



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-second session

SUMMARY RECORD OF THE 1566th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 11 March 2003, at 3 p.m.

Chairman: Mr. DIACONU

later: Mr. PILLAI

later: Mr. DIACONU

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Sixth to fifteenth periodic reports of Fiji (CERD/C/429/Add.1, HRI/CORE/1/Add.122, Supplementary Report 2003)

1. At the invitation of the Chairman, the members of the delegation of Fiji took places at the Committee table.
2. Mr. MATAITOGA (Fiji), introducing his country's fifteenth periodic report (CERD/C/429/Add.1), said that his Government was committed to the promotion and protection of human rights. Following its election in 2001, the Government had reviewed the country's international obligations and was determined to re-establish a constructive dialogue with the Committee. Since the report contained most of the information requested by the Committee, he would briefly address only some of the issues.
3. The country's Supreme Court had decided to hear the case concerning the composition of the Cabinet of Ministers on 8 June 2003. The Prime Minister had made it clear that he would respect the Court's decision. The Supreme Court had the ultimate jurisdiction in matters pertaining to constitutional interpretation.
4. The Citizens Constitutional Forum (CCF) had been deregistered in April 2001 following allegations that it had acted in violation of certain criteria set by the Charitable Trusts Act. CCF was not currently seeking to re-register under the Act. However, the Government was holding consultations with CCF and was expected to pass new legislation which would enable CCF to re-register in the near future.
5. The Committee had stressed the importance of engaging human rights non-governmental organizations (NGOs) in the process of preparing the country's report. The Government was fully committed to involving NGOs in such work and had held its first consultation meeting with NGOs in February 2003. He had been encouraged by the active participation of all the NGOs which had been represented at that meeting or were active in the field of human rights. In his opening remarks on that occasion, the Minister for Foreign Affairs and External Trade had emphasized the important role of NGOs in the field of human rights. He was confident that the Government would soon be in the position to produce reports in cooperation with NGOs.
6. His Government believed that the country's laws were sufficient to deal with any complaints based on racial or ethnic discrimination. The relevant legal mechanisms in place included the Public Order Act, the Penal Code, the Human Rights Commission Act, and certain provisions of the Legal Aid Commission Act. The Public Order Act contained provisions which prohibited racial antagonism, incitement, racial dislikes and statements or acts purported to create hatred of any race. The Bill of Rights mirrored some of the provisions of articles 4 and 5

of the Convention and established complaint mechanisms and local bodies to which complaints could be taken. For example, article 68 of the Constitution stipulated that all people were equal before the law and prohibited discrimination on the same grounds as those listed in articles 4 and 5 of the Convention.

7. Sections 41-43 of the Constitution dealt with the issue of enforcement. A person wishing to make a complaint had two options. He or she could either go directly to the Supreme Court, or launch a complaint through the Fiji Human Rights Commission. The Commission members would then take the complaint to the relevant courts. The Fiji Human Rights Commission also ensured that educational programmes were put in place to promote human rights awareness in schools. Not only did the country have human rights mechanisms in place, but it also had provisions for effective access to those mechanisms. For example, the Legal Aid Commission provided funding for those who wished to make a complaint but were in need of financial assistance.

8. The political events of 1987 and 2000 had had serious repercussions on the country's economy, as well as on its race relations. The current Government's main objective was to promote stability in Fiji's multi-ethnic and multicultural society and to rebuild confidence among its citizens and communities by strengthening the foundations of economic growth and prosperity. Indigenous Fijians made up the majority of the community and accounted for the majority of landowners. By addressing their concerns, the Government would be investing in the country's future stability.

