



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

Distr.  
GENERAL

CERD/C/FJI/17  
10 January 2007

Original: ENGLISH

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

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

**Nineteenth periodic reports of States parties due in 2006**

**Addendum**

**FIJI \* \*\***

[20 June 2006]

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\* This document contains the sixteenth and seventeenth periodic reports of Fiji, due on 10 February 2004 and 2006 submitted in one document. For the sixth to fifteenth periodic reports and the summary records of the meetings at which the Committee considered the report, see documents CERD/C/429/Add.1 and CERD/C/SR.1566-1567 and CERD/C/SR.1582.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## **Introduction**

1. In pursuance of Article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the present report by the Republic of the Fiji Islands [hereinafter “Fiji”] is submitted in accordance with the General Guidelines adopted in 1980 by the Committee on the Elimination of Racial Discrimination, as revised at its 984<sup>th</sup> meeting, on 19 March 1993.
2. The Government of Fiji [hereinafter “the Government”] submits its 16<sup>th</sup> and 17<sup>th</sup> periodic report on the legislative, judicial, administrative and other measures taken during the period from 2003 to 2006 in order to give effect to the Convention.
3. For the principal demographic, economic and social indicators and a description of its constitutional system (for Fiji’s Core Documents, see annex I of the present report).
4. This report consists of two parts: the first contains the responses to the concluding observations made by the Committee on 2 June 2003 (CERD/C/62/CO/3) and the second deals with the information relating to the different Articles of the Convention.

## **I. RESPONSE TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION**

### **A. Item 12**

5. Fiji’s 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.
6. 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 that the reservations and declarations will continue to provide some protection as a condition of the succession for Fiji for the considerable future.
7. The Government of Fiji in maintaining its reservations justifies its position by examining the reasons these reservations were formulated by the Colonial Government while ratifying the Convention on behalf of Fiji.
8. Fiji’s policy thus far seems to either maintain these reservations or at least to not tamper with them.
9. The main provisions in the Convention to which reservations were entered by the colonial Government on behalf of Fiji are:

Article 5 (c)	Political rights in particular the right to participate in elections to vote and to stand for election on the basis of universal and equal suffrage, to take part in Government as well as in the conduct of public affairs at any level and to have equal access to public service.
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Article 5 (d) (v) The right to own property alone as well as in association with others.

Article 5 (e) (v) The right to education and training.

10. The latest study which addressed Fiji's compliance with the Convention and the United Nations Draft Declaration on the Rights of Indigenous Peoples was conducted by the Fiji Constitution Review Commission and compiled in its comprehensive report "Towards a United Fiji" [Parliamentary Paper No. 34 of 1996.

11. The Commission prefaced its comments on this issue as follows:

Throughout this century the colonial government enunciated the principle that the interests of Fijians must always remain paramount. In part, the assertion of this principle reflected the genuine concern for the position of the indigenous Fijians in their country. In part it served the interests of the indigenous Fijians in their country. In part it served the interests of the colonizers especially in responding to Indo-Fijians pressure for elected representation on the Legislative Council. The principle that Fijian interests were paramount was widely accepted and became part of the political culture.

12. This principle was earlier reflected in colonial policy on the alienation of native land and later with the impetus for independence on the issue of suffrage.

13. The reservations entered by the colonial Government on behalf of Fiji while ratifying the Convention in the late 1960s are a manifestation of this principle. The results of the General Elections conducted after independence and the turbulent consequences showed that while there was wide acceptance of the principle there were differences in communal perception about its application.

14. Given the challenges Fiji has had to face in the decades after independence, the Government realizes and acknowledges the recommendations of the Committee to consider withdrawing its reservations.

15. The Government acknowledges the reservations to the Convention that were lodged on behalf of Fiji in the late 1960s. At that time international law on the 'indigenous person' had not evolved. Impetus for the development of this law gained momentum in the early 1980s, beginning with the work of the United Nations then Sub-Commission on the Prevention of Discrimination and Protection of Minorities in 1983.

16. Legal instruments which later evolved governing the rights of 'indigenous persons' include:

- World Conference on Human Rights [June 1992];
- United Nations Draft Declaration on the Rights of Indigenous Peoples [Regulation 1994/1995];
- ILO Convention [No. 169] Concerning Indigenous and Tribal Persons in Independent Countries, 1989.

17. The Government acknowledges that the law on indigenous persons has only evolved over the last 15 years and the Committee may be suggesting that Fiji's concerns on indigenous rights issues could be addressed directly through these new international standards rather than indirectly by maintaining reservations in older treaties such as the Convention. The Government understands that by maintaining reservations to human rights conventions such as this one makes it difficult for parties like Fiji to comply fully with their reporting obligations.

18. Given that there is both international and domestic acceptance of the legal rights of indigenous persons, the Government is of the view that the Committee is not challenging Fiji's right to maintain these reservations, however; a justification that takes account of recent developments in human rights law and particularly indigenous rights law, given the nature of Fiji's reservation.

### **Significance of Draft Declaration on the Rights of Indigenous Peoples and Reservation to Article 5 [d] [v] of the Convention**

19. It is necessary to place a reservation against Article 5[d][v] because of the concern that an unqualified application of this Article would allow Fijians to own and dispose of 'native' land unreservedly, contrary to the restrictions in the *Native Land Act*, Cap. 133 and the *Native Land Trust Act*, Cap. 134.

20. The concerns that lay behind this reservation may now be assuaged by the recognition provided in international instruments such as the ILO Convention No. 169 and the Draft Declaration on the Rights of Indigenous Peoples that the rights of an indigenous people may need to be protected by restricting the right to dispose of their land [in their best interest]. Fiji's Constitution was formulated to comply with the Draft Declaration, even though this instrument has yet to come into force. The domestic legislation that enforces this restriction, such as the Native Land Trust Act, is not only consistent with the Draft Declaration but also always consistent with the Convention.

### **Parliamentary Standing Committee on Human Rights and Equal Opportunities**

21. The Government's commitment to the Convention in the fulfilment of its obligations is shown in the appointment of the Parliamentary Standing Committee on Human Rights and Equal Opportunities. This was a landmark consensus-based decision between the two major political parties in Fiji. Amongst other things, the Committee is specifically tasked to review the concerns and recommendations of the Committee for the Elimination of Racial Discrimination, including the reservations relating to the Fiji Government under the Articles of the Convention.

22. The Prime Minister's motion for the establishment of a 9-member Parliamentary Standing Committee was unanimously supported by the members of the Opposition members in Parliament when tabled during a Lower House seating on 30 September 2004. The relevant Hansard Report recorded the following:

... the Committee to compromise all political parties including independent members of the House, not aligned to a political party to examine the United Nations CERD Report relating to human rights and race relations and Human Rights Commission and any other report which deals with issues of human rights, equal opportunities and race relations

tabled in the House, and to regularly report to the House with appropriate recommendations as and where necessary. (Uncorrected Copy, 30 September 2004; p. 3773).

23. The appointment of the Standing Committee on Human Rights and Equal Opportunities reinforces the commitment of the two political leaders to the underlying objectives of “Talanoa” (dialogue) that began in late 2000.

24. The establishment of a Sub-committee within the Talanoa Committee comprising members from both the Government and the Opposition Party symbolizes the high level of commitment to the spirit of unity, trust and mutual understanding in an effort to resolve critical issues of importance to nation building which both leaders agreed needed to be dealt with urgently through bipartisan dialogue.

### **B. Item 13**

25. Political instability and insecurity have been features of Fiji’s recent history. The two coups in 1987 and the one in May 2000 severely eroded public confidence and caused major disruptions to the economy. The Government took prompt action in 2000 to stabilize the economy and return the country to normalcy. It offered assistance to affected businesses via the rehabilitation packages through the Fiji Development Bank and gave financial assistance to those affected, especially the refugees. Reinstatement of the abrogated 1997 Constitution and Fiji’s return to democratic government were major steps in restoring public confidence.

26. The Government has implemented various measures to restore security and stability to the country. Its policy objectives are intended to help build national unity, national cohesion and a sense of national purpose. The elected Government does not in any way whatsoever politicize culture, identity and ethnicity in order to maintain indigenous Fijian hegemony. Nor do its policies encourage the promotion of such perceptions.

27. Achieving peace and security in Fiji’s multi-racial communities is a long-term commitment that the Government feels must be vigorously pursued through building understanding as well as through recognizing and appreciating the different communities’ contributions in nation building.

28. It is a top priority of the Government to ensure that all Fiji citizens can exercise their fundamental rights and freedom, and confidently participate in nation building. All citizens of Fiji are guaranteed their political and social rights through various interlinked and mutually supportive policies, strategies and programmes that have been put in place by the Government.

29. The Government is mindful of the pressing issues and concerns pertinent to the country’s politics of ethnicity. Arising from the Talanoa sessions, the Government had made a firm commitment to the collective effort of the two major political parties in identifying crucial issues that needed to be addressed for the peaceful coexistence of all ethnic groups in Fiji.

30. At executive and parliamentary level, the following actions has been taken:
- Establishment of the Ad Hoc Select Committee on Land - which is responsible for searching for an amicable and long-term solution to the future of agricultural leases on land, which must be just and fair to both the landowners and tenants;
  - Establishment of the Standing Committee on Constitutional Review - which is responsible for deliberating on those Constitutional provisions that are controversial, to make amendments or alterations which are considered to be non-contentious and do not in any way impinge on the rights or interests of any individual or group or community;
  - Establishment of the Standing Committee on Human Rights and Equal Opportunities - which is responsible for examining and considering reports dealing with human rights issues, such as the International Convention on the Elimination of All Forms of Racial Discrimination.

### **C. Item 14**

31. Judgment in the appeal concerning section 99 of the Constitution was delivered by the Supreme Court on 18 July 2003. The Court dismissed the appeal by the Prime Minister and held that the Fiji Labour Party has a legal entitlement under the Constitution to be represented in Cabinet in proportion to its numbers in the House of Representatives. The Government accepted this decision and the declarations made by the Court.

32. However, a dispute arose about the number of parliamentary members of the Fiji Labour Party that the Prime Minister is obliged to have appointed to the Cabinet. This dispute not having been resolved, the President referred to the Supreme Court, for its opinion, a number of questions on the proper interpretation of section 99 of the Constitution. In July 2004, the Supreme Court provided its opinion on the numerical entitlements of the two political parties in a multi-party Cabinet. Following this decision, the Fiji Labour Party decided not to participate in the multi-party Cabinet. Mr. Chaudhary also refused to be appointed the Leader of Opposition. Later the Fiji Labour Party decided to be part of the Opposition in the House of Representatives. The leader of the Fiji Labour Party had been appointed as the Leader of the Opposition pursuant to section 82 of the Constitution.

### **Establishment of the Standing Committee on Constitutional Review**

33. At the seating of the Lower House on 30 September 2004, the Prime Minister Hon. Laisenia Qarase successfully moved the motion on the establishment of the Standing Committee on Constitutional Review. In support, the Leader of the Fiji Labour Party commended the motion and also reaffirmed that the motion fully supported the agreements reached in the “Talanoa Talks” and that his party was willing to be part of the Standing Committee on the Constitutional Review and would:



deliberate on those amendments or alterations which are considered to be non-contentious and do not, in any way impinge on the rights or interests of any individual or group or community.

34. In dealing with the more substantive part of the review of the Constitution, the Standing Committee on the Constitutional Review would consider Terms of Reference (TOR) to focus more on constitutional provisions that are controversial, which among other things would include the following critical issues:

- The multi-party Cabinet provision under section 99 of the Constitution;
- Consideration of continuing the present provision for political parties to exercise the preferences of voters or of whether the exercise of preferences are best left to the individual voters to determine in accordance with their democratic rights.

#### **D. Items 15 and 16**

##### **Blueprint and affirmative action programmes**

##### **International Conventions and Legal Standing of Affirmative Action and Justification for the Blueprint and Affirmative Action Programmes under the Social Justice Act, 2001**

35. The International Convention on Civil and Political Rights and the Convention on the Elimination of All Forms of Racial Discrimination specifically permit race-based distinctions to redress past discrimination and to promote the values of diversity.

36. By being a party to the Convention on the Elimination of All Forms of Racial Discrimination, Fiji has committed itself to take the affirmative steps necessary to ensure that equal enjoyment of rights is guaranteed to all racial groups and their individual members. More importantly, as a party to the Convention, Fiji expressly recognized that it permits race to be taken into account when necessary to secure equality.

37. The constitutional courts of states as diverse as Canada, India, South Africa and the United States, as well as the European Union, have all confronted challenges to affirmative action policies in recent years. They have examined the issue of affirmative action under their own laws and have upheld programmes benefiting minority populations who suffered discrimination. The courts have uniformly upheld such policies, including policies similar to those implemented and encouraged by the Government of Fiji, as consistent with their constitutional guarantees of equal protection.

38. Under international law, affirmative action is generally considered and adopted as “special measures” to advance the status or standard of living of socially and educationally backward sections of society. It is recognized as an important strategy for achieving equality. International standards qualify these principles only insofar as holding that affirmative programmes:

- (a) Should not lead to the maintenance of separate rights for different racial groups;
- (b) Must be discontinued once the programmes' objectives have been achieved.

### **Social Justice Act 2001**

39. Parliamentary Paper No.66 of 2004 reports the implementation status of the Affirmative Action (AA) Programmes under the Social Justice Act of 2001 (see annex II to the present report). Fiji's 2003 report to the Committee explicitly stated the legal basis of the Government's commitment in effecting affirmative action programmes. The report also argues that the policy of the Government is in line with Articles 1(4) and 2(2) of the Convention and related State-funded programmes need to be 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".

40. The tabling of the first consolidated "Progress Report on the Implementation of AA Programmes under the *Social Justice Act* (2003-2003)" (see annex III to the present report), in Parliament by the Prime Minister in 2004 fulfils the statutory requirement under Section 44(6) of the Constitution stipulating for each responsible Ministry/Department to monitor the progress of implementation relative to the means of assistance and performance indicators. Further the report aims to track how the means of assistance have addressed the needs of target groups or beneficiaries of the programmes and whether goals have been achieved in terms of equality.

