal suffrage by residents. Any citizen over 21 years of age may stand in any such election.

114. It is with regard to election for seats in the House of Representatives that voting is required by the Constitution to be carried out both on a national and a communal roll system.

115. This system of communal voting was established in colonial times and was continued in the 1970 independence Constitution, through the 1990 Constitution and the 1997 Constitution.<sup>11</sup>

### **Other civil rights**

116. Section 34 of the 1997 Constitution guarantees the freedom of movement of Fiji citizens. Citizens have the right to enter and remain in the country while all who are lawfully in Fiji have the right to move freely throughout Fiji and the right to leave Fiji (sect. 34 (3)). Section 34 also provides that every citizen, and every other person who has a right to reside in Fiji, has the right to reside in any part of Fiji. The exceptions (sect. 38 (6)) to this constitutionally guaranteed freedom are:

- (a) For the purpose of ensuring a person's appearance before a court for trial or other proceedings;
- (b) In consequence of a person's conviction for an offence;
- (c) For the purpose of protecting another person from apprehended violence.

#### *The right to a nationality*

117. The 1997 Constitution's provisions on citizenship are contained in chapter 3. Citizenship may only be acquired by birth, registration, or naturalization. Every child born in Fiji becomes a citizen unless his/her parent has diplomatic immunity or neither parent is a citizen.

118. Tabulated below are the different previous nationalities of persons granted citizenship by the Department of Immigration from 1982 to 2001.

|                   | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | Total |
|-------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|-------|
| Australia         | 1    |      | 6    | 2    | 1    |      | 5    | 1    | 4    |      | 4    | 3    | 1    | 4    | 1    |      | 2    | 16   | 23   | 31   | 105   |
| British (UK)      | 1    |      | 12   | 9    | 8    | 1    | 7    | 7    | 2    | 2    | 3    | 4    | 1    | 5    | 1    | 3    | 3    | 1    | 1    | 5    | 76    |
| Canada            |      |      |      |      |      |      |      |      |      |      | 1    |      | 1    |      |      |      |      |      |      |      | 2     |
| China             | 10   | 6    | 11   | 9    | 8    | 3    | 225  | 101  | 25   | 58   | 77   | 57   | 55   | 67   | 18   | 21   | 105  | 62   | 24   | 143  | 1 085 |
| India             | 58   | 49   | 56   | 55   | 41   | 1    | 105  | 39   | 29   | 45   | 50   | 23   | 22   | 24   | 11   | 19   | 37   | 29   | 31   | 56   | 780   |
| New Zealand       | 15   | 16   | 4    | 3    |      | 3    | 4    |      | 4    | 2    | 4    | 6    | 4    | 2    |      | 5    | 5    |      |      | 3    | 80    |
| Others            | 6    | 5    | 2    | 4    | 4    | 7    | 11   | 4    | 1    | 4    | 8    | 9    | 8    | 16   | 8    | 2    | 10   | 13   | 13   | 37   | 172   |
| Pacific Islanders | 10   | 13   | 16   | 28   | 13   | 6    | 17   | 28   | 13   | 8    | 2    | 3    |      | 4    | 1    |      | 1    | 52   | 7    | 15   | 237   |
| Singapore         |      |      |      | 1    |      |      |      |      |      |      |      |      |      |      |      |      |      |      | 1    |      | 2     |
| United States     | 1    | 1    |      |      |      |      |      | 2    | 1    |      |      | 7    |      | 1    |      |      | 3    |      |      |      | 16    |
| Total             | 102  | 90   | 107  | 111  | 75   | 21   | 374  | 182  | 79   | 119  | 149  | 112  | 92   | 123  | 40   | 50   | 166  | 173  | 100  | 290  | 2 555 |

Source: Department of Immigration.

### **Free choice of employment**

119. The Government continues to take steps to ensure that members of all ethnic communities have access to employment and business opportunities on an equal footing with all in the Fiji Islands.

120. The broad objective of the Ministry of Labour and Industrial Relations is to cover all activities in the elaboration, implementation, control and evaluation of policies on labour relations, labour and safety standards and employment. The main sections of the Ministry and their objectives are as follows:

(a) Industrial Relations - the promotion, establishment and pursuit of labour relations which encourage progressively better conditions of work and life of workers and the strengthening of machinery for the settlement of trade disputes through agreed procedures, legislative provisions and advisory services;

(b) Permanent Arbitrator - to provide a permanent institution for the adjudication of industrial disputes in an expeditious and consistent manner;

(c) Labour Administration - aims at the formulation and enforcement of minimum labour standards. The Fiji National Provident Fund Act, Wage Council Act and Workmen's Compensation Act are pertinent legislation in this regard;

(d) Occupational Health and Safety - the effective administration of the legislation and other standards relating to occupational health and safety and the promotion of a high standard of health and safety in all places of work;

(e) Research and Development - to undertake research studies, surveys and collection of statistics relative to the national labour market needs of the Ministry; to provide quality services to the secretariat of the Tripartite Forum and all boards of the Ministry;

(f) Legal - provides legal advice on labour legislation and litigation and prosecution services for all sections of the Ministry;

(g) Registrar of Trade Unions and Industrial Associations - aims at providing an effective administration of the laws relating to trade unions and industrial associations;

(h) Training - provides effective training programmes for the staff in order that the highest quality services are delivered.

121. The growth in paid employment has been achieved mainly through the private sector rather than public sector employment. This reflects government policies to encourage exports and promote private sector investment, particularly employment in intensive industries. The participation of women in economic activity beyond the household has grown significantly since the mid-1970s. The rising labour force participation rate for women and generally stable rates for males as estimated by the Ministry of National Planning have resulted in a net increase in the labour force between 1986 and 1996 and is believed to have been greater for females

(about 31,400) than for males (about 29,000). Government policy is to enhance that contribution by further encouraging the participation of women in “mainstream” economic activities and by improving women’s access to services which will improve their productivity. In the private sector, this will be facilitated by ensuring non-discriminatory access to finance for small business.

122. Workers are unionized and most of the unions are affiliated to the Fiji Trades Union Congress. Wages and conditions of employment are subject to voluntary conciliation and if necessary compulsory arbitration. By law, men and women have equal opportunities for employment. It is estimated that the total labour force grew at an average annual rate of 2.3 per cent from 1986 to 1996. This is considerably greater than the population growth rate over the period of 0.8 per cent per annum and is due mainly to the increasing rate of labour force participation by women. The total net growth of the labour force over the five years is expected to be 40,500 (23,000 males, 17,500 females), increasing from an estimated 301,500 in 1996 to 342,000 in 2001. This will represent an average growth of 2.6 per cent per annum from the 2.3 per cent for the 1986-1996 periods. It is estimated that about 16,200 males and females entered the labour force each year between 1996 and 2001, of whom about 14,500 will be seeking work immediately after leaving school or post-secondary institutions.

123. The main objective of Fiji’s immigration policies is to encourage the entry of people who can contribute their skills and experience to production while at the same time protecting employment opportunities for those already in the workforce.