9. Since the country's independence, a number of Governments had employed affirmative action policies. In the early seventies, Development Plan 7 had specifically highlighted the need for a more equitable distribution of the fruits of development. Under the 1997 Constitution, all ongoing programmes that were considered beneficial to a particular disadvantaged group had to be provided for in the legislation. The Social Justice Act had been introduced in 2001 in order to legitimize ongoing programmes and activities which had been in place prior to the adoption of the Constitution. The Act legislated 29 programmes of affirmative action with regard to education and training, land and housing, participation in commerce, and participation in State service. Of the 29 programmes, 17 were intended for all communities, 10 were exclusively for indigenous Fijians and Rotumans, and 2 were for other communities. The Social Justice Act, in combination with other programmes, was intended to assist in raising the living standards of disadvantaged communities.

10. Despite the various initiatives to address socio-economic disparities along ethnic lines, such disparities remained. The Government had introduced the Twenty-Year Plan in order to address some of those disparities. The Plan was designed to enhance the participation of indigenous Fijians and Rotumans in the country's social and economic development, improve their education, ensure that their cultures and languages were preserved, and safeguard their rights. The Government would continue to undertake annual affirmative support programmes for all those in need, regardless of such factors as ethnicity, culture and religion. Scholarships would be provided to disadvantaged communities through the Ministry of Multi-Ethnic Affairs

and building grants would continue to be made available to schools, particularly those in rural areas. Equal opportunities would be ensured with regard to employment. The Ministry of Social Welfare would receive the resources necessary for the payment of welfare allowances. Stringent procedures would be followed to ensure that the benefits reached the target groups.

11. The Government believed that the achievement of peace and stability in a multi-ethnic country required a long-term commitment. The contribution of different communities in nation building must be recognized. The indigenous communities must feel that their fundamental interests were being protected and that they were not being excluded from national development. The Government was convinced that the Twenty-Year Plan for Indigenous Fijians and Rotumans was an essential ingredient for building peace and prosperity.

12. Mr. PILLAI took the Chair.

13. Ms. JANUARY-BARDILL (Country Rapporteur) said that Fiji needed to report on a more regular basis in order to enable the Committee to make a better response. The coups that had taken place in 1997 and 2000 no doubt accounted for the unstable social, political and economic situation in the country. The Government's current policy was designed to rebuild the confidence of citizens and communities by ensuring economic growth and prosperity. Rebuilding confidence in the Government was indeed vital. The country's colonial past had left very heavy legacies, which it would take generations to address. Since its independence in 1970, Fiji had had to address those legacies and to figure out a way to eliminate them once and for all.

14. Referring to paragraphs 6 and 7 of the report, she welcomed the improved cooperation and integration within government departments and was pleased that the Convention was once again a living document which provided a basis for collaboration with civil society. Referring to the shadow report submitted to the Committee by the Fiji NGO Coalition on Human Rights in August 2002, she wished to know how the Government responded to the Coalition's belief that the deregistration of the Citizens Constitutional Forum (CCF) had been politically motivated. The Coalition believed that the Forum had been deregistered for having challenged the dissolution of Parliament, the reappointment of the interim Government and the calling of the general election in 1997. The issue needed to be addressed as it continued to cause tension between the State and the CCF.

15. In 1983, when considering the country's fifth periodic report, the Committee had felt that Fiji's interpretative declaration with regard to the Convention could not be considered as a reservation and therefore could in no way affect the implementation of the Convention. It would be useful to return to that discussion. The Committee remained concerned about that matter and urged the country once again to reconsider its reservation with respect to article 5 of the Convention. The reservation could not be left in its current form. The Committee also encouraged the country to adhere to article 4 of the Convention. She hoped that the case on the composition of the Cabinet of Ministers would be resolved by June 2003 and that the Committee would be able to see a report on the matter once the Supreme Court had reached a decision. The diversity of cultures in the country testified to the Government's willingness to use desegregation to respond to the needs of various groups. In that regard, she commended the delegation for having mentioned and identified the different groups within the population. Such information was very useful to the Committee.