41. 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. It states:

- (2) The Parliament must make provision for programmes designed to achieve for all groups or categories of persons who are disadvantaged effective equality access to:
  - (a) Education and training;
  - (b) Land and housing; and
  - (c) Participation in commerce and in all levels and branches of service of the State [emphasis added].
- (3) A person may take special measures in accordance with this section for the purpose of achieving substantial equality between different groups or different categories of persons.
- (4) A person does not discriminate against another person under Section 38 by taking those special measures.

42. The *Social Justice Act* was enacted by Parliament on 21 December 2001. The Act provides the legal framework for the implementation of the Affirmative Action Programmes of Government as required under section 44 of the Constitution.

43. The *Act* provides the following definition of affirmative action:

*“Affirmative Action”* means State policies to assist groups or categories of persons who are disadvantaged, so as to enable them to achieve equality of access with groups or categories who are not disadvantaged;

*“Disadvantaged”* in relation to a group or category of persons, means that the group or category does not have equality of access by virtue of the actual or supposed personal characteristics of the members of the group or category, or by virtue of the location or educational level of the category or group;

*“Equality of access”* means equality of access to education and training, to land and housing, to participation in commerce and participation in all levels and branches of service of the State”;

*“Programme”* means a programme of affirmative action specified in the Schedule.

44. The main objective of the Government’s Affirmative Action Programmes, including the Blueprint and the 50/50 by 2020 Development Plan, is to allow for equality of access to opportunities by addressing the social and economic inequalities that were reflected in the 1997 United Nations Development Programme (UNDP) Fiji Poverty Report and the 1996 Census.

45. In 1996, Fiji’s population stood at 775,077, of which 403,302 were Fijians (52.0%), 338,818 Indians (43.7%) and 32,957 were from other ethnic communities (4, 25%). Approximately 54% of Fiji’s population resided in the rural regions while 46% lived in urban areas. The majority of Fiji’s rural population engages in subsistence and commercial farming.

46. Fiji’s rural population stood at 415,582, of which 57% were Fijians and Rotumans; 41% were Indians. Fiji’s urban population was 359,495 in 1996, comprising 46.5% indigenous Fijians and Rotumans; 46.7% Indians and 6.8% other ethnic communities. The figures clearly indicate that a majority of Fijians lived in rural areas, particularly in most remote places, where there is often difficulty of access to basic social services, including health, education, roads, water supplies, sanitation, electrification and so on. There are lower levels of incomes and standards in these areas.

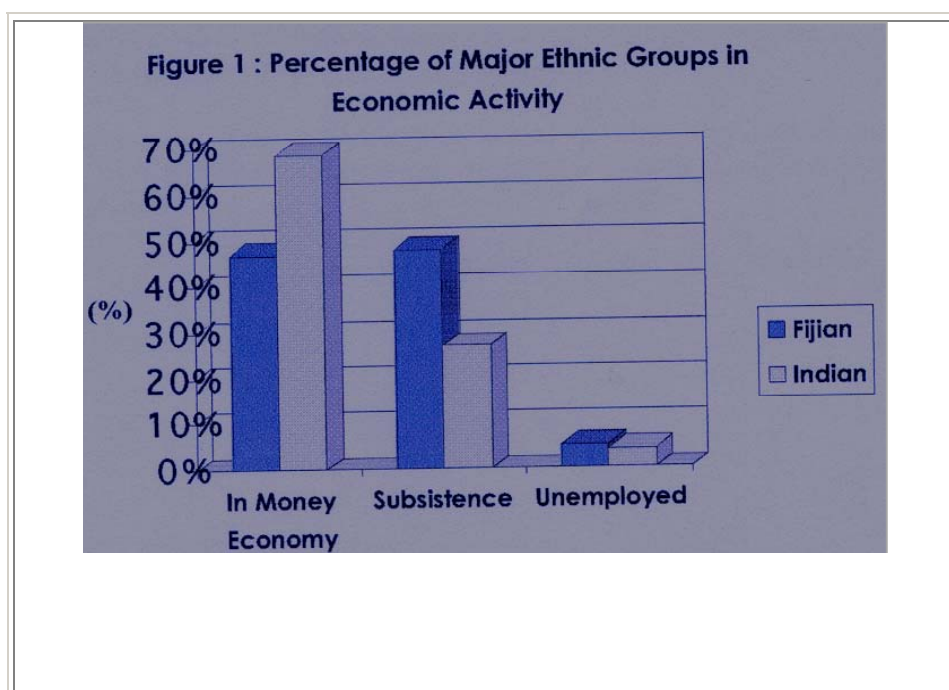
47. The 1997 UNDP Report and the 1996 Census clearly outline social and economic inequalities. Table 1 highlights that the average weekly household incomes for Fijian households was 36% lower than that for the minorities, 20.3% lower than Indian households and 13% lower than the national average. Average per capita income for Fijian households was 43.5% lower than minorities, 20.3% lower than for the Indian community and 15.5% lower than the national average.

**Table 1**  
**Average weekly income by ethnicity**

	Average household income \$	Average per capita income \$
National	199.31	44.68
Fijian	173.65	37.74
Indian	217.89	49.50
Others	271.08	66.77

*Source:* 1997 Poverty Report.

48. Figure 1 below, derived from the 1996 Census, shows the percentage of each ethnic group's participation in economic activity and distribution of the labour force. Almost 70% of the Indian community were engaged in the money economy, compared with 47% Fijians. Approximately 48% of Fijians were engaged in the subsistence sector and 5% who were members of the labour force were unemployed.<sup>1</sup>



49. Statistics from the 1996 Census showed that most members of the Indian community lived on leased land. This was followed by almost a quarter (21.7%) of the community living on

<sup>1</sup> Unemployed in Census terms means those who are economically active, are in the labour force, have some form of skills and training and are looking for work.

freehold land they owned; and 5.3% of the population were also illegal occupants of land (largely squatters). Half of the Fijians population (50.4%) lived in accordance with traditional village tenure, followed by those owning land under lease arrangement (25.3%) and 12% owning freehold land.

50. However, these statistics will have changed significantly since the 1996 Census due to the expiring of Agricultural Landlord and Tenants Act (ALTA) leases and the political upheaval of 2000. While the 1996 Census showed an urban population of 46% and a rural population of 54%, Fiji has a fast increasing urban growth rate of 2.6% while the rural population has declined by 5%. Fiji's urban population stood at 359,495 in 1996, comprising 46.5% Fijians, 46.7% Indians and 6.8% other ethnic communities.

51. The recently concluded Urban Household Income and Expenditure Survey (HIES) report by the Bureau of Statistics, found that as at the end of July 2002, the total urban population living in conventional households was 393,866, of which 193,025 (49%) were Indians, 170,918 (43.4%) Fijians and 29,923 (7.6%) Other Ethnic Communities. The report highlighted that of the urban population of 393,866, 40,663 persons were living in 'Squatter type areas' and of which 20,479 (50.4%)<sup>2</sup> were Fijians, 18,979 (46.7%) Indians and 1,205 (2.9%) 'other communities'.

52. As the indigenous communities of Fiji, Fijians and Rotumans have a special place in society, it is crucial for Fiji's orderly and just development that they be brought into the mainstream of the economy and that the disparities which separate them from other communities be narrowed and eventually removed. It is also critically important in terms of social justice for the needs of other disadvantaged groups to be addressed through the Government's development programmes.

53. It is difficult to create long-term peace and stability when there are huge gaps in access to economic and social development opportunities, particularly when these are based on race, as they are in Fiji. The Government continues to insist that affirmative action is not about exclusion or institutionalizing discrimination. It is about a vision of a country where different ethnic communities live in peace, harmony and prosperity. It is about removal of discrimination, securing basic economic rights and equality and a fairer division of wealth.

54. There has been much controversy in recent years over affirmative action. In reality given the ethnic divisions in Fiji's society, affirmative action has to involve issues of race. These cannot and should not be overlooked. It is the Government's stance that Fiji will only resolve its

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<sup>2</sup> The 50.4% Fijians living in "Squatter Type Areas" does not necessarily mean that these people are landless. Majority of them have land in their villages, which is owned communally, but they have come to the urban areas in search of better opportunities and education for their children. 5.1% Fijians in urban areas are living in 'Squatter Type Areas' compared to Indians 4.8%.

racial differences by dealing with them honestly and openly and removing the inequities and inequalities, which cause social and political tensions. This does not mean that the government policies are racist. They should be seen in the wider context of development to improve the standards of living of all disadvantaged groups.

### **Affirmative action programme**

55. The affirmative action programme is included in the Social Justice Act, 2001. There are 29 programmes under the Act. Seventeen of the programmes benefit all communities irrespective of their ethnicity, 10 are specifically for Fijians and Rotumans, and 2 are specifically targeted at Indians and minority communities. In total, there are 27 programmes for Fijians and Rotumans, and 19 that benefit Indians and minority communities.

**Table 2**

#### **Affirmative Action Programmes 2002-2003**

Ministry	Affirmative action	Funding (\$m)	
		2002	2003
Finance and National Planning	Small Business Equity Scheme	1.5	1.5
Ministry of Education	Enhancement of Fijian and Rotuman education	3.23	2.41
	Improving Education in rural areas and disadvantaged schools	5.1	4.4
	Vocational training and attainment of employable skills in and out of school	0.197	0.197
	Improvement of educational opportunities for students with disabilities (Special Education)	0.375	0.475
Ministry of Commerce, Business Development and Investment	Small/Micro Enterprise Development	0.213	1.0
	Increase Fijian and Rotuman participation in business	SJR	SJR
Public Service Commission	Student Loan Scheme	1.0	1.5
	Renting of Fijian and Rotuman owned premises by Government	6.589	6.589
Ministry of Lands and Mineral Resources	Loan grant to purchase ancestral land now in freehold	0.5	0.5
Prisons Department	Vocational training for serving prisoners	0.169	0.100

**Table 2 (continued)**

Ministry	Affirmative action	Funding (\$m)	
		2002	2003
Regional Development	Self help housing assistance in rural areas	0.800	1.0
	Self help projects in relation to housing and other business projects	2.0	3.0
Ministry of Multi Ethnic Affairs	Scholarships	2.5	3.0
	Grant for cultural training and enhancement	0.041	0.100
Ministry of Agriculture	Acquisition and development of land for agricultural purposes	6.9	7.0
Department of Fisheries	Providing fishing and processing licences and contracts	1.0	1.0
Department of Forests	Participation of resource owners in the forest industry	2.0	Nil
Department of Social Welfare	Family Assistance Scheme	11.0	12.0
	Poverty Alleviation Projects	2.0	2.5
	Coordination of care rehabilitation of persons with disabilities	0.499	0.250
Ministry of Tourism	Participation in the tourism industry to ensure effective equality in access to commerce	1.50	0.500
Ministry of Youth	Trade training for rural youth	0.056	0.056
	Training and employment of youth for the disciplined forces	Nil	Nil
	National Youth Service	0.345	0.300
Public Rental Board	Rental subsidy	0.694	1.0
Ministry of Local Government, Squatter Settlement, Environment and Housing Authority	Providing land for housing and squatters	1.60	1.0
Ministry of Fijian Affairs	Education scholarships	5.5	6.0
	Technical and vocational training	0.966	0.966
Total		58.27	58.34

*Note:* Table 2 shows the 29 affirmative action programmes and indicative budgetary provisions allocated under each programme in 2002 and 2003.

**Table 3**  
**Blueprint programme 2002-2003**

Types of initiative	Ministry	Programmes	Funding/implementation		
			2002 (\$m)	2003 (\$m)	Status
Legislative	PMO	Preparation and promulgation of a new Constitution	Nil	0.02	P/I <sup>2</sup>
	PMO	Affirmative Action Legislation	Completed		U/I <sup>1</sup>
	MLMR	Return of Schedule A and B Lands to NLTB	0.145	0.145	U/I
	MALR/NLTB/SLO	Removal of native land from the ambit of LATA to NLTA	Nil	Nil	P/I
	MFA/SLO	Conferment of ownership rights of traditional "qoliqoli" to customary owners	Nil	Nil	P/I
	MFA/SLO/PMO	Establishment of Land Claims Tribunal	Nil	Nil	P/I
	MFA	Review of Fijian Affairs and GCC Regulations	Nil	Nil	P/I <sup>3</sup>
	PMO	Establishment of the Fijian Development Trust Fund	Nil	Nil	U/I
	PMO/MFNP	Establishment of a National Savings Scheme for Fijians and Rotumans	Nil	Nil	P/I
	MLMR/SLO	Review of Mining Laws	Nil	Nil	P/I
	MFNP	Review of Company Tax Act	Nil	Nil	P/I
Policy	NLTB/SLO	Review of NLTA and ALTA	Nil	Nil	P/I
	MFA	Review of the Fijian Administration	0.200	0.150	P/I
	MPEPSR	Reservation of 50% of Government shares in companies for Fijians and Rotumans as they become available	Nil	Nil	P/I
	MCBDI	Reservation of 50% of major licences or permits for Fijians and Rotumans	SJR	SJR	U/I
	PMO/MFNP	Reservation of 50% of Government contracts for Fijians and Rotumans	SJR	SJR	U/I
	MFNP	Continuation of FDB Interest Scheme for Fijians and Rotumans	5.0	4.2	U/I
	MFNP	Establishment of Small Business Equity Scheme for Fijians and other races			U/I
	MCBDI	Establishment of a National Centre for Small and Micro Enterprise Development	0.700	0.700	U/I
	PMO/MFF	Dealings relating to mahogany	2.0	Nil	U/I
	NLTB/MLMR	Discontinuation of Land Use Commission	Nil	Nil	U/I
	MALR	Establishment of assistance scheme for Fijian Landowners taking up cane farming on their reverted lands	3.0	4.0	U/I
	MLMR	Determining of % of mining royalties to be paid to landowners	Nil	Nil	P/I
	MLMR	Royalty regime for artesian or groundwater	Nil	Nil	P/I
	PSC	Resumption of Government Tenancy in provincial and tikina owned commercial office buildings	6.589	6.589	U/I
	MFNP	Granting tax exemption to Fijian and Rotuman owned companies	Nil	Nil	P/I
Budgetary	MFNP	Preparation of a Twenty-Year Development Plan for Fijian and Rotuman development	Completed		U/I
	MFA	Government subvention to fund entire operation of Fijian Administration	1.674	1.674	U/I
	MFA	Government annual grant to NLTB	1.0	1.0	U/I
	MLMR	Budget Provision of \$1.5m payment to NLTB of arrears in rent for leases on State Schedule A Land	Nil	Nil	N/I
	PMO	Grant to endow the proposed Fijian Development Trust Fund	10.0	10.0	N/I
	MOE	Government provision for Fijian Education Fund	5.5	6.0	U/I
	MOE	Assistance to Fijian schools and research into Fijian education	1.0	2.449	U/I
	MFA	Conversion of \$20m interest free loan to FAB to a Government grant	Completed		U/I
	MFA	Government provision of interest free loan to FAB for purchase of shares in Yasana Holdings Limited (YHL)	Completed		U/I
	MLMR	Reinstatement of Government budget provision to assist Fijians in buying back ancestral land alienated as freehold land	0.500	0.500	U/I
	MFA	Reinstatement of annual allocation from Government to Provincial Councils	1.500	1.500	U/I
	MALR	Land development for settlement of tenants whose ALTA leases have expired			U/I
	MLGHSSE	Land development for low cost housing	2.00	2.00	U/I
	MLGHSSE	Land development for resettlement of squatters	1.00	1.50	U/I
	MFA	Assist commercial development of native land through NLTB	Nil	Nil	P/I
	PMO	Village Improvement Scheme	1.228	1.228	U/I
Total			43.035	43.65	

Key: U/I<sup>1</sup> Under Implementation - study conducted, report adopted, consultation completed, legislation completed, budgetary allocation provided, implementation under way.