### **The right to housing**

124. Information on housing from the 1996 census showed a number of similarities and differences between ethnic groups and their experience of the housing market.

125. The Government is committed to the promotion of equality of opportunity in housing and has been involved in a number of initiatives to ensure that this comes about. Housing is characterized by a diverse quality of houses in the rural and urban areas. It is mainly a private responsibility, but in recognition of the status of housing as a basic need, the Government has tried to ensure that affordable housing of reasonable quality is widely available. The Housing Authority and the Public Rental Board are the two government housing institutions that play pivotal roles in the provision of low-income housing. A housing needs assessment was undertaken in 1989 and it was estimated that for moderate population growth the requirement for new housing would increase by approximately 60 per cent from 1991 to 2006, that is, from 4,360 units in 1991 to 6,960 units in 2006.

126. The Government is not a housing provider: housing is made available by the Housing Authority, Public Rental Board and Housing Assistance Relief Trust organizations. However, the Government encourages these organizations to set clear guidelines for the promotion of racial equality. This is done in a number of ways, through legislation (for example, in the Housing Act 1988) and guidance to encourage equal opportunities throughout the range of housing providers, which have proved successful - although further work remains to be done.

127. The State, through the Ministry of Local Government, Housing, Squatter Settlement and Environment, participates in the housing market in Fiji through the Housing Authority (HA), the Public Rental Board (PRB), the Housing Assistance and Relief Trust (HART) and the Squatter Resettlement Unit.

128. The four entities discussed above are included in our Social Justice Act with special provision for housing assistance to the very poor section of our society.

#### *The Housing Authority*

129. To control increasing urbanization, the Government undertook an extensive housing programme in the 1950s to bridge the gap between existing housing demand and supply. It was given specific directions for distribution of public housing sector resources to a wide range of income groups. The primary role of HA is to provide housing for “workers”, currently defined as persons whose average annual income is below \$16,530. The authority aims at providing appropriate housing at prices affordable by people who fall into the category of workers. HA has introduced village housing loans through its existing system. A number of new initiatives have been approved by HA in its “new look” approach geared towards achieving maximum results. These include doing away with interest on charges, halving of mortgage protection premiums, halving of service levy, and putting in place of soft loans for provident needs.

130. Until 31 August 2001 HA had primarily focused on providing affordable housing and mortgage finance to low- to middle-income earners (from the 20th (\$3,500) to the 90th (\$16,500) percentile). From 1 September 2001, HA has opened up the market to everyone, without income restriction, and any individual can now apply for a housing loan, though it would still require ministerial final approval.

131. There is no condition set by HA in allocating lots, houses or mortgage financing; however, from the experience of the past years, Indians would predominantly buy lots and ethnic Fijians buy ready-built houses. This was evident in the sale of Design and Build houses in Nadawa, Tavakubu, Matavolivoli, etc. Otherwise, the ethnic groups would mix freely in all housing estates.

132. As far as housing applications are concerned, all applications are treated equally but are subject to loan eligibility criteria set out in HA policies and procedures. HA does not discriminate against any of its customers who wish to rent or sell, as long as the mortgage is paid in accordance with the agreement. If a customer faces financial difficulties, then a suitable arrangement has to be made with the Authority on repayment. HA also provides a six-month grace period to all its customers who are made redundant. Interest is frozen on these accounts as well.

133. HA has carried out housing developments all over Fiji, particularly in the major urban centres of Suva, Nasinu, Lautoka, Nadi, Ba, Labasa and Savusavu. Anyone who wishes to buy a permanent home can see HA without fear of discrimination. In its effort to be accessible, a new office opened in Suva on 28 November 2001 and new offices in Nadi and Ba are planned for 2002.

*The Public Rental Board*

134. PRB was created to take over and manage the rental section of HA and to provide economically sustainable rental housing for low- to middle-income urban families with a view ultimately to selling whole or portions of those estates. As a policy directive, PRB was to sell 40-60 per cent of its rental flats. In order to assist these tenants the Government in 1993 undertook to provide rental subsidy to PRB. It is envisaged that from this year, the PRB debt will be transferred to the Government in exchange for eliminating the rent subsidy and providing funding for capital construction.

135. Summarized below is a breakdown of PRB tenants. PRB does not discriminate against any of its customers provided they have the ability to pay the full rent charged from source and meet other allocation requirements. Rental flats are available throughout Fiji in the Suva and Nasinu area, Korolevu, Levuka, Nadi, Lautoka, Labasa and Savusavu. In addition to the head office in Suva, PRB also has offices in the Northern and Western Divisions.

**Public Rental Board - 1982 to 2001: occupancy by ethnic origin**

|           | Indigenous Fijians | Indo-Fijians | Others | Total |
|-----------|--------------------|--------------|--------|-------|
| 1982-1987 | 350                | 48           | 43     | 441   |
| 1988-1994 | 344                | 36           | 33     | 413   |
| 1995-2001 | 706                | 67           | 71     | 884   |
| Total     | 1 400              | 151          | 147    | 1 698 |

*The Housing Assistance and Relief Trust*

136. Government is also assisting HART to provide shelter for the poor, particularly those who are destitute or semi-destitute. A capital grant is provided annually to HART. HART constructed 60 units in 1994, 28 units in 1995 and 24 units in 1996. To improve the standard of living in the squatter settlements, the Government has embarked on a vigorous programme to resettle squatters.

137. A breakdown of HART tenants by race and location is tabulated below. In its policies and operations HART has no element of racial discrimination. Its objective is to provide shelter to the destitute and near-destitute, regardless of race or religion.

**Ethnic composition of HART tenants, 2001**

| Hart village | Indigenous Fijians | Indo-Fijians | Others | Total |
|--------------|--------------------|--------------|--------|-------|
| Vesida       | 15                 | 7            | 5      | 27    |
| Newtown      | 40                 | 23           | 5      | 68    |
| Korovou      | 5                  | 5            | -      | 10    |
| Delainasole  | 25                 | 19           | 3      | 47    |
| Valelevu     | 14                 | 8            | 4      | 26    |

| Hart village            | Indigenous Fijians | Indo-Fijians | Others | Total |
|-------------------------|--------------------|--------------|--------|-------|
| Nadera                  | 12                 | 7            | -      | 19    |
| Narere                  | 11                 | 6            | -      | 17    |
| Anandiwas               | 8                  | 3            | 1      | 12    |
| Makoi                   | 18                 | 8            | -      | 26    |
| Nakasi                  | 22                 | 23           | 2      | 47    |
| Lakena                  | 13                 | 2            | 1      | 17    |
| Ba - Namosau            | 15                 | 25           | -      | 40    |
| Sandalwood<br>(Lautoka) | 3                  | 8            | -      | 11    |
| Bioletti<br>(Lautoka)   | 2                  | 6            | -      | 8     |
| Nadi                    | 3                  | 16           | -      | 19    |
| Rakiraki                | 14                 | 7            | -      | 21    |
| Labasa                  | 1                  | 12           | 2      | 15    |
| Total                   | 221                | 185          | 24     | 430   |
| Percentage              | 51.4%              | 43.0%        | 5.6%   | 100%  |

#### *Resettlement of squatters by the Department of Housing*

138. Resettlement of squatters and improvement of existing squatter settlements has been ongoing by Government over the last few years. Such work includes subdivision, road construction and basic infrastructure development.