16. The ambitious 20-year development plan and the 2-year strategic development plan entitled “Rebuilding Confidence for Stability and Growth for a Peaceful, Prosperous Fiji” were encouraging steps that the Government had taken to deal with social and economic disparities. The Constitutional Bill of Rights and the comprehensive anti-discrimination provisions of the Human Rights Commission Act made discrimination unlawful in a large number of fields. However, the Committee was concerned about reports that the political environment had been destabilized by the very methods the Government was using to address socio-economic problems. According to some NGOs, the Constitution was being used to entrench racial divisions rather than promote diversity, as it focused attention almost exclusively on indigenous Fijians. It did not contain a definition of racial discrimination, nor did it mention people of mixed race, who must have a place in Fijian society. The Constitution maintained an electoral system based on racial membership and provided for the supremacy of indigenous political power, with a reservation of communal and open seats in Parliament that was clearly discriminatory in effect, if not in intent. That cast doubt on the legitimacy of the political system, and could only jeopardize the reconciliation process. Critics of the political system considered that the Government continued to politicize culture, identity and ethnicity.

17. She commended the existence of the Fiji Human Rights Commission, the role of which included human rights education, advisory services and the investigation of complaints of unfair discrimination. The Committee encouraged the Government to continue to support that body and to safeguard its independence. The Government recognized the importance of disparities in wealth and poverty in fomenting discrimination, and had established a Ministry of Reconciliation. The delegation should inform the Committee of the composition of the Ministry and describe the activities it had undertaken. Had they met with success, and how was their impact assessed?

18. While the report set out the anti-discrimination provisions of the Public Order Act and the Penal Code, the delegation should describe in further detail the relevant clauses of the Immigration Act and education legislation, with examples of their application. Was the Public Service Commission involved in affirmative action efforts? Had any steps been taken to ensure balanced representation of ethnic groups in the public service, where the predominance of indigenous Fijians was reportedly perceived as a discriminatory effect of public policy? Did the Equal Employment Opportunity policy pay sufficient attention to outcomes rather than procedures? It would be useful if the next report contained figures illustrating the difference the policy had made in the recruitment and training of target groups.

19. Notwithstanding the increased employment of indigenous Fijians in the public service, the economic decline and its impact on social welfare was of serious concern. Skilled workers were leaving the country. The Government’s land policy was apparently inconsistent with article 2 of the Convention, as it benefited a particular group, indigenous Fijians, and according to some NGOs, members of other ethnic groups were being removed from the land without sufficient redress.

20. As Fijian society was particularly prone to segregation, the Committee would have hoped for more efforts on the part of the Government aimed at bringing people together rather than keeping them apart. She did not understand the State party’s refusal to accede to article 4,

especially in the light of the racial problems faced by all Fijians. The Committee had the impression that the Government considered there was no need for specific laws prohibiting incitement of racial hatred. In fact, such legislation was essential, not just desirable. There was a need to ensure individual rights even in a context where group rights were of great concern; racial offences against individuals were often based on group stereotypes. She encouraged the State party to reconsider its reservation.

21. Were there any specific legal provisions prohibiting or deterring public or social institutions from engaging in discrimination, or did the Government consider that the constitutional provisions were sufficient to deter such behaviour? Did the Government carry out activities to spread knowledge of the anti-discrimination provisions of the Constitution? The delegation should inform the Committee of the level of public awareness of such provisions, and of whether there were any behavioural codes of conduct deterring discrimination. Were measures taken to improve knowledge among law enforcement officers of means of combating racial discrimination? She was heartened by the efforts to recruit more women. To what extent did they take account of the ethnic background of applicants?

22. While the Committee understood the need for affirmative action to redress past imbalances, but if such action had the effect of aggravating discrimination, it must express its grave concern. A very large portion of the budget resources allocated to affirmative action apparently benefited indigenous Fijians. Was the Government confident that its strategy would lead to the desired outcome? Why was the Fiji Human Rights Commission not represented in the Fijian delegation? Had it been involved in the drafting of the report? Had the Government considered ways of strengthening that body?