P/I<sup>2</sup> Partially Implemented - study conducted, report adopted in principle, consultation progressing, working committee established, legal drafting in progress.

N/I<sup>3</sup> Not Implemented - no study, no report, no consultation, no working committee, no legal drafting, no budgetary provision.



56. The objective of the Blueprint programme is to provide an environment, through policy directives, legislation and budgetary allocations, to allow Fijians and Rotumans to fully exercise their rights to self determination; to safeguard the paramountcy of their interests in line with the Constitution, and to improve their access to opportunities, amenities, and services, thereby raising their living standards. It aims to bridge the social and economic gap between the indigenous people and other ethnic communities.

57. It contains 42 programmes, comprising 12 legislative initiatives, 15 directives, and 15 budgetary provisions.

58. The Blueprint does not consist entirely of affirmative action measures. Part of it has provisions to secure the special rights of Fijians and Rotumans and their good governance and welfare in accordance with the Constitution. Some of the Blueprint provisions also apply to other communities.

59. Table 3 shows the status of funding and implementation of the Blueprint. Of the 42 programmes, 24 (54.1%) are under implementation, meaning that all the legal and policy requirements have been concluded and allocation has been provided in the budget for implementation, 14 (33.3%) have been partially implemented, and 4 (9.6%) have not been implemented at all. Furthermore, of the 12 legislative initiatives, 3 (25%) are under implementation, 8 (66.6%) have been partially implemented and 1 (8.4%) has not been implemented at all. Under the 15 policy directives, 10 (66.6%) are under implementation while 5 (33.4%) have been partially implemented. For the budgetary initiatives, 12 (80%) are under implementation, 1 (6.6%) partially implemented and 2 (13.4%) have not yet been implemented.

60. Affirmative action under the Social Justice Act is a crucial part of Government's overall strategy of promoting equality of access to opportunities for all communities, particularly poor and disadvantaged groups, as prescribed under Section 44 of the Constitution. Affirmative action is also essential for narrowing the economic gap between the Fijians and Rotumans, and members of other communities. Despite this, it should not necessarily be seen as a racial question, but as an issue of removing injustices and discrimination, and attaining fair and balanced development.

61. Special measures to improve the economic position of the indigenous people are not new. They have been in force for approximately 30 years. Clearly, there is now a need for a renewed and firm commitment and a more comprehensive and concentrated approach as this is crucial for the stable development of Fiji.

62. Affirmative action on the grounds of race is promoted and protected under international law and international instruments, and as affirmed by various Committees of the United Nations, provided other races are not burdened by the preferential treatment granted. In Fiji no burden is placed on other communities by the measures to assist the Fijians. In fact, the Government intends to significantly broaden the benefits of affirmative action to increasingly include non-Fijians, consistent with Fiji's Constitution.

### **E. Item 17**

63. The Ministry of National Reconciliation and Unity was given the mandate through the Ministerial Assignment given to the Minister of National Reconciliation to promote racial harmony and social cohesion through social, cultural, educational and other activities at all levels within the indigenous Fijian community and between the various racial groups in Fiji. To achieve this objective, the Ministry works with the various communities at the neighbourhood, community, district, divisional and national levels through a consultative and conciliatory process.

64. The Ministry also plays a facilitative and coordinating role for the reconciliation and unity programmes of the various government and non-government organizations across the country.

65. In 2000 – 2001, the Ministry had been actively involved in getting communities to meet together mainly for social functions in the conflict areas of Tailevu, Rewa and Naitasiri (central and eastern parts of Viti Levu) and in Macuata Districts (in Vanua Levu). Over 400 meetings of this nature were jointly conducted in these districts by the Ministry and the Public Promotion Unit of the Police Department.

66. The effects of such meetings were to enhance the social and community relationships between communities who are now living peacefully together. In the cases of Muaniweni (eastern part of Viti Levu) and Dreketi (in Vanua Levu), there are signs that the ethnic prejudices have been transformed into tolerance and acceptance. Both Muaniweni and Dreketi have established Community Development Committees made up of members of both communities.

67. The Ministry also assisted in the resettlement of displaced farmers from the Girmit Centre in Lautoka (refugee centre for displaced farmers) back to Muaniweni and Dawasamu areas by offering mediation and counselling between two communities that is, the victim and the perpetrator community. As a result, the farmers were indeed resettled in Muaniweni and Dawasamu.

68. The Ministry was also involved in conducting public awareness meetings on the concepts of peace and conflict resolutions. Networking with non-governmental organizations that deal with trauma counselling to put out posters and brochures to help people who had been traumatized. Public awareness through the media was also encouraged. As a result of this, forgiveness ceremonies were conducted in Dreketi, Muaniweni and Dawasamu offered by the Fijian people to the Indo-Fijian and vice versa.

69. In 2002 – 2004 the Ministry was involved in:

(a) Making awareness meetings with various communities on the need to acknowledge wrongs, fears and to make public apology;

- (b) Consultation nationwide to form a 10 year Strategic Plan for the Direction to take;
- (c) Establishing network partnership with churches and religious organizations;
- (d) Engagement of civil society organizations;
- (e) Forming inter-ministerial working groups to streamline plans and policies in government ministries;
- (f) Assisting communities in carrying out forgiveness and acknowledgement of wrongs;
- (g) Research work into the concepts of justice, both restorative and retributive.

70. The Ministry was engaged in such programmes because during that period there was much fear and insecurity amongst the rural communities, getting them to come out of their homes and gather together with other members of their communities. The Ministry also felt that this was a role that needed to be done to help resettle farmers in their original communities.

71. The Ministry felt that it needed to educate public perceptions and manoeuvre perceptions to common national identity and moreover, people need to be brought together to the same consultation table to discuss their prejudices and fears openly face to face.

72. As a result of these exercises, the Ministry has noticed an improvement in tolerance and understanding between the different communities. In 2004 – 2005 the Ministry was involved in:

- (a) Research work on national identity, national symbols and national language;
- (b) Consultations on these were conducted in the Western, Northern, Central and Eastern Divisions;
- (c) Engagement in Peace and Stability Development Programme;
- (d) Engagement in planning a regional leadership workshop with New Zealand Aid;
- (e) Awareness programmes on the Promotion of Reconciliation and Unity Bill;
- (f) Awareness programmes on the Convention on the Elimination of All Forms of Racial Discrimination with representatives of political parties;

(g) Partnership with the New Zealand Government on awareness of “healing” with Father Michael Lapsley;

(h) Consultation between land owners and tenants on land issues.

#### **F. Item 18**

##### **The public service**

73. Section 140 of Fiji’s Constitution specifically states that:

The recruitment of persons to a state service, the promotion of persons within a state service and the management of a state service must be based on the following principles:

- (a) Government policies should be carried out effectively and efficiently and with due economy;
- (b) Appointments and promotions should be on the basis of merit;
- (c) Men and women equally, and the members of all ethnic groups, should have adequate and equal opportunities for training and advancement;
- (d) The composition of the state service at all levels should reflect as closely as possible the ethnic composition of the population, taking account, when appropriate, of occupational preferences.

74. The Public Service is fully accountable to the Government and is also responsible to the Government for providing candid, honest, comprehensive, accurate and timely advice, and for implementing the Government’s policies and programmes.

##### **Public Service Values**

75. The Public Service Values spell out the duty of the employer in terms of employment in the public service as highlighted under section 4 of the Public Service Act of 1999. These 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.

### **Public Service Code of Conduct**

76. Section 156 of the Constitution sets out a Code of Conduct which highlights the duty of the employees as public servants inclusive of ministers and members of Parliament in carrying out their duties during their course of employment as public officials.

77. Appointments and promotions in the public service are guided by certain fundamental principles. These are, first, 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, occupational preferences.

### **Public Service Equal Opportunity Policy**

78. As a Constitutional requirement, it is pertinent that Equal Employment Opportunity (EEO) is embedded in all principles of recruitment, training and advancement. EEO is defined as encompassing 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 behaviour that are fair and just.

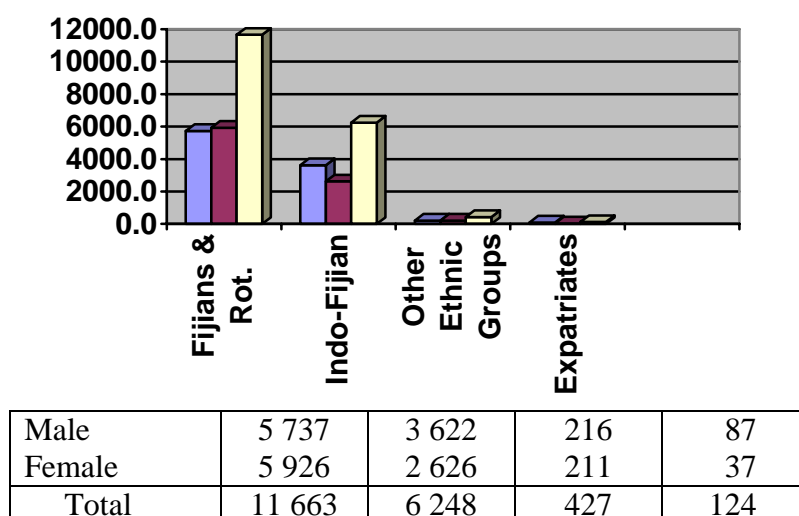
79. The EEO policy is intended to provide all public service employees with a guide to fairness and equity in employment decisions in the areas of recruitment, promotion, transfer and training based on merit. These are good business practices, recognizing the aims and aspiration of individuals in a competitive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

80. In order to arrive at a fair, appropriate and realistic policy framework, ministries and departments are 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, in their corporate plans and in their performance agreements. Also as part of the training and awareness programme on gender and equal employment opportunities programme, the United Nations Development Fund for Women (UNIFEM), in cooperation with the Public Service Commission, is now conducting training programmes at the Center for Training and Development.

81. From 2005, the adherence to the EEO policy will form part of all the Chief Executive Officers of all the Government Ministries key performance indicators. Output deliverables are to be monitored and evaluated twice yearly by the Public Service Commission.

82. The following figure shows the composition of the Public Service by race and gender:

**Composition of the Public Service: Racial and gender composition  
(December 2004)**



*Source:* Fiji Public Service Commission.

83. As at December 2004, indigenous Fijians and Rotumans comprised the majority of the civil service of 11,663 officers. Indo-Fijian numbered 6,248 and officers of other ethnic groups including, Chinese, part-Europeans and Melanesians, numbered 427 while expatriates numbered 124. There were a total of 422 vacant posts yet to be filled.

84. The Government notes the concern raised by the Committee over the ethnic balance of the security forces and how it is projected into the wider framework of positive ethnic discrimination.

### **The military forces**

85. The Government profoundly declares that its recruitment is based on a set of criteria that are established by government regulation. The criteria that guide recruitment in the military stipulate that all individuals showing interest in joining the military must be a citizen of Fiji.

86. Other criteria focus on age, minimum scholastic requirements and the need to be physically and medically adept. These criteria are understandable given the nature of the training an individual needs to undertake before joining the military. During recruitment all those who are not mentally attuned to military life are identified during the basic training process.

87. Recruitment into the military is carried out at various divisional sites throughout the year. Advisory bodies, provincial and divisional administration agencies are involved to ensure the drive is given the widest publicity possible. Media outlets and church gatherings are also used to publicize the military's recruitment drive. Those who show up and are seriously interesting in joining, if they meet the stipulated criteria are given the opportunity to take the training programme.

88. To target all communities, the recruitment drive is carried out in urban and rural areas where large numbers of unemployed persons are to be found or sites with little economic activity. While the numbers of each intake is small, this however is guided by the budget provided by the Government in our annual provisions.

89. Since 1987, the military have undertaken over 60 recruit intakes where over 5,000 Fiji citizens were trained. Of the over 10,000 Fiji citizens who applied, only 2.6% were Indians and 5% of another ethnic group.

90. The figures for officer training are somewhat different. Since 1987, the military had completed 12 officer training selection boards. The process for this selection board, however, is different given that individuals while fulfilling a more advanced criteria requirements are also required to undergo intensive psychological profiling. In this selection programme, participants are evenly distributed among different ethnic communities. Thirty per cent of individuals who participate in our officer selection programme are non-Fijians, and the number has remained constant over the last decade. Our analysis of the situation is that the opportunity for such training/expanding ones career and the remuneration offered in officer training is more appealing, hence the high interest in the programme.

91. The Government contends that the criteria established under the existing regulations do allow members of the society to enrol in the military. The onus is for individuals to have a liking for the “soldiering” profession as an avenue of employment or otherwise. For the indigenous population, the “soldiering” profession and its attributes is an attraction. However, for other communities, employment in the military is not necessarily appealing. Given these parameters, the military will continue to enlist those who wish to become part of the military ethos and all it stands for. The military headquarters asserts that its standards will not be compromised to cater for any political agenda given that the military will in the end become the nation’s final guarantor for its survival.