139. Cabinet has recently approved the criteria suggested by the Department of Housing for the allocation of lots and the formula for costing the squatter settlements. The criteria provide adequate safety nets and transparency in the allocation and costing of lots for the squatter resettlement programme.

#### **Public health and medical care**

140. Fiji generally has a good standard of health and compares well with other Pacific island nations. The country's health status meets or exceeds most of the World Health Organization's goals for the year 2000. Such status is due to improved health standards, sound comprehensive health care programmes and the untiring effort of the Ministry of Health in promoting healthy living for people. The Government's focus on health lies in preventive care. However, at the same time there is recognition of curative health care needs that supports the preventive focus.

141. The Ministry of Health is responsible for the following:

(a) Medical services, including drugs and other supplies, associated with patient care in urban hospitals and health centres, subdivisional hospitals, and rural medical and nursing stations;

(b) Research confined to virus control, vector control, filariasis control and surveillance of AIDS;

(c) Public health targeted at maternal/child health, communicable disease prevention, family planning, pollution control and rural health services;

(d) Health education and training through the Fiji School of Medicine and Fiji School of Nursing;

(e) Operation of three nursing homes (old people's homes) at Suva, Lautoka and Labasa;

(f) In the years ahead, the Ministry of Health will pursue health priorities to include the following:

Workforce planning, training and development;

Health education and information;

Health management and reform;

Cost recovery and health insurance;

Donor coordination;

Equipment for subdivisional hospitals and health centres;

Health education/health promotion development project;

Occupational health and safety;

Maintenance of the new paediatric hospital;

Construction and maintenance of the new Nadi Hospital extension;

Continuation of the Taveuni Rural and Community Health Project;

Major upgrading of health centres in Western, Northern and Central/Eastern Divisions;

Construction of the new Vunidawa Hospital, Naitasiri;

Master plan and design for Labasa, Ba and Nasinu Hospitals;

Upgrading of major (divisional and specialist) hospitals;

The improvement of the Health Information System.

142. People in the Fiji Islands are living longer, with a life expectancy at 61.4 years for males and 65.2 years for females. Infant mortality has fallen by 62 per cent in the past 20 years and is now at about 16.3 deaths per 1,000 live births. Good obstetrical services contribute to the lower infant death rate with about 95 per cent of births attended by trained medical personnel. Fewer children are experiencing vaccine-preventable deaths with no cases of polio, diphtheria, pertussis or tetanus being reported in the past several years. This is due to an active immunization programme where the coverage rate for 1996 was reported to be 96 per cent and greater for tuberculosis, polio, tetanus, diphtheria and measles.

143. There are 409 village clinics, 100 nursing stations, 74 health centres, 3 area hospitals, 3 nursing homes, 16 subdivisional hospitals, 3 divisional hospitals and 3 speciality hospitals with TB, leprosy and medical rehabilitation units, at Tamavua Hospital and St. Giles Mental Hospital, in the country. Many of the buildings date back to the old colonial days but a comprehensive programme of upgrading rural subdivision health facilities has been a priority project of Government's short- and medium-term plans.

144. The doctor-population ratio as projected in 1992 is around 1:2,448. For the nursing division, there is a total of 2,472 registered nurses practising in the country providing nursing services in hospitals, health centres and nursing stations. Using the 1996 population figures, the nurse-population ratio is about 1:312.

145. The top five causes of death are related to circulatory conditions, endocrine disorders like diabetes, cancers, respiratory problems and injuries. The main cause, circulatory diseases, has increased by 4 per cent in the past 20 years and was responsible for about 4,696 hospital admissions in 1996. Motor vehicle accidents have become an increasingly important concern with road accidents costing the country about \$20 million per year. In 1995, there were nearly 1,400 casualties registered, almost 500 required hospitalized care and 83 were fatal injuries. The 1996 figure for fatal road accidents stood at 112. The majority of those injured, hospitalized or killed on the roads are between the ages of 21 and 25 years.

146. While infectious diseases were previously responsible for the majority of deaths, they no longer do so owing to the vigorous immunization programme and improved living conditions. Diabetes, however, continues to be a devastating disease. Estimates reveal that one in every eight people in the Fiji Islands is affected in some way by this disease. Health education and promotion efforts in schools, community groups and national campaigns are targeting children and adults to prevent the development of the disease and to reduce the number of complications that arise from poor disease management.

147. Government continues to provide the bulk of the health services, both in curative and public health, through its national health service system. Increasing demand for services has led to an expansion in the number of private general practitioners and specialists practising in Fiji under the Fiji Medical Council.

148. The Ministry of Health's principal objectives are to promote, protect, maintain, restore and improve the well-being of the citizens of Fiji and to develop within available national resources a comprehensive, coordinated, integrated, accessible, responsive, balanced and equitable health delivery system dedicated to primary health care, health promotion and disease prevention.

*Primary health-care services*

149. Primary health care involves the provision of primary medical treatment, preventive medicine and health education. About 95 per cent of primary medical care is provided by doctors in government hospitals, health centres and nursing stations throughout the country. They are complemented by general practitioners in private practice in most urban centres. The hospitals, health centres and nursing stations provide outpatient medical treatment antenatal and post-natal care, family planning, and development screening of children. Divisional hospitals provide screening for cancer of the breast and cervix, immunization, clinical laboratory facilities, health education and dental care. Psychiatric care is provided in a separate institution. All schoolchildren are medically examined at regular intervals by school health teams. Health education activities and training are important ongoing programmes for the sector. The public are encouraged to adopt healthy lifestyles to ensure their well-being and to learn proper use of the health services through the media, publications, audiovisuals and counselling.

150. Nutrition, a major determinant of health, is being addressed by the Food and Nutrition Committee which was established by Government to encourage the public to adopt better and healthier eating habits.

*Curative health services*

151. The Government continues to push for improved curative services. The focus has been on the quality of treatment provided, staffing, upgrading of existing facilities, and the provision of equipment and technologies to meet current demands. There are 307 doctors in the public service providing inpatient and ambulatory care.

*Private sector participation in the provision of health services*

152. These services are offered mainly in the urban areas where most of the practitioners gain family physician status. A private hospital system is also emerging as an alternative means of medical care provision in Fiji. Government continues to acknowledge and encourage the private sector, which supplements the efforts of the Ministry of Health.

**Delivery of social services - Department of Social Welfare**

153. Government policy recognizes the need to ensure that personal social services are sensitive and responsive to the particular needs of all communities. The Department of Social Welfare of the Ministry of Women, Social Welfare and Poverty Alleviation is committed to the promotion of equality in all social services provision. This principle is fully integrated into all the policy and practice guides. The most needy have been hard hit by the changing nature of support networks in the local traditional extended families of the major ethnic communities.