23. Mr. HERNDL commended the Government for establishing an interdepartmental drafting committee to write its report and for inviting NGOs to take part in that process. The Government's assertion that the Convention was a living document that provided a solid basis for collaboration with civil society organizations was a good omen for future cooperation. According to the Supplementary Report, when the CCF had been deregistered, it could have lodged an appeal but had failed to do so. The delegation should explain the circumstances in more detail.

24. The Government should consider withdrawing its reservation to the Convention, which dated back to colonial times, as its interpretations did not actually conflict with the Convention's provisions, and they therefore apparently served no useful purpose. For example, in respect of article 4, the reservation simply stated that the Government should adapt its legislation to bring it into line with the Convention only insofar as it considered it necessary in the light of the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention. While it was ultimately for the Government to decide how to adapt its legislation, it was not the exclusive prerogative of the Government to determine when it might be necessary to do so in order to bring it into line with the Convention; that was also one of the main tasks of the Committee.

25. In respect of the provisions giving effect to article 4, the Government referred to the Public Order Act and the Penal Code, in particular the definition by the latter of the offence of sedition. The Committee had in 1982 stated that in its view the provisions relating to sedition

did not completely fulfil the requirements of article 4. The Government should further elaborate the offence of sedition. On the other hand, the Public Order Act referred to specific cases of incitement, antagonism and violence.

26. The State party's rejection of the obligation contained in article 4 (b) and contention that restricting the freedom of extremist organizations would be counterproductive was of serious concern. Article 19 of the International Covenant on Civil and Political Rights set out an important exception to freedom of expression, stating that it carried with it special duties and responsibilities and could be subject to certain restrictions, especially for the protection of the rights of others, while article 20 of the Covenant expressly called for the prohibition of the advocacy of hatred, constituting an incitement to discrimination, hostility or violence. The Government should reconsider its position on that matter.

27. While commending the progress made in establishing the Fiji Human Rights Commission, he asked why that body was allowed to decide not to investigate certain cases, in particular if there were matters more worthy of its attention or if its resources were insufficient. According to the report, the Government considered that there were very considerable remedies available under both domestic and international law, and those remedies obviated the need to issue a declaration under article 14 of the Convention. What other international remedies were available to individuals in cases of racial discrimination? Lastly, he called upon the State party to ratify the amendment to article 8 of the Convention.

28. Mr. de GOUTTES said that the country report contained much useful and positive information, such as the extensive data on Fiji's ethnic composition (para. 19), the ethnic composition of the civil service (para. 58), the functions of the Fiji Human Rights Commission (para. 60) and the Office of the Ombudsman (para. 46), the Government's meeting with the NGO Coalition on Human Rights (paragraph 3 of the Supplementary Report) and training of law enforcement officials in the avoidance of racial discrimination (paras. 100 to 104).

29. Differences of opinion remained between the Government and the Committee on a number of questions. In ratifying the Convention, the Government had confirmed the unusually extensive reservations made by the Government of the United Kingdom with respect to articles 4, 5 and 15. It also had a restrictive interpretation of article 4, considering that a prohibition of racist organizations would be inconsistent with freedom of speech (paras. 8 and 89), notwithstanding the Committee's General Recommendation XV, paragraph 4, pursuant to which the prohibition of the dissemination of all ideas based upon racial superiority or hatred was compatible with the right to freedom of opinion and expression. The Government also disagreed with the Committee with regard to making the racist motivation of an offence an aggravating circumstance. Moreover, it continued to argue that the individual communications procedure under article 14 was unnecessary and that means of domestic recourse were sufficient, thereby disregarding the recommendation concerning article 14 in the Declaration of the Durban Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

30. Fiji's legislation on racial discrimination continued to be insufficient. Notwithstanding the assertion made in the first sentence of paragraph 32 of the periodic report, the legislative provisions set out in paragraphs 46, 84 to 86 and 90 regarding the Public Order Act and the offence of sedition were not in full compliance with the Convention. He disagreed with the

assertion in paragraph 87 that constitutional prohibitions largely rendered unnecessary the need for specific legislation. Lastly, no information had been provided on prosecutions of and convictions for acts of racism, in particular regarding the offence of sedition.