### **Police Force**

92. Within the last two to three years, the Fiji Police Force has taken steps to elevate and improve its role in developing professionalism and a high standard of community service delivery.

93. The Police Force’s principles and current policy is quite adamant in ensuring that no element of discrimination of any kind encroaches on or exists in the system.

### **Recruitment policy**

94. Fiji Police has an open recruitment system. The standard criteria for selection for an applicant are:

- (a) Must be between 21 and 35 years of age;
- (b) Normal height;
- (c) Intelligent, physical and mentally fit;

- (d) Attained Fiji School Leaving Certificate;
- (e) No criminal record.

95. Any person who meets the above criteria is qualified to be selected. The current total of Fiji Police members is 2,172.

**Race composition as at 7 January 2005**

Fijian and Rotuman	1 353
Indian	765
Others	54
Total	2 172

*Source:* Fiji Police Force.

**Executive positions of the Fiji Police**

(a) Commissioner of Police	Mr. Andrew Hughes (Australian)
(b) Deputy Commissioner	Mr. Moses Driver (Part European)
(c) Assistant Commissioner - Administration	Mr. Nand (Indian)
(d) Assistant Commissioner - Operations	Mr. Mohammed J Khan (Indian)
(e) Assistant Commissioner - PSP and TD	Mr. Jese Marovia (Fijian)
(f) Assistant Commissioner - Crime	Mr. Kevueli Bulamainaivalu (Fijian)

*Source:* Fiji Police Force.

**G. Items 19 and 20**

**Establishment of the Ad Hoc Select Committee on Land**

96. At the Lower House sitting on 30 September 2004, the Prime Minister Hon. Laisenia Qarase successfully moved a motion on the establishment of an Ad Hoc Committee to comprise eight from the Government side, the leader of Opposition, six from the Labour Party and three members from the Senate who are also nominees of the Great Council of Chiefs.

97. The Prime Minister in tabling the motion emphasized that:

... search for an amicable and long term solution to the future of agricultural leases on land must be treated as an economic issue and not political or racial issue. The solution must be one that is just and fair to both the landowners and tenants. (Hansard Report of 30 September 2004.)

98. The Ad Hoc Committee on Land met twice in 2005, with discussions primarily focusing on the following issues that emerged from the discussions in the Talanoa talks:



- Scrutinize and consider the important aspects and issues on land relating to:
  - (a) Tenure;
  - (b) Rental;
  - (c) Premium considerations;
  - (d) Compensation on improvements;
  - (e) Arbitration and disputes;
  - (f) Other related matters;
- Ascertain the practicality and suitability of ALTA<sup>3</sup> and NLTA<sup>4</sup> with possible amendments;
- Ensure that either the option adopted incorporates the needs of landowners and tenants as currently safeguarded under ALTA and NLTA, and also satisfies the values and fulfils the vision stated in the guiding principles that emerged from the discussions of the Talanoa talks.

### **Agricultural leases**

99. Tensions and difficulties over arrangements for leasing of native land are one of Fiji's most sensitive problems. Land is central to the country's questions of politics, power, race and economics. Fiji's immediate land crisis centres on expiring agricultural leases on native land and terms and conditions for new leases.

100. The Government gave the country and the sugar industry proposals that would bring stability, progress and a fresh lease of life to farming and usage of native land. What the Government envisages will also improve relationships between the landowners and the tenants. It is believed that it is possible for a solution to be arrived at within weeks given commitments from all the parties. The Government is committed to negotiating through a Joint Parliament Select Committee, created as part of bipartisan effort to reach agreement. Membership is from all sides of Parliament and includes the Prime Minister as chairperson and the Leader of the Opposition. The Committee has had hearings in different parts of the country to learn the views of the public.

101. The Government envisages legally binding 50-year leases, with extensions of not less than 20 years. There would be a review in the 37th year and a decision on the future of the tenancy by the 40th year. This is seen as a vast improvement over the current position of 30 years, without extension.

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<sup>3</sup> Agricultural Landlord and Tenant Act.

<sup>4</sup> Native Land Trust Act.

102. The Fijian landowners may not be happy with the existing Agricultural Landlord and Tenant Act (ALTA), which governs the relationship between landowner and tenant. It has led to some of the lowest agricultural rental incomes in the world and eroded landowner rights and interests. ALTA had contributed to the impoverishment of landowners and has made them into the poor relations of the sugar industry. The current rental formula is based on up to six per cent of unimproved capital value. But in practice it has mostly been two to three per cent.

103. The landowners will be more likely to continue a lease if they receive a fair and reasonable rental. The Government has therefore proposed a flat 10 per cent rental, which conforms to the guiding principles of fairness. The landowners, through the Native Land Trust Board (NLTB), would like leases to be issued under the Native Land Trust Act (NLTA). This legislation permits NLTB to protect the interests of the landowners, while safeguarding the welfare of the tenants. To provide tenant security, the Government is open to suggestions for including provisions from ALTA in amended NLTA legislation. The Government has always been happy to discuss any other matters of concern to the tenants.

104. The Government in 2004 introduced two Bills (which have not yet been passed by Parliament) to seek the transfer of all agricultural native land to be regulated under the Native Land Trust Act. The Bills are:

(a) ALTA Bill - which among other issues seeks to amend the Agricultural Landlord and Tenant Act (ALTA) (Cap. 270) to transfer all agricultural native land to be regulated under the Native Land Trust Act;

(b) NLTA Bill – which among other issues seeks to amend the Native Land Trust Act (NLTA) (Cap. 134) to transfer the regulation of agricultural leases on native lands from ALTA to the NLTA.

### **Land resources planning and development**

105. ALTA leases began expiring in 1997 and likewise the Government of the day has a moral obligation to its affected citizens by formulating policies and strategies to assist the affected farmers through the resettlement programme on government purchased and subdivided land and the Farming Assistance Scheme which extended to both exited ALTA tenants and incoming replacement indigenous farmers.

106. This programme had been implemented through four different Governments with four different policies. It is therefore a challenge for the implementing Ministry and Department to cope with various changes especially when the processes took place within seven years.

107. In 1998 the then Government created the Land Development Resettlement Unit within the Ministry of Agriculture, Fisheries and Forest in Cabinet Decision CP (98) 94. This special project Unit was created to assist with the resettlement of exited ALTA tenants who, because of the land needs of the landowners, were not granted new lease on expiry of their ALTA leases.

108. The role of the Unit was to identify the number and location of ALTA tenants requiring resettlement, that is:

- (a) Identify land to resettled exited ALTA tenants;
- (b) Prepare alternative agricultural development programmes for resettled tenants.

### **Farming Assistance Scheme (FAS)**

109. The 1998 Government spent a total of \$3,630,894.56 to purchase the freehold properties and for a lease premium of the only native lease property which had been developed for resettlement purpose.

110. On 19 January 2000, in Cabinet Decision CP(2000) 24, the People's Coalition Government reoriented this assistance to a programme that was limited to the payment of a Rehabilitation Grant of \$28,000 to each exited ALTA tenant who preferred not to be resettled. A total of \$5.4 million was paid out to 206 farmers, of which 196 were Indo-Fijians and 14 indigenous Fijians. This programme continued until the end of 2000.

111. On 30 August 2000, the Interim Government by Cabinet Decision IGCP(2000) 50 created a new Department of Land Resources Planning and Development to continue to advance the role of the then Land Development Resettlement Unit, which was disbanded by the Peoples Coalition Government. Consequently, the terms of reference for the Department were extended to include the following:

- The administration of the Farming Assistance Scheme (FAS) which was approved by the Interim Government in a Cabinet Decision IGCP(2000) 163 of 7 November 2000. This was aimed at assisting the incoming landowner farmers and outgoing tenants with \$10,000 as resettlement/establishment costs and where tenants are unable to meet the lease renewal premium then it should be paid through FAS;
- The coordination of the sustainable land development and management of Fiji's land resources through the Land Conservation and Improvement Act of 1953;
- The Interim Government started implementing the FAS programme in January 2001 with the policy of equal distribution of \$10,000 assistance to both the exited ALTA tenants and incoming replacement farmers. But during its term, it also extended the categories of assistance in its Cabinet Decision IGCP(01)51 of 7 January 2001 to assist exited ALTA tenants who were only to be resettled or to be assisted with lease renewal premium if successfully negotiated for lease extension with two more new options. The two new options are: rural residential lease, and purchase of new farms.

112. The Interim Government during its period of governance spent \$761,996.40 for the purchasing of a Vunicibicibi freehold property and \$1,174,803.20 for the infrastructure development for the various subdivisions for resettlement purposes. It also spent \$5,051,092.59 for the Farming Assistance Scheme to assist 720 exited ALTA tenants and incoming replacement farmers.

113. In September, 2001 the current coalition Government took over the rein of governing Fiji and it fully supported and continued to advance the interim Government's Policies with regard to the Farming Assistance Scheme. On 5 April 2004, in its Cabinet Decision CP(04)143 it extended the FAS categories to also support its blueprint programme for the Fijians and Rotuman. It included three new categories which are:

- Non-landowner indigenous Fijian;
- Informal groups such as youth or church groups;
- Formal groups such as cooperatives and other organized bodies.

114. To date, the current coalition Government have assisted 2155 replacement farmers and outgoing tenants with a total payment of \$16,088,898.00 through FAS and \$4,578,893.08 for the infrastructure development of all the freehold and native leased land which had been acquired for the resettlement purposes.

115. On 26 February 2002, the Cabinet approved the proposed policy framework of the Rural Farming Assistance Programme under its Affirmative Action Programme for the subsistence farmers in the 14 provinces in Fiji and Rotuma. The main purpose of the programme is to alleviate poverty from our rural communities. The implementation programme began in June 2002, with the following main objectives:

- To encourage rural farmers to increase domestic crop production to ensure food security;
- To facilitate the transition from subsistence agriculture to commercial farming in target rural areas;
- To create self-employment opportunities in agriculture for special target groups such as rural youth, women, ex-prisoners, church groups, etc.

116. The programme is aimed at assisting the rural subsistence farmers with grants of up to \$10,000 for groups, for instance. The assistance is in the form of grants for planting materials, tools, agricultural inputs, small farm machinery, etc.

117. To date a total of 11,839 applications have been received; and 7,970 have been approved and assisted with a total amount of \$4,450,866.70.

118. To date the current coalition Government has been provided a total of \$25,118,657.53 for both its Blueprint and Affirmative Action programmes on the Farming Assistance Scheme and Rural Farming Assistance Programmes.

**Table 1**  
**Categories and criteria for farming assistance scheme**

Category	Options given	Criteria for assistance	Value of assistance
Incoming landowner farmer	Replace outgoing ex-ALTA tenants	<ul style="list-style-type: none"> <li>– Must be a member of the Land-owning Unit (LOU) Registered on the Register of Fijian Landowners</li> <li>– Has approval of the LOU</li> </ul>	Assistance in kind up to \$10 000
Incoming non-landowner indigenous Fijians	Replace outgoing ex-ALTA tenants	Has approval of LOU members	Assistance in kind up to \$10 000
Replacement informal groups such as youth or church groups	Replace outgoing ex-ALTA tenants	Has approval of LOU members	Assistance in kind up to \$10 000
Replacement formal groups such as cooperatives and other organized bodies	Replace outgoing ex-ALTA tenants	Has the approval of LOU members	Assistance in kind up to \$10 000
Ex-ALTA tenants	<u>Option 1</u> Resettlement	<ul style="list-style-type: none"> <li>– Must be an ex-ALTA tenant</li> <li>– Should have all supporting documents</li> </ul>	<ul style="list-style-type: none"> <li>– Allocated a lot at any Government developed subdivisions</li> <li>– Provided assistance in kind to \$10 000</li> </ul>
	<u>Option 2</u> Lease Renewal	<ul style="list-style-type: none"> <li>– Same criteria as in option 1, with approvals from LOU and NLTB for renewal</li> </ul>	<ul style="list-style-type: none"> <li>– NLTB costs up to \$10 000</li> </ul>
	<u>Option 3</u> Rural Residential Lease (RRL)	<ul style="list-style-type: none"> <li>– Same criteria as in option 1, with approvals from LOU and NLTB for renewal</li> </ul>	<ul style="list-style-type: none"> <li>– NLTB costs up to \$10 000</li> </ul>
	<u>Option 4</u> Purchase of new farm	<ul style="list-style-type: none"> <li>– Same criteria as in option 1</li> <li>– With Sales and Purchase Agreement</li> <li>– Transaction to be made through a Solicitor</li> </ul>	<ul style="list-style-type: none"> <li>– FAS will pay amount on sales and purchase agreement up to \$10 000</li> </ul>

*Source:* Department of Land Resources Planning and Development.

119. One should note that ex-ALTA tenants are offered four options for assistance as compared to the one for the incoming replacement land-owning unit (LOU) farmer and three to the indigenous non-landowner farmers. This is intentionally placed to provide outgoing tenants with viable options of their choice depending on their decisions and relationships with LOU members.

### **Number of expiring leases**

120. The total number of ALTA leases to expire between 1997 and 2028 is provisionally estimated to be in the vicinity of 13,141. Refer to table 2 below for details.

**Table 2**

#### **Expiring ALTA leases (provisional estimates)**

Expiry year	No. of leases	Expiry year	No. of leases	Expiry year	No. of leases
1997	135	2008	299	2018	254
1998	237	2009	278	2019	306
1999	1 594	2010	374	2020	152
2000	1 955	2011	445	2021	168
2001	458	2012	419	2022	135
2002	622	2013	487	2023	148
2003	432	2014	380	2024	88
2004	600	2015	784	2025	85
2005	463	2016	361	2026	54
2006	521	2017	177	2027	13
Subtotal	7 669		4 004		1 468
Grand total	13 141				

*Source:* Department of Land Resources Planning and Development.

### **Lease expired by end of 2004**

121. NLTB reported that between 1997 and 31 December 2004 a total of 5,506 leases had expired, 1,127 had been renewed to sitting tenants and 2,940 had been leased to new incoming replacement landowners and new tenants. Therefore a total of 1,439 leases have not been decided upon or new tenants still negotiating or waiting for lease approval.