Efforts are being made to encourage the extended family to continue its role as the primary source of social support. Those assisted include the aged, widows, the chronically ill, the disabled, deserted wives and the dependents of prisoners. The allowance paid ranges from a minimum of \$12 to \$60 per month. Recipients also receive free education. The Government also offers protective and supportive services to orphans and abandoned and neglected children through foster care and adoption, as well as providing residential care facilities for children in need of substitute care.

154. The Department's roles and responsibilities fall into two broad categories. The first, statutory functions; these come under seven different Acts:

Juveniles Act Cap 56;

Probation of Offenders Act Cap 22;

Adoption of Infants Act Cap 58;

Matrimonial Causes Act Cap 51;

Maintenance and Affiliation Act Cap 52;

Community Work Act 1994.

Fiji National Council of Disabled Persons Act 1994.

155. These seven pieces of legislation encompass all the responsibilities relating to the protection and welfare of children at risk, mediation of disputes including the rights of children and divorce proceedings. Furthermore, a greater proportion of time is taken up in the preparation of court reports and the supervision of offenders.

156. The non-statutory functions of the Department of Social Welfare include the administration of the following:

Family Assistance Scheme (FA);

Poverty Alleviation Programme (PAP);

Grants to non-government organizations;

Marriage guidance counselling;

Family meditation and counselling services.

157. These functions relate primarily to the provision of the FA allowance as a means of income support and targeted financial assistance through PAP. PAP is channelled through sponsoring NGOs that are contracted to oversee the implementation of the projects. Administration of FA and PAP currently make up the bulk of the Department's workload. Grants to NGOs provide the basis upon which the Department builds and extends its partnerships in the delivery of welfare services.

*The right to social security and social services*

158. The plight of the disadvantaged. The poor and those vulnerable to poverty are a major concern and the Government is working at eradicating poverty in Fiji through the provision of both immediate relief and long-term sustainable measures. The UNDP/Government poverty study revealed that about every fourth household is struggling below the poverty line. Government efforts include resettlement of squatters, improvement of squatter settlements and assistance through the Department of Social Welfare and the Ministry of Education which allows school fees to be waived for children whose families earn less than FJD\$ 5,000 per year. NGOs provide some welfare assistance in Fiji, generally through non-cash donations.

159. The Department of Social Welfare offers services to people in need irrespective of gender or ethnic or religious background through the following programmes:

Poverty Alleviation Programme;

Family Assistance Allowance;

Coordination of Care and Services to Persons with Disabilities;

Care and Protection Allowance.

*Poverty Alleviation Programme*

160. PAP is aimed at improving the housing, health, education, food-growing or income-earning capabilities of its recipients. Financial assistance may be granted for low-cost housing or income-generating projects. In order to qualify for PAP assistance, the applicants must be:

- (a) Recipients of Family Assistance Allowance;
- (b) Recipients of Assistance from the Ex-servicemen's Fund;
- (c) Recipients of Care and Protection Allowance;
- (d) Ex-prisoners who are recommended by the respective Provincial Officers;
- (e) Fire victims;
- (f) Participants in group projects recommended by line ministries.

161. The Poverty Alleviation Committee processes all project applications submitted at the divisional and district offices at its headquarters. This committee scrutinizes the applications and decides on the approval of funding. The scheme operates in partnership with reputable voluntary organizations with the department providing funding and the organizations implement the approved projects.

#### *Family Assistance Allowance*

162. The Family Assistance Allowance is a non-contributory scheme that is based on qualification through financial need rather than right. The criteria for applicants for Family Assistance include the elderly, the physically disabled, the chronically ill, widows, deserted spouses/single parents and prisoners' dependants.

163. The Department receives applications from all those eligible under the above criteria. All applicants must undergo a means test. This is to ensure that the Department provides assistance to the poorest of the poor.

#### *Coordination of care and services to persons with disabilities*

164. The Department provides grant money to the Fiji National Council of Disabled Persons (FNCDP). FNCDP is fully responsible for the coordination of services and development regarding the country's disabled population. Disability is also considered among the Department's criteria for those eligible to receive assistance under the Department's Family Assistance and Poverty Alleviation schemes (see above).

#### *Care and Protection Allowance*

165. Care and Protection (C & P) Allowance is an alternative form of financial assistance given to those families supporting children, other than their own, whose parents have died or cannot be located and who usually do not qualify under the Family Assistance scheme.

#### **Do different ethnic groups have different needs for social services?**

166. From experience, it has been found that a majority of people seek welfare assistance as the last resort in order to obtain cash for their daily subsistence. Fijians and Indo-Fijians are the major groups that access the services of the Department of Social Welfare through the Family Assistance Allowance; this is to be expected because they represent the two majority groups in Fiji. PAP recipients are also mostly Fijians who apply for housing assistance and seed grants for income-generating projects. This trend supports the finding of the 1996 Poverty Report that average Fijian household incomes are much lower than average household incomes of Indo-Fijians, prompting the former to seek income support from the Government.

167. The increase in the number of Fijians seeking housing grants is symptomatic of the change in lifestyle taking place in most Fijian households where there is a shift from an extended family lifestyle to an independent nuclear-type family. Therefore, clients apply for housing assistance with the objective of being independent from the rest of their family members by having their own homes.

### **Government action through the Department of Social Welfare to secure equal provision of social services**

168. Over the years, the Government has been increasing the annual budgetary allocation for the Department which has allowed an increase in the budget allocations for each of the programmes implemented by the Department. The increase ensures that more people in need are assisted by the Department through the various services. The Department also is in the process of opening new offices in the rural and maritime areas with the objective of taking the services to a wider population and making the services readily accessible to those who need them.

169. The Department does not administer any affirmative action specifically to upgrade the welfare of a particular less unfortunate or poorer group, but through the above programmes is able to reach out to a wider section of the community who require these services.

### **Education and training**

170. The Government has continued to take action to improve the response of the education service to ethnic diversity.

171. Schools in the Fiji Islands are not racially segregated. The Education (Establishment Registration of Schools) Regulations promulgated under Act 9 provides 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” (regulation 9). Schools are also subject to the provisions prohibiting racial discrimination in the Human Rights Commission Act.

172. Fiji’s population is well educated, with virtually universal access to primary and lower secondary education. About a quarter of the entire population is of school-going age and although education is not compulsory at any stage, over 98 per cent of children between 6 and 14 years of age are attending primary schools. In 1996, Government introduced the Education for All by the Year 2000 programme. All major exams have been decentralized and are conducted by the Ministry of Education. The principal external examinations are the Fiji Intermediate Examination (class 6), the Fiji Eighth Year Examination (form 2/class 8), the Fiji Junior Examination (form 4), the Fiji School Leaving Certificate Examination (form 6) and the Fiji Seventh Form Examination.