31. Information was needed concerning various matters: the status of the various languages spoken in Fiji; the special relation which indigenous Fijians had with their land; the alarmingly high suicide rate in the Indo-Fijian population; and the measures taken to prosecute the perpetrators of racist attacks against Indo-Fijians, in particular those carried out during the incidents in 1997 and 2000, and to prevent their recurrence in the future.

32. Mr. VALENCIA RODRIGUEZ sought clarification of the term “part-European” employed in the Core Document (HRI/CORE/1/Add.122, paras. 46, 47 and 49). Fiji’s reservations and interpretative declarations did not contribute to a proper implementation of the State party’s obligations under the Convention. The Committee reiterated its recommendation that the Government withdraw those reservations and declarations. He welcomed the measures taken to improve gender equality (paras. 25 to 28), and in particular the 1997 Citizenship Law. Those efforts should be reflected in a recognition of the rights of women from ethnic minorities. He asked how the exceptions to Fiji’s anti-discrimination legislation, to which the Core Document referred (para. 176), were applied in practice and what the results had been.

33. The data provided in paragraphs 57 and 58 of the fifteenth periodic report showed that new measures were needed to improve the representation of minority groups in government bodies; he urged the Government to intensify its affirmative action programmes (paras. 64 to 77) and report to the Committee on progress made. It was to be hoped that the period of 10 years, after which such programmes were to lapse (para. 77), was sufficient for achieving their goals.

34. He welcomed the information on the training of law enforcement officials in the avoidance of racial discrimination (paras. 100 to 104). Such educational efforts should take the provisions of the Convention into account. Given the reported persistence of racial violence and harassment (para. 107), the Government should give closer consideration to the arrangements referred to in paragraph 109.

35. The Government should pursue its programmes to ensure that all ethnic communities, and minority groups in particular, had access to employment, housing and health care, and it should take into account that in many cases women were the victims of double discrimination. He welcomed the programme to combat poverty. Social services should be strengthened so that they could better address the most urgent needs of underprivileged minority groups. The establishment of a Human Rights Commission was a positive step. He sought information on how that Commission had carried out its work, what success it had had in eradicating racial discrimination and what complaints it had heard.

36. Mr. SICILIANOS was pleased that, in preparing the report, the Government had consulted with NGOs; it was to be hoped that the CCF could be registered as a charitable organization on the basis of other legislation. He also welcomed the Government’s commitment to respect the June 2002 ruling of the Supreme Court, which should put an end to the current instability. Given that some land in Fiji was not cultivated, why did the Government not allow unemployed farmers to cultivate it? With regard to affirmative action measures, the delegation

had said that the main goal was to ensure stability in a multi-ethnic society. But it seemed that 85 per cent of such assistance went to indigenous Fijians and only 15 per cent to other groups. Paragraph 69 stated that the indigenous Fijians and Rotumans were less well off than other ethnic groups, but according to a report by the United Nations Development Fund (UNDP), socio-economic disparities existed not only between ethnic groups but also within each group. Thus, the situation was more complex than the report suggested, and affirmative action would be useful for all ethnic groups. He also welcomed the parliamentary agreement referred to in paragraph 9; it was essential to ensure that it was respected.