### **Current status of Farming Assistance Scheme**

122. Between February 2001 and November 2004 a total of 5,512 applications were received as clearly indicated in table 4 and out of this 2,875 were processed and approved while 2,637 application are still pending. The high number of pending files is due mainly to the budget allocated to the programme and the assistance which began in 2001 which has to cater also for leases which had expired from 1997. A total of \$21.13 million had been paid out to both replacement and outgoing tenants through the programme.

### Farming Assistance Scheme - Summary

**Table 3**

**2003**

Category	West	North	Central	Total	Fiji	IndoFiji	Others
Resettlement		25	3	28		28	
Replacement	279	62	38	379	379		
Lease renewal	254	53	23	330	6	324	
Rural residential lease	28	46	5	79		79	
New farm	17	10	3	30		30	
Total	578	196	72	846	385	461	0

*Source:* Department of Land Resources Planning and Development.

Total funding assistance = \$6,623,437.54.

**Table 4**

**2004**

Category	West	North	Central	Total	Fiji	IndoFiji	Others
Resettlement		17	6	23		23	
Replacement	199	70	40	309	309		
Replacement non-landowner	48	9	10	67			
Lease renewal	201	53	8	262	2	260	
Rural residential lease	9	16	6	31		31	
New farm	16	12	6	34		34	
Total	473	177	76	726	111	348	

*Source:* Department of Land Resources Planning and Development.

Total funding assistance = \$5,945,130.26

**Table 5**

### Summary of FAS recipients

Category	2001	2002	2003	2004	Total	FIJ	I/FIJ	Others
Resettlement	53	3	28	23	107	10	95	2
Replacement	393	470	379	309	1 551	1 551	-	-
Replacement non-landowner	-	-	-	67	67	67	-	-
Lease renewal	134	76	330	262	802	9	792	1
Rural residential	131	34	79	31	275		275	
New farm purchase	9	0	30	34	73		73	
Total	720	583	846	726	2 875	1 637	1 235	3

*Source:* Department of Land Resources Planning and Development.

### **FAS Programme 2004 and 2005**

123. The Department's target is to assist 726 outgoing ex-ALTA tenant and incoming replacement farmers for 2004, with a total budget of \$6 million. This will also include 50 resettled farmers. But with the extension of the FAS criteria to also include non-landowner indigenous replacement farmers, the need to increase the budget to cater for this new category is imminent.

124. Out of the total pending application of 3,363, the Government has approved 726. To assist the 726 applicants the Government required a total budget of \$5,945,130.26. The total budget allocation for 2004 was \$6 million. With the assistance already rendered to the 726 applicants, the Government has a balance of 2,637 up to 31 December 2004, which still need to be assisted.

125. Out of these pending applications, 998 files had been closed for the following reasons:

- Ineligibility;
- Double applications;
- Several applicants applying from one subdivision ex-ALTA lease;
- Lack of information and feedback from affected farmers when efforts were made to assist them.

126. Through the appropriate Department of Land Resources Planning and Development, the Government has written to the affected farmers to inform them of the situation.

127. A total of 1,639 files are currently being assessed and the Department needs a total of \$16.39 million to fully pay out the backlog of files. But in 2005, a total budget of \$3.75 million was allocated for the programme, which could only assist 314 new farmers or applicants. The summary of the breakdown is as follows:

**Table 6**

#### **Summary of breakdown for 2005**

	\$
Assistance for 259 farmers	2 666 000
Payment of 25 farmers who missed out in 2004	250 000
Resettlement of 30 farmers	300 000
Partial payment of 65 farmers	455 000
Operating budget	80 000
<b>Total</b>	<b>3 750 000</b>

### **FAS processing and payment**

128. The processing of an application takes two to three weeks to determine whether the eligibility criteria have been met before it is submitted on the fifteenth day of every month for



FAS National Approval Committee for the final scrutinization and approval. Once the files are approved, preparations for payments are carried out. It usually takes two weeks for the payment to be disbursed to our stakeholders such as NLTB, FSC, farmers cooperatives and the other financial institutions. In total it should take five weeks to process, approve and disburse a payment unless the Ministry of Finance does not have the cash flow at the time, in which case it will take longer.

129. One of the main concern is the total number of eligible applications that are submitted incomplete both in the filling in of forms and in the documentation required for ease of processing. It has also been found that quite a number of ineligible applications were received from people seeking assistance through FAS.

130. Notified pending applicants are given 30 days notice to submit the relevant documents for further processing. Applicants who do not respond upon further notification are given 14 days notice. If they failure to respond their files are closed. Affected farmers could reapply in future provided they are eligible and submit the necessary information to quicken the response time in providing the assistance.

#### **Plans and policies for resettlement of ex-ALTA tenants**

131. A total of 108 lots have been offered and resettled by former ALTA tenants. A further 109 lots remain available to them for resettlement.

132. An awareness campaign had been envisaged between the Government and the Information Ministry to create awareness of the availability of the lots to former ALTA tenants on the various subdivisions that have been established around the country.

133. The current trend clearly indicates that the renewing of leases to displaced ALTA tenants is on the increase year by year, judging by the number of applications for funding assistance received and processed. Actual assistance for the renewing of leases to sitting tenants from January 2001 to 31 December 2004 totalled 802. In the same period a total of 275 former ALTA tenants leased their residential sites and were assisted through the rural residential lease category. Assistance for purchasing of new farms totalled 73 in the same period.

134. The land purchase for resettlement programme will in the future depend on the pace of resettlement into the resettlement subdivisions and on the NLTB approach to lease renewal.

#### **Some challenges facing current Government**

135. The expiry of leases started in 1997 and the Farming Assistance Scheme began in 2001. Thus the problem of servicing the backlogged files became very difficult due mainly to insufficient supportive information to warrant payment of the grant and the resources provided were not enough to cater for the number of applications.

136. The Farming Assistance Scheme programme had been developed through four different Governments and with four sets of different policies, which is one of its biggest problems - especially in its effective and efficient implementation. Therefore it needs to be regularly reviewed to coincide with the paradigm shift in government policies.

137. With the decline in sugar-cane production and the current Farming Assistance Scheme assisted grower producing only up to 60% of the Farm Basic Allotment of their farms, it is only advisable to also include the non-landowner farmers and new farmers in the Farming Assistance Scheme Programme to boost production to the levels attained before the leases begins to expire.

138. The resettlement programme on the developed estates is slow mainly because due to ex-ALTA tenants not being able to make up their minds and having their own individual preference regarding the resettlement estates.

139. There is no mechanism in place to reduce the uncertainty in the rural sector especially when leases are expiring. The need for all stakeholders involved to integrate and work together and be more proactive is imminent. This would resolve issues such as the prolonged time which it takes the Land-owning Unit to select a replacement farmer. The transition period from when the outgoing tenant moves out and the replacement farmer moves in can be years. This is due mainly to slow lease processing for replacement farmers, resulting in loss of sugar-cane crop and high cost rehabilitating the ratoon crop, as well the leased farm land.

### **The sugar industry**

140. Fiji's sugar industry, crucial to the well-being of so many people, has been ailing for some years. The mills and the farms are not efficient enough for the industry to survive on the international market.

141. Fiji is now going ahead with comprehensive policies not only to revive the industry but also to provide alternative incomes for farmers who might not continue in cane production.

142. Some studies proposed a reduction in the size of the industry, with fewer farmers and workers. The Government, however, invited India to provide assistance for industry re-organization. An Indian technical and finance mission recommended not a cut back in sugar growing and production but rather an expansion. There would therefore be no need to have a smaller number of farms and milling company employees. Fiji would save precious jobs and incomes.

143. The Indian proposal is for a reformed industry able to compete overseas and be profitable, even when prices for sugar come down in Fiji's main market in Europe. The price reduction is in accordance with new world trade rules.

144. Up until now the European Union has been paying especially high prices for Fiji sugar. It is estimated that the EU contributes on average, some \$4,000 annually to the income of every cane grower. When these high prices end, Fiji's sugar mills and cane farms will have to improve their performances. Fiji must compete for sales of sugar at lower prices.

145. Working in cooperation with the Government and all the groups in the industry, the Indian mission's goal is to lift productivity in all aspects of growing and milling. The Government of India has approved a loan for the upgrading of Fiji's four sugar mills. The Government of Fiji has assisted by guaranteeing this loan. Arrangements are proceeding for Indian companies to provide equipment for new investment in the mills.

146. Increased efficiency in sugar cane productivity is to be achieved over three years. Farmers will receive training in such areas as cane production technology, harvesting techniques and farm management.

147. In Parliament, members from all sides of the House came together to form a Select Committee on industry reform, following successful consultations between them.

148. To assist the farmers, the Government decided to take responsibility for paying back the full amount of a \$25 million loan borrowed from the Sugar Cane Grower's Fund for cane rehabilitation and farmer welfare assistance for 1997 and 1998. It has now completed payment of this to the Fund, relieving farmers of a huge debt. The People's Coalition Government had earlier undertaken to pay this amount.

149. The Government also has a policy of providing \$10,000 worth of assistance for Fijian farmers entering the industry. This has been extended to cover not just landowners but all indigenous tenants, cooperatives and organized youth groups. Similar finding is made available for farmers, mainly Indian, re-establishing themselves in other areas of agriculture if they have not received new sugar cane leases. There is another allocation in the 2005 budget for continuation of these schemes.

150. Financial help of up to \$5,000 is also given to meet legal and other costs for sitting tenants whose leases are renewed. Similar financial assistance is also available for the lease documents required when new rural residential leases are issued, following the expiry of ALTA leases.

151. Another major initiative, launched with the support of the Asian Development Bank, will help cane farmers to go into new crops that should produce better incomes, well above the poverty level. This ambitious scheme will be completed by December 2010.

152. About 600 km of farm access roads are improved to help farming communities with the transportation of their produce. Rural people will be assisted to start their own small businesses. Rural financial services will also be strengthened. The Government will contribute \$9 million, with further support coming from the Fiji Development Bank and other sources.

## **H. Item 21**

153. The Committee has recommended that Fiji should adopt all necessary measures to put an end to hate speech and assertions of the supremacy of indigenous Fijians. In this regard, it is worth noting that section 30 of the Constitution limits freedom of expression. Under section 30(2) (b), a law may limit (to the extent that the limitation is reasonable and justifiable in a free and democratic society) the right to freedom of expression in the interests of the protection or maintenance of the reputation, privacy, dignity, rights or freedoms of other persons including the right to be free from hate speech, whether directed against individuals or groups.

154. Hate speech is defined in the Constitution as meaning an expression in whatever form that encourages, or has the effect of encouraging, discrimination on a ground proscribed by

section 38. As noted earlier, under section 21 (1) of the Constitution, Parliament is also bound by this limitation on the freedom of expression. We are not aware of the number of prosecutions taken against any hate speech made either in public or in Parliament.

### I. Item 22

155. Fiji maintains its interpretation of Article 4 that 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.

156. The Government is against any organization that disseminates ideas based on racial superiority or hatred, acts of violence or incitement to such acts. Such organizations are condemned and discouraged by the Government in accordance with the Laws of the country. The Government strongly rejects any doctrine of racial superiority or inferiority along with theories that attempt to discriminate the races in Fiji.

157. Fiji is guided by the 1997 Constitution, particularly its Bill of Rights provisions, and also by the Human Rights Commission Act, which prohibits unfair discrimination by the State, by the private sector in employment, and, in some circumstances, by individuals. The laws of Fiji against discrimination bind the State and they are supported by the principle of compact between citizen or civil society and the State.

158. There is already provision under the present criminal law in the Fiji Islands which deals effectively with conducts which is intended or is likely to stir up racial hatred and conducts which involves incitement of others to racial hatred. The Public Order Act sets out this legislation and the *Penal Code* defines the offence of sedition.

159. In the Public Order Act, on “inciting racial antagonism”, section 17 states:

- (1) Any person who by words, either spoken or intended to be read or by signs or by visible representation or otherwise:
  - (a) Spreads any report or makes any statement which is likely to:
    - (i) Incite racial dislike or hatred of any race or community; or
    - (ii) Promote feelings of enmity or ill will between different races or communities; or;
    - (iii) Prejudice the public peace;
  - (b) Makes any intimidating or threatening statement in relation to a race or community other than his own which is likely to arouse fear, alarm or a sense of insecurity amongst members of that other race or community;

- (c) Spreads any report or makes any statement which incites to violence, counsels disobedience to law or any lawful order given by a member of the armed forces of the Crown, the Royal Fiji Police Force or Prisons Service acting in the course of his duty,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding five hundred dollars or to both such fine and imprisonment.

160. A “seditious intention” as defined under section 65 of the Penal Code states:

“(1) A seditious intention is an intention:

- (i) To bring into hatred or contempt or to excite disaffection against the person of Her Majesty, Her heirs or successors or the Government of Fiji as by law established; or
- (ii) To excite Her Majesty's subjects or inhabitants of Fiji to attempt to procure the alteration, otherwise than by lawful means, of any matter in Fiji as by law established; or
- (iii) To bring into hatred or contempt or to excite disaffection against the administration of justice in Fiji; or
- (iv) To raise discontent or disaffection amongst Her Majesty's subjects or inhabitants of Fiji; or
- (v) To promote feelings of ill-will and hostility between different classes of the population of Fiji.

(2) In determining whether the intention with which any act was done, any words were spoken, or any document was published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.”

161. The charges for such an offence as laid under section 66 (1) (a) states:

“(1) Any person who:

- (a) Does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;
- (b) ...
- (c) ...
- (d) ...

is guilty of a misdemeanour ...”

162. The collective effect of the provisions of the Constitution, the Penal Code and the Public Order Act suggests 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.

163. The 1997 Constitution allows a limitation of the right to freedom of expression "for the purpose of improper attacks on the dignity of respected offices or institutions in a manner likely to promote ill-will between different races or communities" but only to the extent that the limitation is shown to be reasonable and justifiable in a democratic society.

### Decision of the Courts

164. The High Court of Fiji held in *State v. Riogi* [2001] FJHC 81; Haa0060j.2001s (20 August, 2001) that there was no necessary inconsistency with the protection of freedom of expression under the 1997 Constitution, provided the offence of sedition was interpreted in a free, fair and liberal spirit. It did not have to consider the proviso included in section 30 of the 1997 Constitution.