173. Government maintains education standards by accrediting schools, recruiting teachers, developing the curriculum, providing teaching materials and administering external examinations. Government encourages rural and poor children to attend school through measures like the free tuition scheme for primary schools and per capita grants and remission of fees for secondary students. There is a high degree of community participation in the delivery of education services which is a positive factor of the system that needs to be maintained. It includes religious (Christian, Hindu, Muslim) and community organizations as well as local communities. Most schools are managed by NGOs. Government operates only 2 per cent of the primary schools, 8 per cent of the secondary schools, 8 per cent of the vocational and technical education schools and two out of the five teacher-training institutions.

174. The Government realizes that for ongoing economic development the country needs an educated and skilled workforce. The future of the country depends on a good all-round education for all the people.

175. In the meantime, initiatives such as the Viti programme are being encouraged. This involves the adoption of selected schools each year for more focused professional assistance. The learning of either conversational Hindi or Fijian is being encouraged in all schools and teachers' colleges as a step towards building bridges between the various communities. Rotuman is an examinable subject. While Government is committed to reducing the relative size of the public sector in the economy, education has been identified as a priority sector and an increase in its share in the budget is programmed. A major investment programme was developed with the assistance of the World Bank. Key features include:

- (a) Upgrading pre-school education relying on community efforts with strategic inputs from Government;
- (b) Development of basic education, particularly improvement of access to secondary education for rural students. Special incentives and training could be given to teachers to work in rural areas;
- (c) The quality of general education is to be improved at all levels through pre- and in-service teacher training, increasing the availability of textbooks and teaching materials and upgrading student assessment and evaluation.

176. Government funding and support for education has been focused in the following areas:

- (a) The enrolment of 100 additional full-time students in the Fiji Institute of Technology. The result will be more quality graduates with skills required by the tourism, commerce, manufacturing and engineering sectors;
- (b) Tuition fee assistance for secondary schools is extended up to forms 3 and 4 (since 1998);
- (c) Compulsory education will be facilitated by improving physical access to schools in rural areas;
- (d) The quality of pre-school education has improved owing to an increased salary grant to pre-school teachers and an accelerated secondary school teacher-training course has since 1998 addressed the shortage of secondary school teacher-training resources;
- (e) Fee-free education in essence means tuition free. With fee-free education schemes already implemented, focus in the years ahead will be on phasing in compulsory education measures to ensure the attainment of global primary education for all by the year 2000;

(f) Form 7 education will also be further consolidated by improving the quality of courses in existing schools and centralizing in strategic centres. Positive measures will continue to be taken to reduce the disparities between rural and urban schools by improving the quality of teaching and of curriculum resources and by upgrading student assessment;

(g) Teacher-training facilities are also available at the Lautoka Teachers College, Corpus Christi, the Fiji College of Advanced Education and Fulton College;

(h) The teacher-pupil ratio at the primary level is around 1:31 with a lower ratio (1:20) in the rural areas and higher ratio (1:42) for urban areas. Class sizes in the urban areas sometimes exceeding 50 are a direct result of high population growth and rural-urban migration.

177. The Ministry of Education is in the process of consulting with civil society, including human rights NGO coalitions, with the aim of introducing value education, including human rights and anti-discrimination, into the school system.

### **Cultural activities**

178. There are no restrictions on the right to equal participation in cultural opportunities on the grounds of race, colour, or national or ethnic origin. The right to equal participation in cultural activities is guaranteed by the Constitution. There are no laws that govern sports participation based on race.

179. Sport, with its intrinsic values, plays an important role in nation-building programmes; it provides lucrative employment opportunities and promotes Fiji as a tourist destination. Fiji is gaining an increasing reputation for hosting a range of sporting events. The Government, through the Ministry of Youth and Sports, together with the Fiji Sports Council and the Institute of Sports pursued the provision of “sports for all by the year 2000”, placing special emphasis on excellence. In 2003, Fiji will be hosting the South Pacific Games. In order to supplement this large public contribution, Government is also setting up a South Pacific Games Infrastructure Fund. To encourage donations to this fund, individuals and companies are entitled to a deductible allowance of 150 per cent of their contributions.

180. There is a major drive to uplift the country’s sporting image to premier status in the South Pacific region. Sporting bodies that are involved in their own development projects will be assisted and encouraged by the Government. Government is introducing sports development offices in various districts and in various sports at all levels. Sports in Fiji also play a vital role in fostering racial harmony and tolerance. They have also helped promote Fiji regionally and internationally.

181. The country’s outstanding achievement in rugby in Hong Kong in 1990, 1991 and 1992 have been seen as a major breakthrough in the international sporting arena. Fiji won the sevens world title (Melrose Cup) in 1997, the first international sevens series in that year. Fiji rugby is highly praised by international rugby fans. To further foster the development of sport, a “Sport for All” programme was launched in 1996. This programme promotes mass participation

in physical and sports-oriented activities for recreation, leisure, health and fitness. In the same year, the game of rugby union moved towards a new era of professionalism and commercialization following the global trend. In golf too, Fiji's Vijay Singh is becoming a major attraction on the international golfing circuit winning the United States Open in 2000. These sporting achievements have inspired the Government and other sporting bodies to further exploit the considerable raw talent existing in Fiji.

182. While rugby and soccer continue to be the major competitive sport played in the country, athletics is also developing steadily together with other sports. These include boxing, judo, weightlifting, swimming and board sailing. Other sports played extensively in Fiji are cricket, netball, volleyball, golf, basketball and bowling.

183. People are allowed to take part in the sport of their choices if the facilities and opportunities are available. Government provides grants to all national sporting bodies that are affiliated to the Fiji Association of Sports and National Olympic Committee (FASANOC). These grants are provided without regard to the racial composition of the affiliates. FASANOC assists by providing a central administrative system that enables the various sporting bodies to be accorded equal amounts of attention.

184. Through the Ministry of Youth and Sports, Government encourages the development and promotion of sports and the participation of as many citizens of Fiji as possible. Members of the community are not forced to participate. They are allowed to take up the sports in which they are interested. The encouragement that Government provides is given to primary schools, high school and clubs that participate at district levels and to national sporting bodies. Government does not dictate which sport particular groups of people may participate in. This is a choice, which is entirely up to each individual.

#### **Access to sporting facilities**

185. One of the main factors that determines the development of sports in any country is the availability of facilities. Fiji has been fortunate compared with other regional countries in that a wide variety of sports are played here because facilities are available.

186. The Fiji Sports Council (FSC) was established by an Act of Parliament in 1978 to promote and develop sport in Fiji. It is currently the main sporting body. The present Government accepts that sports development must be part of national development. Sport is also an integral part of an individual's development and yields immediate and long-term social, physical, athletic, emotional and moral benefits. A balanced and well-organized programme of activities encourages responsible sporting attitudes and a healthy approach to lifelong recreational and sporting activities. FSC works closely with FASANOC to identify needs in terms of facilities. Local Government Authority also develops facilities for the sports that are played by people in their districts. Government assists through the Sports Ministry, by contributing financially and securing foreign assistance for the provision of sports facilities. One of the main factors considered when deciding whether to provide facilities in any given location is the popularity of the sport.