37. Could the delegation explain why Fiji had formulated a reservation with respect to article 5 (c) of the Convention, on elections, or to article 7, with regard to the educational system? He saw a contradiction between the Government's interpretative declaration with respect to article 6 of the Convention and its position on article 14 of the Convention. In its interpretative declaration on article 6 (para. 12), the Government argued that satisfaction should be sufficient and that reparation might well prove to be unnecessary, whereas on article 14, it referred to the already considerable effect of remedies, including compensation, that were available under both domestic and international law (para. 217) and thus implied that the remedies under article 6 were such that there was no need for other remedies under article 14. He asked the delegation to comment on that point.

38. Mr. KJAERUM asked whether any studies had been conducted to define categories of disadvantaged persons. The UNDP poverty report on Fiji showed that poverty was not concentrated in any sector of society, but was present in all ethnic communities. It would therefore be more appropriate to focus on the needs of individuals within each ethnic group. He was surprised to read about the very high suicide rate among Indo-Fijians. That was a strong indicator of a serious problem. The emigration rate among Indo-Fijians was also very high. Those statistics should be borne in mind when devising affirmative action programmes.

39. He commended the Fiji Human Rights Commission for its excellent work. Could the Commission award compensation to victims of racial discrimination? According to the Human Rights Commission Act, some discrimination was authorized if there was a genuine justification for the differentiation. He asked whether guidelines had been drawn up regarding the meaning of "genuine justification". Had there been any court ruling on that concept? As to article 4, he said that the experience in his own country, Denmark, had shown that it was possible to reconcile fundamental respect for freedom of speech and the requirements of article 4; he called upon the Government to reconsider its reservation.

40. He asked whether the Government intended to elaborate a national plan of action on racial discrimination, as suggested at the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, or a human rights plan of action, as proposed at the 1993 Vienna World Conference on Human Rights. He urged the Government to consider making the declaration under article 14 on individual communications.

41. Mr. THORNBERRY asked whether the International Labour Organization's Committee of Experts on the Application of Conventions and Recommendations in connection with ILO Convention No. 169 had visited Fiji.

42. With regard to the reference to supplementing individual human rights by a “third generation” of rights (para. 15), he drew attention to General Assembly resolution 41/120, which urged States to ensure that any such developments were consistent with the existing body of human rights. Paragraph 16 raised difficult questions about the relationship between collective and individual rights. Collective rights did not contain a licence to diminish or abrogate other rights. In the case of indigenous rights, it was also important to consider the rights of those who did not fall within that category. The Convention could accommodate different treatment of groups, but respect for diversity must not mask inequality of treatment. In promoting indigenous rights, each case must be gauged on its merits to see whether different treatment was a tenable proposition. Did the rights of indigenous Fijians require the same degree of attention as that given to other indigenous populations? Some indigenous populations were in danger of distinction as a group; that did not appear to be the case with indigenous Fijians. That difference should be taken into account when considering levels of protection for indigenous peoples. For example, did the relationship between indigenous Fijians and land justify their ownership of virtually all Fiji’s land? Similar questions could be asked about political representation and participation. As to affirmative action, such measures were more justified for economic and social reasons than for cultural ones. Fiji must guarantee full human rights to all sectors of the population; a balance must be struck between elements of identity and difference, and the common humanity that unites us all.

43. Mr. Diaconu resumed the Chair.

44. Mr. YUTZIS said that he welcomed the interest and participation of NGOs in ensuring the implementation of the Convention in Fiji. It was precisely that dynamic spirit that enabled a society to change. He commended the Government for its attitude of respect for the Convention and the obligations arising from it, as expressed in paragraph 6 of the fifteenth periodic report.

45. He advised that caution should be exercised concerning the issue of affirmative action. The rights contained in articles 2 and 4 of the Convention were to be enjoyed by all members of society; no one had exclusive entitlement to them. He drew the delegation’s attention to article 2 (2), in particular, which recalled that measures to guarantee full and equal enjoyment of human rights should not entail the maintenance of unequal or separate rights for different racial groups after the objectives for which they had been taken had been achieved. Fiji’s affirmative action programmes had been criticized because they benefited higher-income groups. Affirmative action measures should also be applied to the most vulnerable sectors of a population.