165. There can be no doubt at all that section 30 of the Constitution protects the freedom to express political dissent and criticism. This is so, even if such dissent is unpopular. As quoted in *State v. Riogi*:<sup>5</sup>

In a free and democratic society it is almost too obvious to need stating that those who hold office in government and who are responsible for public administration must always be open to criticism. Any attempt to stifle or fetter such criticism amounts to political censorship of the most insidious and objectionable kind. At the same time it is no less obvious that the very purpose of criticism levelled at those who conduct public affairs by their political opponents is to undermine public confidence in their stewardship and to persuade the electorate that the opponents would make a better job of it than those presently holding office.

166. The Government considers it important to ensure that the law of Sedition is not used to suppress legitimate and democratic criticism of the way the authorities are governing the country. The banning of extremist organizations by the Government or any attempt to curtail their activities on the grounds of their political ideology might be seen to breach the right to freedom of speech and expression and would almost certainly be counterproductive. 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.

167. It is the Government's stance that prohibiting hate speech does nothing to change the ideas that give rise to the opinions behind the "offensive" terms. What should determine hate speech is what is "acceptable" and what is "unacceptable" depending on the way people live with each other in Fiji. When it is unacceptable, the Police in exercising their powers within the authority of the Penal Code and Public Order Act can prosecute the perpetrator. There are precedents in Fiji whereby people have been prosecuted for such offences.

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<sup>5</sup> Quoted from *Hector v. Attorney-General* (1990) 2 AC 312, 315.

168. In the *State v. Afasio Mua and Others* Criminal Appeal No. 16 of 1991, the Fiji Court of Appeal in its judgment said:

The purpose of the offence is to prevent any unlawful attacks on the tranquillity of the State but it is not intended to prevent legitimate political comment. Deeply held political convictions frequently provoke strong emotions but there is authority to show that even strong and intemperate words or actions may not demonstrate a seditious intention if done with the purpose of expressing legitimate disagreement with the government of the day ...

The Court should bear in mind that genuine political dissent is often the ground from which democracy grows ...

169. The 1997 Constitution recognizes the delicate balance between freedom of association and opinion, and acts intended to incite ill will and hostility in the population.

170. Section 30 of the Constitution provides:

- (1) Every person has the right to freedom of speech and expression, including:
  - (q) Freedom to seek, receive and impart information and ideas; and
  - (r) Freedom of the press and other media.
- (2) A law may limit, or may authorise the limitation of, the right to freedom of expression in the interests of:
  - (a) National security, public safety, public order, public morality, public health or the orderly conduct of national or municipal election;
  - (b) The protection or maintenance of the reputation, privacy, dignity, right or freedoms of other persons:
    - (i) The right to be free from hate speech, whether directed against individuals or groups, and
  - (s) Preventing attacks on the dignity of individuals, groups or communities or respected offices or institutions in a manner likely to promote ill-will between races or communities or the oppression of, or discrimination against any person or persons; ... but only to the extent that the limitation is reasonable and justifiable in a free and democratic society.” (emphasis added) [sic]

171. The offence of sedition requires proof of, inter alia, an intention to promote feelings of ill will and hostility between different classes of the population of Fiji, does not therefore offend section 30 of the Constitution in principle, provided that a conviction for the offence is

“reasonable and justifiable in a free and democratic society”. In giving effect to this proviso, the Courts can do no better than to give to sedition offences the free, fair and liberal interpretation advocated by the Court of Appeal of Fiji.

172. The crux of section 65(1) (b), defence of the Penal Code, is that even if an idea is unpopular, if all it does is advocate change through lawful means, it is not seditious. It is only when an accused person advocates change through unlawful means, and in doing so, promotes ill will and hostility between different classes of the population, that he should be prosecuted and convicted. Simply put, if your ideas and acts upset other people, you can only be convicted if you are advocating unlawful behaviour in achieving your ends.

### J. Item 23

173. Recently there had been various incidents of sacrilege in Fiji, especially on Hindu temples. There were in some cases whereby the offenders were caught and charged and taken to court in relation to the offence.

#### 2003

Division	Church	Value (\$)	Mosque	Value (\$)	Temple	Value (\$)	Total offences	Total value (\$)
Southern	2	1 300	0	0	1	16.50	3	1 316.50
Eastern	2	1 248	0	0	3	278	5	1 526
Western	2	600	1	1 500	13	3 401	16	5 501
Northern	1	0	1	280	10	3 942	12	4 222
Total	7	3 148	2	1 780	27	7 637.50	36	12 565.50

#### 2002

Division	Church	Value (\$)	Mosque	Value (\$)	Temple	Value (\$)	Total offences	Total value (\$)
Southern	6	5 109	0	0	1	2 326	7	7 435
Eastern	0	0	0	0	1	300	1	300
Western	3	182	1	210	3	480	7	872
Northern	0	0	0	0	6	794.70	6	794.70
Total	9	5 291	1	210	11	3 900.70	21	9 401.70

#### 2004

Division	Church	Value (\$)	Mosque	Value (\$)	Temple	Value (\$)	Total offences	Total value (\$)
Southern	7	6 992	0	0	11	11 188	18	18 180
Eastern	2	3 200	0	0	1	12	3	3 212
Western	6	3 565	2	920	17	5 786	25	10 271
Northern	0	0	0	0	1	350	1	350
Total	15	13 757	2	920	30	17 336	47	32 013



**2001**

Division	Church	Value (\$)	Mosque	Value (\$)	Temple	Value (\$)	Total offences	Total value (\$)
Southern	3	3 505	0	0	4	5 722	7	9 227
Eastern	1	800	1	65	2	890	4	1 755
Western	0	0	2	1 200	12	3 599	14	4 799
Northern	1	35	1	105	2	130	4	270
Total	5	4 340	4	1 370	20	10 341	29	16 051

*Note:* The above tables show the number of sacrilege offences recorded during the respective years and their distribution within the four divisions. They also show which types of place of divine worship are attacked. The value which corresponds to each of these places of divine worship represents the value of property stolen or damaged.

174. In the law under s. 298 of the Penal Code of Fiji, any person who breaks into any place of divine worship or breaks out of any place of divine worship is guilty of the felony called sacrilege, and is liable to imprisonment for fourteen years.

175. Even though there are complaints that such acts are a result of racial discrimination, the Fiji Government takes such offence seriously and offenders are treated in the extreme of the law.

176. Most of the offenders of sacrilege break into temples and places of worship not because of hatred of religion but with the intent to steal money and other valuables. It is the temples that have been aimed at simply because it contains valuables that make easy money when sold by the offenders to buy alcohol and cigarettes. There is a general perception this offence is racially motivated, but it is not. The Christian places of worship have also been broken into in the past.

177. The National Committee for the Prevention of Suicides (NCOPS) was created in 2001 as a mechanism for addressing the increasing numbers of suicide cases. It is made up of members from various government departments and agencies, NGOs, Civil Society, individuals, religious organizations and community groups.

178. To reflect the Ministry of Health's commitment to addressing the issue of suicide prevention, it was recommended that the Secretariat of NCOPS be based at the Ministry of Health, with the Minister of Health designated as Chairperson of the Committee. NCOPS has since held quarterly meetings since its establishment in 2001.

179. The first meeting highlighted three major goals that needed to be addressed urgently. Four subcommittees were formed to address these goals. In the past year the goals have been merged for efficiency. The three goals that the working committees have been tasked with include:

1. Coordinating national activities on suicide prevention;
2. Adopting effective preventative strategies to the local setting:
  - Promoting awareness and training of relevant personnel;
3. Improving data collection and promoting research on suicide prevention.

# K. Item 24

## Suicide and attempted suicide report analysis 2000-2004

Year and race		Hanging		Paraquat		Other chemicals		Tablets		Injury		Burns		Others		Total		
		Suicide	Attempted suicide	Suicide	Attempted suicide	Suicide	Attempted suicide	Suicide	Attempted suicide	Suicide	Attempted suicide	Suicide	Attempted suicide	Suicide	Attempted suicide	Suicide	Attempted suicide	Total
2000	Fijian	11	1	0	1	0	1	0	0	0	1	0	1	1	0	12	5	17
	Indian	54	5	22	24	5	66	0	8	0	1	10	6	1	0	92	110	202
	Others	0	1	1	0	0	1	0	1	0	0	0	0	0	0	1	3	4
	Total	65	7	23	25	5	68	0	9	0	2	10	7	2	0	105	118	223
2001	Fijian	10	1	0	1	2	10	0	0	0	0	2	1	0	0	14	13	27
	Indian	60	6	13	8	13	75	1	12	0	2	14	7	0	2	101	112	214
	Others	1	0	0	0	0	0	0	1	0	0	1	0	0	0	2	1	3
	Total	71	7	13	9	15	85	1	13	0	2	17	8	0	2	117	126	243
2002	Fijian	13	2	2	0	0	3	0	5	1	0	2	1	0	0	18	12	30
	Indian	51	10	19	9	4	59	0	14	0	2	12	6	4	8	90	107	197
	Others	1	0	0	0	0	1	0	1	0	0	0	0	0	0	1	2	3
	Total	65	12	21	9	4	63	0	20	1	2	14	7	4	8	109	121	230
2003	Fijian	16	0	1	0	1	5	0	2	0	2	1	2	2	1	21	12	33
	Indian	49	8	14	11	6	48	1	8	0	0	9	4	0	1	79	80	159
	Others	0	0	1	0	0	0	0	1	0	0	0	0	1	0	2	1	3
	Total	65	8	16	11	7	53	1	11	0	2	10	6	3	2	102	93	195
2004	Fijian	14	2	0	0	1	5	0	2	1	1	0	0	0	0	16	10	26
	Indian	53	4	8	5	9	62	0	14	1	0	4	6	0	3	75	94	169
	Others	1	0	1	0	0	0	0	1	0	0	0	0	0	0	2	1	3
	Total	68	6	9	5	10	67	0	17	2	1	4	6	0	3	93	105	198

*Note:* The table shows the racial analysis from 2000 to 2004. The figures illustrate that suicide among the Indians is much higher than among the Fijians or other races.

180. NCOPS as a vehicle for suicide education and awareness would bridge the information gap and promote networking and open lines of communication.

#### **NCOPS current response to suicide prevention**

181. NCOPS activities have focused on raising awareness in the community on suicide prevention. The following strategies are currently being employed:

- In partnership with the Fiji Times, running weekly articles on suicide awareness and education;
- Working with the Fiji Times to develop local media guidelines for reporting on suicides;
- Radio talk shows on the Fijian Radio stations – Viti FM and Radio Fiji;
- Suicide prevention awareness advertisement campaigns on TV One;
- Lobbying for office space – earmarking space at the old Government Pharmacy Building along Rodwell road;
- Development of IEC (Information Education Consultation) materials on suicide prevention;
- Working with Telecom Fiji on the securing a crisis line for counsellors to offer advice and information to callers requesting assistance with their problems.

182. In 2004 it conducted a nationwide survey to find out how many organisations carry out suicide prevention counselling and activities, and convened the National Consultation Forum on Strategies for the Prevention of Suicides. In 2005 the World Suicide Prevention Day was held in Lautoka in September. That Day is earmarked to be an annual event organized by NCOPS with other stakeholders.

#### **National Consultation Forum on Strategies for the Prevention of Suicides**

183. This National Consultation Forum was held on 1 and 2 March 2004 at the Tradewinds Convention Centre in Lami and was open to the public. The objectives of the Forum were:

- To share experiences, information and ideas on current suicide prevention programmes and activities in place around Fiji;
- To identify areas of concern, challenges and problems faced by those involved in the prevention of suicide;

- To identify strategies and plans of action to help combat these challenges;
- To raise awareness of NCOPS and the role it plays in suicide prevention;
- To use the information gathered in the workshop to strengthen the goals and direction of NCOPS.

184. At the end of the two-day Forum, the vision and mission statements for NCOPS were prepared:

Vision: Reduce suicide in Fiji.

Mission: In collaboration with stakeholders, devise effective programmes and strategies to decrease the number of completed and attempted suicides in Fiji.

185. A Strategic Plan for nationwide campaigns on suicide prevention was drafted following the Forum. The overall objectives of the Plan are to identify strategies for the prevention of suicide with the ultimate goal of effecting policy-making decisions at the grassroots, divisions and national levels.

186. A report tabling the outcomes of the Forum and the next steps to be undertaken by NCOPS was drafted at the end of the Forum. This report identifies areas of concern, strategies that need to be introduced, implemented and monitored and the resulting cost of decreasing suicides in Fiji.

187. Another National Consultation Forum for Suicide Prevention Strategic Plan was scheduled for 7 April 2006, one of the objectives being to review the current Suicide Prevention Plan after consultation with all stakeholders. The recommendations from this Forum shall be a guide for the next two to three years in terms of suicide prevention for all stakeholders.

#### **L. Item 25**

188. The Government of Fiji acknowledges the recommendations of the Committee to continue its support for the Fiji Human Rights Commission. The Government understands the vital role the Commission plays and places great emphasis on the needs and assistance that needs to be granted to ensure that the Commission operates effectively and efficiently.

189. The Government understands the query by the Committee on Article 27 of the Fiji Human Rights Commission Act but it assures the Committee that all measures would be taken to ensure that all cases brought forward on human rights issues are dealt with appropriately.

190. The Government understands that to date there has never been a case that the Fiji Human Rights Commission had not investigated in accordance with Article 27.

## **M. Item 26**

### **The right to education and training**

191. The multicultural composition of its people and having to educate children of different mother tongues in the English language is also an overriding challenge. Added to these is the issue of a relevant curriculum in a former colonized State whose educational system has over many years been modelled on the Western one.

192. The country has a net enrolment rate of 98%. Since the 1970s, a major concern of successive Governments has been to ensure the equality of access to educational services for all children. Now a more pressing need is to provide a more relevant education for all young people.

193. The Ministry of Education faces the major challenge of trying to ensure greater equality of educational achievement among the various groups in Fiji society. The differences in the levels of academic performance among these groups are not due primarily to any innate differences in ability but usually the result of other variables that are not always easy to identify. This is a major challenge for Fiji with the continuous under-performance of Fijians in the external examinations, the lack of an inclusive curriculum for students with special needs, and the need to expand educational facilities for pre-school children.