187. National sporting bodies also develop their own facilities, which are often used by all races of the community, recreationally and competitively. These facilities are controlled by FSC, Local Government Authority or individual sporting bodies that make rules and regulations that determine the availability and accessibility of these facilities to the people who play the sport. The rules and regulations are mainly aimed at the maintenance of the facilities. Access to facilities is not based on race. Individuals or groups may utilize the facilities if they satisfy the rules and regulations laid down by the bodies in charge. This mostly includes the payment of the required fees. Ethnicity is not a criterion at all.

*Government measures to prevent ethnic hostility in competitive sports*

188. Race is not an issue in sports in Fiji, although there are certain sports that are popular with only some ethnic groups. For example, rugby is mainly played by indigenous Fijians and most Indo-Fijians play soccer. Athletics, bowls and tennis are played by people of all ethnic groups. Indigenous Fijians play a wide spectrum of sports as compared with Indo-Fijians and other races. This is based only on individual interest and not on any pressure or policy of Government, but it could be a result of cultural characteristics.

189. In recent years, sports that were traditionally played by only certain ethnic groups have received interest from others. Indo-Fijians can now be seen playing rugby recreationally and competitively on a small scale. In soccer, however, while most clubs, districts and the national body are administered by Indo-Fijians, most players are indigenous Fijians. The bulk of the Indo-Fijian population will turn up to watch a soccer match between two districts, but the presence of indigenous Fijian spectators is also significant. The Government hopes to do more for sports that enjoy more interaction across ethnic lines. Special attention and encouragement could be given to people who have managed to break into a sport that is otherwise traditionally played by certain ethnic groups only.

### **Festivals**

190. Besides sports, Fiji is also noted for its colourful festivals, filled with fun. Easter and Christmas are of great importance to this religious country. In September Fiji's sugar city, Lautoka, comes alive with its Sugar Festival, Nadi town has its annual Bula (welcome) Festival in July, and Fiji's annual carnival the Hibiscus Festival, is held in Suva during the month of August. A pretty sight that comes up every year throughout Fiji is the Hindu festival of lights, known as the Diwali Festival. The island of Beqa is noted for its spectacular and exciting ritual of Fijian fire walking and the Hindu ritual of fire walking is performed by the South Indians in many of their temples.

### **Recreation**

191. The 300 islands that make up the Fiji group contain a surprising variety of sights, often of great interest and astounding natural beauty. Fiji's bigger towns and cities abound with things to do at night. One can choose from the cinema, nightclubs and restaurants. Films in both English and Hindi are shown at modern cinemas throughout the country.

## Article 6

### **Broadcasting and the media in the Fiji Islands**

192. The media in Fiji include radio, the newspaper press, television and magazines. Some date as far back as 1869 and 1946, with a few as recent as 1998 and 2002. The media also help to increase social cohesion by widening the base of common experience. The media aid the integration of individuals into a society by continuing the socialization process. They also promote the advancement and enhancement of culture, tradition, art and music. In Fiji, the Government is committed to an open media policy and sees the media playing a pivotal and mutual role in nation-building. The Government recognizes the need to provide information, respond to questions and give accurate answers so that its point of view can be communicated.

193. In September 1996, two British consultants arrived in the country to review Fiji's media legislation. Their terms of reference involved undertaking a comprehensive review of all existing legislation pertaining to the mass media in Fiji with a view to updating them and making them more relevant to today's circumstances. The 44-page report prepared by the consultants, Ken Morgan (former Chairman of Great Britain's Press Complaints Commission) and John Prescott Thomas (a broadcast specialist, entitled "Future Media Legislation, and Regulations of the Fiji Islands" was handed to Government in November 1996 for consideration. Government has accepted the report with slight modification and implemented a consultation programme for the legal implementation of the report's recommendations. The way forward for the media in Fiji is guaranteed in the fundamental rights provisions of the Constitution (Amendment) Act 1997. Section 30 of the Act provides for freedom of expression whilst section 30 (b) specifically provides for freedom of the press and other media.

194. Newspapers and radio services operate in Fiji's main languages - English, Fijian and Hindustani - and each reach a vast majority of the population. The Fiji Times (founded in 1869), the oldest media organization in Fiji, and the Daily Post (established 1987) are the two English daily newspapers. The Fiji Times, owned by Australian magnate Rupert Murdoch, has circulation of 38,000 while the Daily Post, which is locally owned, has a circulation of 16,000. The Fiji Sun is the third English daily, established in 1998. Nai Lalakai (Fijian) and Shanti Dut (Hindi) are published by the Fiji Times while the Daily Post publishes the Nai Volasiga (Fijian).

### **The role of the Department of Information and Media Relations in the dissemination of information to combat racial prejudice**

195. The Department of Information and Media Relations is in the business of disseminating government information to the public. The Department uses all three media (radio, television and print) in this task. The Department also uses new technology (Internet) to perform its functions, i.e. it maintains and operates the official Fiji Government web site ([www.fiji.gov.fj](http://www.fiji.gov.fj)). The Department falls within the ambit of the Ministry of National Reconciliation, Information, and Media Relations. The Ministry's corporate goals are outlined below.

196. Corporate goals of the Ministry of Information. Our vision: prosperity through a well-informed and enlightened society and a nation where our diverse community can live in peace and harmony.

197. The mission of the Ministry of Information is:

(a) Achieving fuller community participation in national development through effective public awareness;

(b) Creating an enlightened society through free and responsible media and through efficient information infrastructure;

(c) Establishing an effective protection of and application for current and historical official records;

(d) Promoting social cohesion and racial harmony through the religious faiths, the vanua [confederations of indigenous Fijians], government programmes and the private sector, including NGOs.

198. The details of the media for the dissemination of information are as follows:

(a) Radio:

Fijian radio - Voqa ni Davui - broadcast four times a week;

Hindustani radio - Nav Rashtra - broadcast four times a week;

(b) Television:

Fijian TV - Voqa ni Davui (30 minutes) twice a month (Sundays);

Hindustani TV - Sitara (30 minutes) - twice a month (Sundays);

English TV - Dateline Fiji (60 minutes) - three times a month (Sundays);

(c) Print:

Press releases - daily;

Supplements - monthly;

Web site - includes all daily press releases that are unloaded on a daily basis. Contents also include speeches and features, profiles on the various ministries and links to other government and statutory web sites.