46. The issue of land rights in Fiji was an important and controversial issue. In its General Recommendation XXIII (51) on indigenous peoples, the Committee had made reference to the rights of indigenous peoples to own, develop, control and use their communal lands. He also drew the delegation’s attention to the Committee’s General Recommendation XX (48) on article 5 of the Convention. In his opinion, the Government of Fiji should consider removing its reservation with respect to article 5, paragraph (d) (v), of the Convention. Land ownership in Fiji was very complex and had its roots in the Deed of Cession. Some 90 per cent of the land in Fiji was native land and was owned in trust. According to Fiji’s Core Document, native lands had been made available to major hotels and businesses and had created a source of income for

thousands of people. He would appreciate more information on the way in which those transactions had occurred. He wondered whether those lands could also be made available to the country's most vulnerable segments. Could the delegation provide information on the tensions that existed between owners of land used for sugar production and owners of farm lands?

47. He enquired into the current status of the Banaban community, given that since the 1980s all indicators concerning the social well-being of the community had shown a serious decline. Were they still decreasing or had they begun to rise again? He wondered whether affirmative action measures had been taken in regard to the Banaban community.

48. Mr. PILLAI thanked the delegation for the frankness and fairness with which racial issues had been discussed. Racial issues had been in the forefront of governance in Fiji and were considered by the Government to be a matter of critical importance to the country. The Committee had received reports from a number of prominent NGOs and organizations of civil society, whose participation had been sought by the State party in understanding the racial situation and in preparing the report. The independent reports had made references to problems of equality and to the racial divide in Fiji. In any democratic society, political processes could be effectively channelled to repair societal damage. An example was provided in paragraph 9 of the periodic report, which described a recent significant development for race relations in Fiji, whereby the leaders of two main political parties had agreed to urge their respective party parliamentarians to reduce racial remarks in the new session of Parliament.

49. The Fiji Human Rights Commission performed an important role in addressing diverse aspects of human rights, including those relating to the Durban Declaration and Programme of Action. Core funding of the Commission's activities was provided by the Government, but the bulk of its funding was from foreign donors. He was concerned that that might lead to the Commission's activities being donor-driven as opposed to being determined on the basis of national priorities. He enquired whether the fact that it received foreign support had influenced the activities of the Commission.

50. He would appreciate information on the incidence of poverty among various ethnic groups in Fiji. According to the periodic report (para. 166), poverty alleviation programme recipients were mostly Fijians and that trend supported the finding of the 1996 Poverty Report that average Fijian household incomes were much lower than average household incomes of Indo-Fijians. It was important to note that there was wide disparity in the income levels of people belonging to the same ethnic group. Paragraph 66 of the report mentioned that affirmative action policies were being implemented for the sole purpose of securing the adequate advancement of the various ethnic groups. Emphasis should be placed on the words "various ethnic groups" to ensure that the programmes were indeed made available to more than one group.

51. Mention had been made in paragraph 67 of the report that non-Fijians also had access to scholarships. That gave rise to the question: who was a Fijian and who was a non-Fijian? The answer was important from the point of view of identifying the beneficiaries under that programme. A 1997 constitutional amendment had made reference to all groups or categories of persons who were disadvantaged. He wondered whether the Government had defined the term "disadvantaged".

52. A report submitted to the Committee by the Ecumenical Centre for Research, Education and Advocacy stated that there were incidences of countries in which ethnicity-based affirmative action had actually aggravated ethnic division. It also emphasized that affirmative action must not be used as a form of reverse discrimination. The report raised serious issues and proposed the application of a set of guidelines for satisfying the requirements of affirmative action. He urged the Government to give serious consideration to the observations contained in the Ecumenical Centre's report.