194. Other major challenges include providing a relevant curriculum for students in the rural areas and also solving the problem of school dropouts. Recent studies have shown that the dropout rate for Years 1 to 6 is approximately 15%, and for Years 1 to 12 the figure stands at 38%. In the effort to provide life skills for dropouts, it is evident that the development of a relevant curriculum will enable the school leavers to gain some form of useful employment with the skills acquired from the schools.

195. Another major challenge is the reduction of financial burdens on parents. The partnership between the State and the wider community is one of the distinguishing features of education in Fiji and in most developing countries where the standard of living is not high; the task of having to educate children can be burdensome. The ideal scenario perhaps would be to move towards compulsory and free education. While tuition-free education has been granted to students from Year 1 to Year 11, other educational expenses are borne by the parents.

196. The major priority for the Government is to offer a relevant education of good quality - a system of education that will enable students to venture into self-employment activities and be less reliant on the formal sector of the labour market.

197. Another priority is the provision of equal opportunities for all students to education at all levels. Disparities in terms of educational opportunities among the various groups need to be reduced and eliminated so that all students have equal opportunities to education.

198. More than ever before, the Government and the Ministry of Education are now fully committed to enabling all students to fulfil their potential through access to good quality education irrespective of race or creed.

**The Government's commitment to education**

199. The Government, through the Ministry of Education, has introduced the most sweeping agenda for educational reform in Fiji's history. Education has been made more affordable, with cost reductions that are particularly helpful to the poor. The Government policies in place give needy children a better chance of a decent education. This concentration on the education system reflects our belief that public investment in education is one of the best ways of building a successful and prosperous country.

200. The Government regards education as a ticket out of poverty for all those people struggling to support themselves and their families and seek a better education at lower cost for all children, regardless of race, religion or culture. It has invested over \$1 billion in providing more quality teachers, extra books and computers and improved school facilities in rural and urban areas. For the year 2005, the education budget increased by nearly \$9 million to \$260 million, the highest in Fiji's history.

201. Parents of students have been freed from paying tuition fees for most classes. As a result, a record number of children are going to school. The tuition fee assistance scheme has been extended to Form 6. These policies have directly benefited more than 60,000 students. Under the old system, parents would have had to pay a total of \$10 million annually for tuition fees, which they now no longer have to pay.

202. The Government decided to exempt all children from paying external examination fees, starting from the Intermediate Examination at Class 6 to the Fiji 7<sup>th</sup> Form Examination. It is estimated that removing these costs further lightens the financial burden on families by a total of \$1 million a year.

203. The Government is also strongly committed to tackling the crisis in Fijian education which has seen Fijian children falling behind children from other ethnic groups in their school performance. Special assistance is largely concentrated on improving the poor conditions of Fijian schools and the lack of school facilities. As a result, now Fijian pass rates and examination results are improving and getting better.

204. Fiji has reached universal primary school education and more children are receiving secondary education. The compulsory education programme covers children at primary school and up to Form 4 at secondary school. For Forms 5 and 6 the removal of fees, and payment by Government of school and building grants, have made it possible and easier for many thousands of children to study up to this level.

205. By the end of the year 2005, the Government through the Ministry of Education was to have in place a language policy to make the teaching of Fijian, Hindi, Rotuman, Urdu and Tamil languages accessible in primary and secondary schools in all grades. Teaching would also include teaching of various customs and traditions.

206. Curricula are now being shaped to mirror the multiracial nature of Fijian society, with an emphasis on tolerance and mutual appreciation of differences and how these contribute to the social richness and unique character of Fiji. The Government wants the children to learn about

Fiji's many traditions and cultures and to respect them as a precious heritage, so that when they move from school into the wider world, they are expected to go further than what they have been taught in schools in forging the unity the country needs for the future.

207. The Education Act is quite clear in stating that parents have the right to enrol their children in the school of their choice.

208. The funding for "affirmative action" allocated to the Special Projects Unit of the Ministry of Education is a mere 1.5% of the Ministry's total budget for 2005. Ironically, the bulk of other funds allocated to the Ministry benefit Indian schools and other multiracial schools.

209. The following table shows the funding distribution of the tuition fee assistance allocation to non-government secondary schools in 2004.

School category	Form 1	Form 2	Form 3	Form 4	Form 5	Total
Fijian schools	66 780	69 065	562 122	492 201	401 610	1 591 778
% of total allocation	19.08	19.73	21.8	21.46	18.72	20.63
Indian schools	143 100	131 220	1 316 871	1 182 690	1 148 895	3 922 776
% of total allocation	40.89	37.49	51.08	51.56	53.56	50.83
Multi-racial schools	140 120	149 715	699 007	619 109	598 495	2 202 446
% of total allocation	40.03	42.78	27.12	26.98	27.72	28.54
Total	350 000	350 000	2 578 000	2 294 000	2 145 000	7 717 000

*Source:* Ministry of Education.

210. In 2004, tuition fee assistance was paid to secondary schools from Form 1 to Form 5. The above analysis shows the total allocation for tuition fee assistance provided by the Government in 2004. The details are as follows:

- 50.83% or \$3,992,776 was given to Indian schools;
- 20.63% or \$1,591,778 was allocated to Fijian schools;
- 28.54% or \$2,202,446 was given to multi-racial schools.

#### **N. Item 27**

211. Refer to the annexed Core Documents under part III, under the heading "The People".

#### **O. Item 28**

212. In this paragraph, the Committee has invited Fiji to consider the possibility of making the necessary declaration under Article 14<sup>6</sup> and recognize the competency of the Committee to

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<sup>6</sup> Recognizing the competence of the Committee to receiving communications from individuals or groups claiming to be victims under the Convention.

receive and consider communications from individuals and groups in Fiji claiming to be victims of any right set out in the Convention. While it is a policy matter for the Government to decide as to whether it should recognize the competency of the Committee to receive and consider communications from individuals and groups in Fiji, the special avenue for making applications for constitutional redress, and the detailed investigative and conciliatory powers of the Fiji Human Rights Commission, are sufficient procedural remedies for seeking relief against an unfair discrimination. Various judgements and orders of the High Court in numerous applications for constitutional redress indicate that the domestic procedures for seeking redress against any infringement of human rights are adequate.

#### **P. Item 29**

213. The Government of Fiji is fully supportive of General Assembly resolution 57/194 of December 2002 insofar as the funding and resources needed by the Committee for the Elimination of Racial Discrimination be facilitated by the United Nations rather than the State Party itself and is currently performing all the procedures necessary in the ratification of same in its domestic laws.

#### **Q. Item 30**

214. The civil society organizations who represent many different interest groups with different priorities as far as our commitment to race relations is concerned were actively involved in preparing and drafting this report; especially in providing assistance and positive criticism during the consultations with the Government CERD Committee. Three consultations were held with the NGOs representatives. Each of these meetings had been very constructive and encouraging especially in building a better relationship between the Government and civil society with the utmost objective of working together for the interest of the people.

215. The Government is grateful to the following organizations for their written submissions to the Government CERD Committee (see annex IV):

- (i) Constitutional Citizens Forum Ltd.;
- (ii) Ecumenical Centre for Research & Advocacy; and
- (iii) fem'LINKpacific Media Initiatives for Women.

216. The Government hopes to improve collaboration with the civil society organisations in the future which can result in effective resolutions and programmes that will benefit all communities in the country.

#### **R. Item 31**

217. The Government realizes the significance of considering the relevant parts of the Durban Declaration and Programme of Action when implementing domestic laws, especially of Articles 2 to 7 of the Convention.



218. The Government emphasizes that it has taken appropriate steps in assuring that human rights issues are dealt with effectively. It has established the Standing Committee on Human Rights and Equal Opportunities, which is responsible for examining, considering, and effectively dealing with human rights issues and reports, such as the Committee for the Elimination of Racial Discrimination.

219. The Government is also grateful to the Office of the United Nations High Commissioner for Human Rights for establishing an office in Suva, and is also grateful for any assistance offered. The Government hopes to work in collaboration with the above-mentioned Office on human rights issues in the future.

### **S. Item 32**

220. The Government supports the recommendation of the Committee and undertakes to make this report readily available to the public.

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

### **A. Article 1**

221. All citizens of the Fiji Islands have equal rights under the law. The principle of equality is guaranteed under the 1997 Constitution, Section 38 of which states:

- (1) “Every person has the right to equality before the law.
- (2) A person must not be treated unfairly or discriminated against, directly or indirectly, on the grounds of his or her:
  - (a) Actual or supposed personal characteristics or circumstances, including race, ethnic origin, colour, place of origin, gender, sexual orientation, birth, primary language, economic status, age or disability; or
  - (b) Opinions or beliefs, except to the extent that those opinions or beliefs involve harm to others or the diminution of the rights or freedoms of others;

or on any other ground prohibited by this Constitution.”

222. The protection against discrimination on the basis of race, colour and place of origin was first included in the 1990 Constitution. The Bill of Rights of the 1997 Constitution broadened the definition of fundamental rights and freedoms by including birth, gender, sexual orientation, primary language, economic status, age or disability. Furthermore, the outlawing of discrimination against political or religious beliefs as provided for in the 1990 Constitution has also been broadened to include any nature of opinions or beliefs.

223. In Fiji, the Constitution under its Bill of Rights provision is the main instrument of implementation of the terms of the Convention. It guarantees the protection of every person’s fundamental rights and freedoms and at the same time prohibits the violation of these rights.

224. It also establishes the Fiji Human Rights Commission as well as the Ombudsman's Office which have powers of redress, make investigations and recommendations on complaints made on any alleged contraventions of the fundamental rights recognized and guaranteed by the Constitution.

225. As far as legislative provisions are concerned, the Public Order Act 1969 addresses incitement of racial antagonisms; the Penal Code addresses the offence of sedition, and other than these provisions there are also various other legislative provisions and government policies which reflect the spirit of the Convention in prohibiting racial discrimination.

## **B. Article 2**

226. The Government of Fiji realizes the importance of building an environment in which there is respect for the rule of law and constitutionality. It guarantees the independence of the judiciary and other constitutional bodies, including the Ombudsman, the Disciplined Forces, the Fiji Human Rights Commission and the Office of the Director of Public Prosecutions.

227. It guarantees the provision of leadership in the process of reconstructing race relations, in nation-building and developing multiculturalism. It also guarantees the importance of the process of reconciliation through the provision of remedies by the State for the victims of racism and racial discrimination.

228. In recognition that a major cause of discord in a multicultural society is actual or perceived economic disparities, the Government aims at developing programmes and policies to bridge such disparities. In accordance with the 1997 Constitution, the Social Justice Act 2001 was passed to provide for affirmative action for all groups or categories of persons who are disadvantaged, including the specific needs and interests of indigenous Fijians.

229. Fiji has implemented various measures that give effect to its undertaking to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local are in conformity with its obligation.

### **Multi-ethnic affairs**

230. The Multi-Ethnic Affairs Ministry is tasked with implementing programmes that address the development needs of the Indian and other minority communities. The Ministry plays a crucial and pivotal role in articulating and addressing the development needs of approximately twelve ethnic communities. It has the complex responsibility of facilitating and coordinating the social and economic advancement of a large sector, some 49%, of our multi-ethnic society with their very diverse needs and priorities.

231. The four core functions of the Ministry are:

- MEA Scholarships;

- Community Development (Self-Help) Projects;
- Culture Enhancement;
- Secretariat to National Advisory Councils.

232. In implementing its programmes, the Ministry operates closely with the district advisory councils and the newly established national advisory councils in achieving its goals. The programmes are implemented in close cooperation with and assisted by the Ministry of Provincial Development and its divisional/district administration machinery/ network, as well as with the Office of the Prime Minister.

233. During 2005 the Ministry continued to articulate programmes as outlined in the Strategic Development Plan on Rural and outer Island Development and Poverty Alleviation. This translates to community development, scholarship scheme, enhancing cultural participation, DAC/NAC as the Ministry of Multi-Ethnic Affairs output. The Ministry provided financial assistance to 289 community self-help projects and 1,095 scholarship awards were made during the year 2004.

#### **Community development (self help) projects**

234. The self-help scheme is modelled on the Regional Development scheme, which was initiated in 1970 to assist rural dwellers in constructing basic amenities and other small projects. The overall intent is to enhance and empower the community's capacity to become self reliant, independent and resilient in order to better their situation and better meet their needs.

235. From the perspective of the Ministry of Multi-Ethnic Affairs, the aim of the scheme is to improve the standard of living in the poor and disadvantage families of Indians and minority communities. It is also intended to promote self reliance in our different settlements and villages.

236. This programme has evolved into the traditional partnership of the rural people with Government in their pursuit of economic well-being with assistance from the Government on a one-third, two-thirds basis. In view of the differences in demand from the various districts owing to geographical location and the diverse landscape, the project priorities are classified into three [3] main categories:

- (i) Environment/Health
  - Water;
  - Sanitation;
  - Cemeteries.
- (ii) Socio/Economic
  - Education;
  - Religious/Cultural;

- Sporting;
  - Community Hall.
- (iii) Infrastructure
- Roads;
  - Electricity;
  - Bridges/Crossings.

### Achievements 2001-2005

#### 2001

237. The Ministry was allocated \$ 1.2 million for this programme in 2001 and we provided financial assistance to 179 community self-help projects in year 2001 totaling \$915, 019.00. Forty-nine projects were implemented in the Western Division, 73 projects in the Central Division, 6 projects in the Eastern Division and 51 projects in the Northern Division.

#### Self-help project 2001

Division	Population Indian and Minority	% Population Indian and Minority	No. of projects	Amount \$	% Exp
Western	210 912	48.94	49	304 859	33.32
Central	128 793	29.88	73	252 653	27.61
Eastern	1 310	0.30	6	63 850	6.98
Northern	89 977	20.88	51	293 657	32.09
Total	430 992	100.00	179	915 019	100.00

*Note:* population figures - Ministry of Health 2001.

#### 2002

238. The Ministry was allocated \$1.5m from this programme in 2002 and provided financial assistance to 255 community self-help projects that year totalling \$1,441,459. One hundred projects were implemented in the Western Division, 88 projects in the Central Division, 8 projects in the Eastern Division and 59 projects in the Northern Division.