199. The Department through its programmes aims to create positive attitudes to national development. It tries to create a well-informed and enlightened society. In trying to combat racial prejudice in particular it performs the following:

(a) Use of officially sanctioned titles/descriptions. The Department uses officially sanctioned titles, language or descriptions in disseminating information to the people. It therefore does not use informal language (or slang), new vocabulary, or language that does not have official endorsement, a practice the Ministry believes assists it in resisting the use of words or language that are insensitive to race-related issues/subjects, etc.;

(b) Dissemination in the two main vernacular languages. The Ministry also disseminates information in the two vernacular languages of Fijian and Hindustani in order to ensure that government information aimed at creating positive attitudes to national development are in fact being received by the indigenous Fijian community and the Indian community. Such a practice is important as it ensures that the two main ethnic groups are catered for in the dissemination of positive information. The dissemination in the vernacular languages supplements the work of the English - language media;

(c) Discouragement of news media practices that contain racially insensitive overtones. The Ministry, through the issuance of press releases, letters to the editor/publisher or media presentations, criticizes news media reports that contain racially insensitive language/stereotypes;

(d) Affiliation with recognized media organizations. As a paying full member of the Pacific Islands News Association, the Ministry has been involved in efforts aimed at encouraging local journalists to be fair and unbiased in reporting on issues that have racial connotations. For instance, soon after the events of 19 May 2000, the Ministry conducted two meetings of editors and publishers and, among other things, called on the local news media to be fully aware of the implications of giving under airtime and space to individuals who use rhetoric that is unhealthy for race relations. The media were provided with copies of the Public Emergency Regulations so that they would be informed of the pertinent details relating to the emergency;

(e) Support to the Fiji Islands Media Council. The Government, through the Ministry, is supportive of the efforts of the Fiji Islands Media Council to maintain the highest professional and ethical standards amongst journalists and broadcasters. This support is indicated through Government's willingness and openness in discussing media-related issues with the Council and Government's continuous support of the principles and ideals espoused in the Council's Code of Ethics and Practice. All local media organizations are known to subscribe to such a code in the interest of self-regulation. The Code of Ethics and Practice covers the following relevant points:

| Code No. | Code summary   |
|----------|--|
| 1        | Accuracy, balance and fairness   |
| 6        | Discrimination<br>– avoidance of discriminatory or derogatory references to people’s race, colour, religion, sexual orientation or preferences, etc.   |
| 14       | Fijian Chiefly and Other Ethnic Institutions<br>– Particular care in dealing with these subjects with sensitivity and appropriate respect, while being free to report/comment in the public interest on Fijian chiefly institutions, traditions, affairs and other cultural matters. |

200. Government, through the Ministry, is aware that freedom of expression and freedom of the press and other media, as outlined in section 30 (1) and (30 (1) (b) of the 1997 Constitution, provides the local news media with guaranteed rights to media freedom. Therefore, there would be instances that would require governmental oversight of media tendencies to shape popular images of various groups in either a negative or a positive light.

201. Examples are as follows:

(a) Racism:

- (i) Crime reporting. Stereotypical images of a particular ethnic group can sometimes be conveyed in crime reporting or court reporting, e.g. the ethnic group of the accused is mentioned. This does not augur well for efforts that aim to rid the community of racially based stereotypes, e.g. that a particular ethnic group has criminal tendencies;
- (ii) Talk shows. Talk shows possess a lot of freedom and flexibility in information dissemination and, as such, there is a greater risk of the show containing information that negatively shapes images of other ethnic groups. It was the Ministry’s experience from the events of 19 May 2000 that talk shows on the local radio stations (in particular in the vernacular languages) had broadcast comments from listeners that were racially insensitive and perhaps contributed to the shaping of negative images of another ethnic group. Suffice it to say that radio station managers at certain times introduced measures aimed at reducing the likelihood of listeners’ airing racially insensitive comments that were in turn being broadcast;
- (iii) Advertisements, particularly for housing. Examples abound in the papers almost on a daily basis of advertisements aimed at the rental market, which is overwhelmingly Indo-Fijian, specifying that Indo-Fijians are preferred. These are illegal under the Fiji Human Rights Commission Act;

(b) Peaceful relations: the local media in exercising their freedom with responsibility and in advocating their role as an informed educator have frequently highlighted human-interest stories that contribute to peaceful coexistence. Such stories focus on such subjects as extension of ALTA leases (cordial relations between Indian tenants and the indigenous Fijian landlords) and intermarriages between members of the two major ethnic groups.

202. There are many other instances where media tendencies have promoted peaceful relations. These include:

(a) Editorial comments in daily newspapers that are critical of actions of certain individuals or organizations that do not encourage peaceful relations;

(b) New reporting that is responsible, i.e. that does not push the agenda of a certain racially biased individual or organization.

### **Fiji Human Rights Commission**

203. The Fiji Human Rights Commission commenced operations on 1 October 1999. It was established by section 44 of the Constitution, which mandates it:

(a) To educate the public about the Bill of Rights, international conventions and the responsibilities of the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and other United Nations bodies promoting respect for human rights;

(b) To make recommendations to the Government about matters affecting compliance with human rights, including the making of a recommendation to the Supreme Court about the legal effect of a provision of the Bill of Rights, and other functions conferred on it by Act of Parliament.

204. The Government of Fiji supports the Fiji Human Rights Commission by providing its core budget including rent as summarized below:

|                                       | 2000           | 2001           | 2002           |
|---------------------------------------|----------------|----------------|----------------|
| Total budget, including accommodation | \$2,122,805.56 | \$4,058,805.56 | \$3,609,805.56 |

### *Human Rights Commission Act (No. 10 of 1999)*

205. Parliament in 1999 enacted the Human Rights Commission Act which, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the “Paris Principles”), expands on the mandate of the Commission to include the promotion and protection of human rights in the Fiji Islands.

206. The Act defines “human rights” as: “the rights embodied in the United Nations Covenants and Conventions on Human Rights and includes the rights and freedoms set out in the Bill of Rights” (sec. 2). It is to be noted therefore that the rights embodied in the International

Convention on the Elimination of All Forms of Racial Discrimination, which is the subject of this report, are given recognition under this Act and are therefore part of the mandate of the Fiji Human Rights Commission.

207. The powers and duties of the Commission include:

(a) To increase general awareness of human rights, including by making public statements and educating public opinion and public officials, co-coordinating human rights programmes and acting as a source of human rights information;

(b) To invite and receive representations from members of the public on any matter affecting human rights;

(c) To consult and cooperate with persons and other bodies concerned with the promotion and protection of human rights;

(d) To inquire generally into any matter, including any enactment or law, or any procedure or practice, whether governmental or non-governmental, if it appears to the Commission that human rights are, or may be, infringed thereby;

(e) To make recommendations to the Government on the desirability of legislative, administrative or other action so as to give better protection to human rights;

(f) To promote better compliance in the Fiji Islands with standards laid down in international instruments on human rights;

(g) To encourage the ratification of international human rights instruments by the State and, where appropriate, to recommend the withdrawal of reservations entered to those instruments;

(h) To advise the Government on its reporting obligations under international human rights instruments and, without derogating from the primacy of the Government's responsibility for preparing those reports, to advise on the content of the reports;

(i) To make recommendations on the implications of any proposed act or regulation or any proposed policy of the Government that may affect human rights;

(j) To investigate allegations of violations of human rights and allegations of unfair discrimination, of its own motion or on complaint by individuals, groups or institutions on their own behalf or on behalf of others;

(k) To resolve complaints by conciliation and to refer unresolved complaints to the courts for decision;

(l) To advise on any human rights matter referred to it by Government, having regard to the available resources and priorities of the Commission;

(m) To publish guidelines for the avoidance of acts or practices that may be inconsistent with or contrary to human rights;

(n) To take part in international meetings and other activities on human rights and to cooperate with other national, regional and international human rights bodies.