53. In paragraph 89 of the report, the Government noted its reluctance to take action against extremist organizations, on the grounds that such action would not be in keeping with the right to freedom of speech. The Committee had clearly stated its views on that matter in its General Recommendation XV (42) on organized violence based on ethnic origin. It had recalled that the exercise of the right to freedom of expression carried with it special duties and responsibilities. It had also drawn attention to article 20 of the International Covenant on Civil and Political Rights, according to which any advocacy of national, racial or religious hatred that constituted incitement to discrimination, hostility or violence was to be prohibited by law. The periodic report stated that extremist groups were not given immunity from prosecution if they committed criminal offences. He would welcome examples of prosecution in such cases in Fiji.

54. Paragraph 104 of the report referred to Fiji's police manpower distribution. He asked the delegation to comment on the extent to which the police force was balanced in terms of ethnic representation. Did the State party believe it needed to correct only the gender imbalance in its police force? Would it consider correcting other kinds of imbalances if necessary? Lastly, in reference to the issue of land ownership, he noted that the National Farmers' Union had reported the recent expiration of thousands of leases. He wondered what was happening to the families whose leases had not been renewed and who they were.

55. Mr. TANG Chengyuan said he understood that Fiji's population was made up of three groups: Fijians, Indo-Fijians and persons from Europe or China. A UNDP report indicated that the poorest group were the Fijians, followed by the Indo-Fijians and those of European or Chinese descent. The effort on the part of the Government to improve the living standards of Fijians and to better their education was highly positive.

56. According to NGO reports, the political rights of Indo-Fijians had not been given sufficient attention. The number of Indo-Fijians employed as civil servants was relatively small. The majority of the land in Fiji belonged to indigenous Fijians collectively, although some was leased to Indo-Fijians. He was concerned that the disparities between the various population groups might lead to future unrest. A balance must be struck. The Indo-Fijians should be given more political power, whereas indigenous Fijians must be helped to raise their standard of living. It was not possible to claim that there was no racial discrimination in Fiji. The current Government would have to look at the reality of Fiji and bear in mind the interests of all population groups in order to ensure greater equality.

57. Mr. AMIR said he was struck by the paucity of information in the periodic report concerning minorities; their contributions to Fijian society did not appear to be much valued. Although there were references to legislation that had been enacted to meet their needs, minorities were economically disadvantaged groups with little political power. He wondered if

the recently promulgated Constitution truly recognized minorities. It was unclear how legislation could be applied to them if they were not recognized as such. He would appreciate some clarifications concerning their cultural heritage, as well as the way in which they were viewed by Fijian society.

58. The CHAIRMAN invited the delegation to reply to the Committee members' questions and comments the following day when the Committee would continue with its consideration of Fiji's report.

59. Mr. NATAITOGA (Fiji) thanked the Committee for its observations. There were some key areas in which the delegation did not share the views and interpretative nuances of the Committee. He recalled that race relations had been the subject of independent assessment in Fiji. The Committee should understand that dialogue had already been initiated on the subject of balancing Fiji's commitments under the various Conventions.

60. He thought the issue of the Citizens Constitutional Forum (CCF) and registration could be put to rest as far as the Committee was concerned. The Registrar of Charitable Trusts had formed the opinion that the activities of the CCF might have violated the criteria set out in the Statutes. Notice had been given to the CCF to state its case with regard to the opinion formed by the Registrar. It was also acknowledged that the legislation on charities was not appropriate for the registration of the CCF. After further consideration it would eventually be re-registered in a manner that would allow it to continue the important human rights work it was performing in Fiji.

61. Concerning the land issue, 87 per cent of the land in Fiji was collectively owned by indigenous Fijians and was inalienable under the Constitution. In terms of land policy, the delegation would be talking about a system of tenure of a kind that might make it more available. However, the transfer of ownership was a matter he was not qualified to discuss as it was a very sensitive issue for the Government. Moreover, it was not likely to change. He looked forward to continuing the dialogue with the Committee the following day.

The meeting rose at 6.05 p.m.