208. This provides further details of the Commission's legal status, role, membership and procedures as well as an indication of the range of activities and initiatives undertaken in those years.

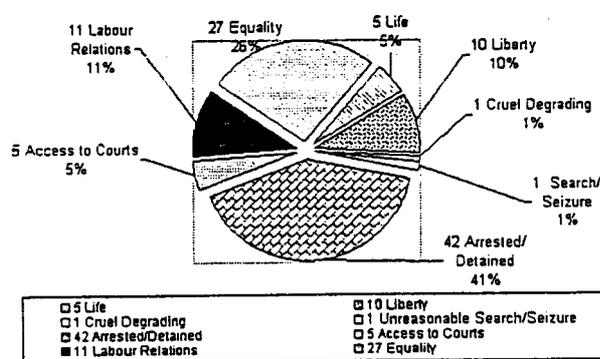
209. The Fiji Islands Government supports the Commission in its role of promoting human rights through training and education and protecting human rights through the investigation and resolution of complaints of allegations of violations of human rights and works very closely with them.

*Complaints to the Fiji Human Rights Commission*

210. For practical purposes, the 33 inquiries received during the three months the Commission was operational in 1999 are incorporated into data for the year 2000. There were 257 inquiries received in 2000, making a total of 290 inquiries for 1999 and 2000. Of these, 173 were out of the Commission's jurisdiction, i.e. 60 per cent of all inquiries were not allegations of human rights violations or of unfair discrimination. These complainants were, where possible, asked to consult other government departments or civil society organizations - the Labour Department, Social Welfare Department, Legal Aid Commission, Office of the Ombudsman, and various NGOs.

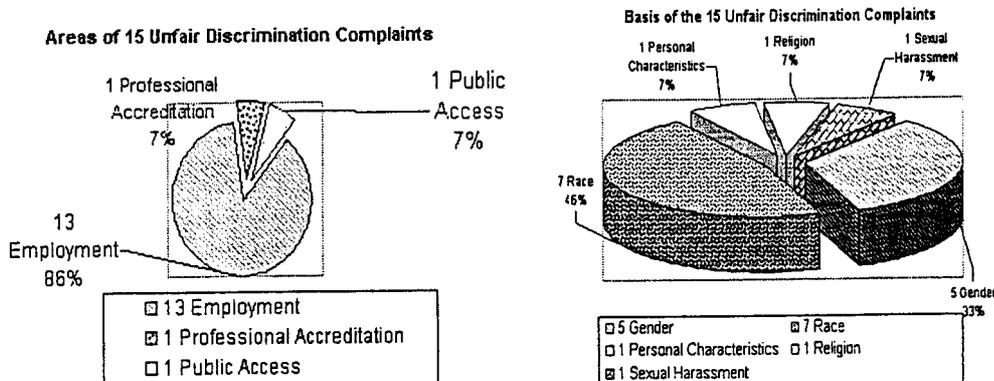
211. Out of the 290, 177 inquiries became valid complaints (40 per cent). These complaints were within the Commission's jurisdiction and therefore investigated by it. A total of 102 of them were allegations of human rights violations within the Bill of Rights chapter of the 1997 Constitution. They are classified in the graph below:

**Basis of complaints of violations of the Bill of Rights**



212. For 1999 and 2000, there were 15 complaints of unfair discrimination made to the Fiji Human Rights Commission: 13 were allegations of unfair discrimination in

employment, 1 in professional accreditation and 1 alleging discrimination in the area of access to public places. Also shown below are the grounds of discriminations - 7 race (46 per cent); 5 gender (33 per cent); 1 religion; 1 sexual harassment and 1 alleging discrimination on the ground of personal characteristics.



### Education campaign and training programmes

213. The Fiji Islands Government gives core funding to the Commission. This includes salaries, accommodation, utility costs, communication, purchase of goods and services, and a travelling and subsistence allocation. In the years 2000, Government gave a total budget of \$2,212,805.56. While the Government also funds some of the Commission's work to promote human rights (F\$ 1,700 in 2000, F\$ 55,000 in 2001 and F\$ 55,000 in 2002), the majority of the funding for the promotion of human rights comes from the New Zealand Government aid agency NZODA, which has given the commission \$350,000 yearly since 1999). Using both Fiji Government funds and NZODA funds, the Commission publishes a calendar every year; holds children's painting and essay competitions, and held three workshops/conferences in 2001. This year, the Commission held a follow-up workshop on race relations attended by the Special Advisor on National Institutions to the United Nations High Commissioner for Human Rights.

214. With funding from the Office of the High Commissioner (OHCHR) in 2001 as part of preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Commission held a conference on race relations in Fiji in August 2001. The funding, totalling F\$ 40,000, also facilitated a radio programme on racial discrimination and a children's painting competition. The results of these three programmes were transmitted to the World Conference held in September 2001 in Durban, South Africa.

### *Industrial tribunals - allegations of discrimination in employment*

215. Complaints relating to discrimination in employment are dealt with by the Commission, the Ministry of Labour and Industrial Relations and, subsequently, the Permanent Arbitrator. Alternatively, individuals can bring an action under section 41 of the Constitution for violation of the equality provision, section 38.

## Article 7

### Education

216. The Government remains committed to playing its part, within the framework of the Fiji Island's system of education, in encouraging the Ministry of Education to improve its response to cultural and ethnic diversity.

## Article 14

217. The Fiji Islands has not made a declaration under article 14 of the Convention which would permit individuals or groups of individuals within Fiji Islands jurisdiction who claim to be victims of violation by the Fiji Islands of any of the rights set forth in the Convention to complain to the Committee on the Elimination of Racial Discrimination. It has noted and carefully considered the Committee's view that it should make such a declaration. It takes the view, however, that the overall effect of the various remedies (including compensation) that are available within the Fiji Islands under both domestic and international law is already very considerable. It is not, therefore, persuaded of the case for further mechanisms and has no plans to change the present position.

## Notes

<sup>1</sup> Section 38 (9) of the 1997 Constitution.

<sup>2</sup> Naushad Ali v. The State, Criminal Appeal No. HAA.0083 of 2001L, 21 March 2002.

<sup>3</sup> Sailasa Naba v. The State, No. HAC0012 of 2000L, High Court, 4 July 2001.

<sup>4</sup> Taito Rarasea v. The State, Criminal Appeal No. HAA0027 of 2000, 12 May 2000.

<sup>5</sup> Section 44 1997 Constitution - see appendix 13.

<sup>6</sup> Social Justice Act No. 5 of 2001 - see appendix 6.

<sup>7</sup> Register of indigenous Fijians maintained by the Native Land and Fisheries Commission.

<sup>8</sup> See Public Order Act Cap. 20 in appendices, sections 3 and 4.

<sup>9</sup> See appendix 3, Bill of Rights, 1997 Constitution.

<sup>10</sup> Section 38. See appendix 3, Bill of Rights, 1997 Constitution.

<sup>11</sup> See the core document for a description of the sharing of seats in the House of Representatives on a communal basis.

-----