#### Self-help project 2002

Division	Population Indian and Minority	% Population Indian and Minority	No. of projects	Amount \$	% Exp
Western	210 912	48.94	100	629 863	43.70
Central	128 793	29.88	88	354 567	24.60
Eastern	1 310	0.30	8	64 715	4.49
Northern	89 977	20.88	59	392 314	27.21
Total	430 992	100.00	255	1 441 459	100.00

*Note:* population figures - Ministry of Health.

2003

239. The Ministry received over \$1.8 million worth of projects during the year 2003. However, it could only accommodate projects of \$1.2 million, the total allocation in the 2003 financial year. The distributions of projects were as follows:

(a) Western Division. This division comprises six districts, each of which has its own District Officer. A Rural Advisory Assistant (Western) was appointed early in 2003 acting as the Ministry's Liaison Officer with all the district administrative offices on the assistance provided by the Ministry.

Total projects funded for the Western Division amounted to \$534,066-00, which were 44.85% of total expenditure for 2003. The population for the Western Division was estimated to be 210,912 (2001), which is 48.94% of the Indian and Minority communities.

(b) Central Division. This Division comprises five districts. A Rural Advisory Assistant (Central/ Eastern) was appointed early in year 2003 acting as the Ministry's liaison Officer with all the District Administrative Offices on the assistance provided by the Ministry.

Total funds allocated to the division were \$319,915.00, which is 26.86% of total expenditure for 2003. The population for the Central Division was estimated to be 128,793 (2001), which is 29.88% of the Indian and Minority communities.

(c) Eastern Division. This Division has only Levuka District and we are planning to reach out to the minority communities located in Vanuabalavu and Kadavu. Total funds allocated to the Division were \$30,539.00, which is 2.56% of total expenditure for 2003. The population for the Eastern Division was estimated to be, 1,310 (2001), which is 0.30% of the Indian and Minority communities.

(d) Northern Division. This Division comprises five districts, including Kioa and Rabi. Similar to the Western division, a Rural Advisory Assistant was appointed early in 2003 acting as the Ministry's liaison Officer with all the district administrative offices in that Division.

Total funds allocated to the division were \$306,588.00, which is 26.86% of total expenditure for 2003. The population for the Northern Division was estimated to be 89,977 (2001), which is 25.72% of the Indian and Minority communities.

### Self-help projects 2003

Division	Population Indian and Minority	% Population Indian and Minority	No. of projects	Amount \$	% Exp
Western	210 912	48.94	102	534 066	44.85
Central	128 793	29.88	69	319 915	26.86
Eastern	1 310	0.30	8	30 539	2.56
Northern	89 977	20.88	59	306 588	25.73
Total	430 992	100.00	255	1 191 108	100.00

*Note:* population figures - Ministry of Health.

2004

240. The Ministry provided financial assistant to 353 community self-help projects during the year 2004, totalling \$1,452,551. The distribution of the projects was as follows:

<u>Region</u>	<u>No. of projects</u>	<u>Total allocation</u>
Western Division	126	\$552 812
Central Division	118	\$434 545
Eastern Division	15	\$ 75 572
Northern Division	94	\$389 622

#### Self-help projects 2004

Division	Population Indian and Minority	% Population Indian and Minority	No. of projects	Amount \$	% Exp
Western	210 912	48.94	126	552 812	38.06
Central	128 793	29.88	118	434 545	29.92
Eastern	1 310	0.30	15	75 572	5.20
Northern	89 977	20.88	94	389 622	26.82
Total	430 992	100.00	255	1 191 108	100.00

*Note:* population figures - Ministry of Health.

2005

241. The Ministry provided financial assistant to 289 community self help projects during the year 2005 totaling \$1,449,863.50. Distribution of projects is as follows:

<u>Region</u>	<u>No. of projects</u>	<u>Total allocation</u>
Western Division	95	\$509 755.00
Central Division	8	\$398 323.00
Eastern Division	15	\$105 357.00
Northern Division	91	\$436 428.50

#### Self-help projects 2005

Division	Population Indian and Minority	% Population Indian and Minority	No. of projects	Amount \$	% Exp
Western	210 912	48.94	126	509 755.00	35.16
Central	128 793	29.88	118	398 323.00	27.47
Eastern	1 310	0.30	15	105 357.00	7.27
Northern	89 977	20.88	94	436 428.50	30.10
Total	430 992	100.00	255	1 449 863.50	100.00

*Note:* population figures - Ministry of Health.

## Scholarship

242. The Ministry's Scholarship Scheme was established in 1996 with an allocation of \$300,000.00 set aside from the poverty alleviation fund. It was set up to assist students from poor and disadvantaged families of the Indian and minority communities in accessing tertiary education for which parents lacked the necessary financial resources.

243. The scheme allowed for a two- to three-year cycle of study at prominent well-established tertiary institutions. The Scholarship Committee has ten members, including the representative of the Prime Ministers Office, the Chief Executive Officer and the Director of Multi-Ethnic Affairs, who is the Secretary of the Scholarship Committee. Currently the mission of the scholarship scheme is to ensure that a disadvantage member of each Indian or Minority Community in Fiji becomes a beneficiary of the scheme. The target of the present Government is to have 5,000 recipients during its term in Office.

## Achievements - 2003-2005

### 2003

244. A total of 3,464 applications were received in 2003, out of which 3,033 applicants were interviewed. 431 applicants did not attend the interview despite being informed. 692 awards were made during the year. This comprised of 516 awards made in the First Semester and another 176 in the Second Semester of the year. \$3 million was allocated for this programme in 2003.

### Scholarships 2003

	Form 6	Form 7 Others	Total
No. of applicants	Data not available	-	3 033
No. of applicants not eligible	Data not available	-	-
No. of applicants eligible	Data not available	-	-
No. of awards	Data not available	-	1 Semester - 516 2 Semester - 176
Total	Data not available	-	692

### Statistics

245. There were 1,060 continuing students from the year 2002. With the intake of 516 new awardees for 2003, the total number of students on our scheme was supposed to be 1,576. However, 16 students had either graduated or terminated. So on the ground there were actually 1,560 students in our scheme in Semester One, 2003 and the distribution by institution was as follows: USP-881; FIT-660; FCAE-4; FCA-8; USP-6&CCTC-1.

### Residuals

246. A total of 819 students left our scheme through Graduation and Termination, 209 in Semester One and 610 in Semester Two. The breakdown is as follows:

Semester One		Semester Two		Total
Termination	Graduation	Termination	Graduation	
86	123	122	488	
209		610		819

2004

### *Scholarship interview*

247. A total of 3,694 applications were received, of which 3,594 were shortlisted and interviewed and 1,014 awards were made in 2004. This, together with 853 continuing students, brought to 1,867 the total number of students on the Multi-Ethnic Affairs Scholarship during the first semester of 2004. For that year, \$3.5 million was allocated to this programme.

### **Scholarships 2004**

	Form 6	Form 7 Others	Total
No. of applicants	1 342	2 252	3 594
No. of applicants not eligible	484	1 269	1 753
No. of applicants eligible	FIT	USP	1 841
	858	983	
No. of awards	FIT	USP - other	1 014
	412	institution	
		602	
Total	412	602	1 014

248. 1,841 students were eligible for awards and 1,014 students were given awards, which indicate that we awarded 55.07% of the total number of eligible applicants: 446 form six students who did not obtained a scholarship award either have moved to form 7, repeated form 6 or have joined the workforce. 381 Form seven and other institution students who did not receive an award would have joined the workforce or have found alternative arrangement.

2005

249. A total of 1,095 awards were made in 2005. 107 awards were given for the Minority communities and 988 awards for the Indian community with a budget of \$4 million allocated for this programme in 2005.

250. For the period 2001 to 2005, a total of 4,262 awards were given to the multi-ethnic communities, with the breakdown as follows:

Year	Budget \$	Awards	Minority	Indians
2001	1.50 million	647	46	601
2002	2.50 million	814	50	764
2003	3.00 million	692	39	653
2004	3.15 million	1 014	61	953
2005	4.00 million	1 095	107	988
Total		4 262	303	3 959



### **National Advisory Council**

251. Two National Advisory Councils, one each for the Indians and the minority communities were established by the Government on 19 April 2002 following the announcement by His Excellency the President to the joint opening of Parliament on 2 October 2001. Cabinet approved the establishment of the Council on the personal initiative of the Prime Minister, primarily to create a forum, comprising experienced community-minded individuals, for proactive consultation on the concerns and aspirations of the multi-ethnic communities other than Fijians and Rotumans.

252. Whereas the Fijian Administration system provides for a clear linkage from the grassroots to the Government (e.g. Tikina Council, Great Council of Chiefs), there is no such arrangement for Indian and minority communities. This prompted the need for an agency such as a District Advisory Council, which was filled by people at community level turning to political parties and politicians for help. This has ultimately resulted in matters becoming highly politicized. The National Advisory Councils will provide that vital link for the ethnic groups from the community level to the Government.

253. The main purpose of the national advisory councils is to consider ways and means to address the developmental needs of the said communities and to render appropriate advice to the Hon. Prime Minister and Government accordingly. The Membership of the Indo-Fijian Council consists of 20 members, of which 18 come from minority groups.

### **District Advisory Councils**

254. The core responsibilities of the Council include the providing a link between the Ministry and the Community as well as giving assistance in identifying and implementing self-help projects at community level. The Councillors also feature prominently in verifying income levels of parents applying for their children scholarships under the Multi-Ethnic Affairs Scholarship Scheme.

255. During the second year of their appointment (2002-2003) most of the councillors contributed well in the development of their allocated settlement and overall they have been very active at the grassroots level, thus assisting the Ministry in its endeavours to provide efficient and effective services to its stakeholders. New sets of councillors were appointed to serve for the two-year period 2004-2005.

256. Two Council meetings in each of the districts were held yearly since 2001-2003. The first round of meetings for 2004 was held during the months of May and June, and the second during September and October. There was a general observation that the councillors need training in leadership capacity and the Ministry conducted a training programme on 25 June 2004 to address this. Two District Advisory Council meetings were held in 2005.

### **Democratic process**

257. Restorative justice will be adopted through the landmark legislation, the Reconciliation, Tolerance and Unity Bill 2005. The Government has gone through a democratic process to assist in the final drafting of the legislation. Many citizens and community organizations made

known their views on the Bill. Discussions and debates were held on the Bill, as it is of vital consideration to a growing democracy. The debate on the Bill was the most important aspect, as it involved many issues of crucial importance to the country; inevitably these include sensitive questions of race and culture.

**The Reconciliation, Tolerance and Unity Bill 2005**  
(see annex V)

Objective:

- (a) To provide for the establishment of a Reconciliation and Unity Commission and a Promotion of Reconciliation, Tolerance and Unity Council, their respective compositions, powers, functions and procedures;
- (b) To provide for mechanisms, measures, criteria and procedures for the promotion of reconciliation and the fostering of understanding, tolerance and unity of all people of the Fiji Islands;
- (c) Based on the principle of restorative as opposed to retributive justice, to provide for measures, mechanisms, criteria and procedures for granting reparation to the victims of gross violations of human rights and civil dignity during the designated period;
- (d) Based on the principle of restorative as opposed to retributive justice, to provide for mechanisms, criteria and procedures for the granting of amnesty to persons who make full disclosures of all facts relevant to acts associated with a political, as opposed to a purely criminal, objective committed during the designated period;
- (e) To provide for measures and mechanisms aimed at promoting and fostering tolerance and genuine unity among the people of the Fiji Islands, and the making of recommendations thereto aimed at preventing the perpetration of politically-motivated violations of human rights in future.

258. The Government continuously urges the public to look at the Bill in its totality, rather than from a narrow perspective. The broad question is identifying the best system of justice and law for the multi-racial nation.

259. Public consultations on the Bill had been entrusted to Fiji's Parliament, through the Sector Committee on Justice, Law and Order. The Committee had staged public hearings and accepted written submissions. It also extended the time for public submissions. This was appreciated by the Government, in view of the fact that it promotes the exercise of democratic rights.

260. The provincial councils held meetings to consider the Bill. The views of the Great Council of Chiefs had been regarded as vital as it represents each province of the country.

261. The Bill attracted a lot of comment, with many views for and many against. The Government had expected this, since it is something new which challenges conventional thinking. The Government had also anticipated controversy because the Bill deals with a subject - the 2000 upheaval - that arouses powerful emotions.

262. The Bill proposes to give the country an opportunity to take an unprecedented step into new realms of reconciliation. It complements the continuing national efforts to join the people of Fiji in a shared spirit of forgiveness and togetherness.

263. A new avenue of justice has been opened for victims through a legally established forum set up especially to hear their grievances, and to deal with applications for compensation for their hurt and loss.

264. Arrangements for amnesty, under certain conditions, are also part of the draft Bill. The definition of amnesty contained in the Bill means an act of forgiveness granted by the President “for the purpose of excusing and erasing from legal memory the illegality of an act or omission committed in association with a political objective during the designated period”.

265. If amnesty is given, the wrong that has been done is treated as if it had never occurred. Amnesty has often been used in other countries for offences that are political in nature. This means they were committed in pursuit of certain political ideals and objectives.

266. The designated period proposed in the Bill for amnesty to apply is from 19 May 2000 to 15 March 2001, which covers the time of political and civil unrest and uncertainty.

267. The Bill provides for full disclosure of the truth by victims and the people who wronged them. It also highlights the issues, problems and injustices that contributed to the tragedy of 2000.

268. It is the Government’s wish that people will be encouraged to come forward and voluntarily disclose the details of what happened in 2000 and their role in the upheaval. The country will also benefit by hearing from those who took part, and by listening to their explanations for their actions.

269. The legislation relies on voluntary participation by victims and wrongdoers. It is their choice. The ordinary criminal and civil processes are left to the Courts. If someone prefers to seek compensation through the Courts, rather than through the Bill, they are free to do so.

### **Key parts of the Bill**

270. The Bill comprises two key parts, which are of equal importance. The first part establishes an independent Reconciliation and Unity Commission. The second sets up a Promotion of Reconciliation, Tolerance and Unity Council.

271. The Commission will comprise persons of commitment and integrity who would perform the Commission’s duties independently, without outside interference. It is to operate for just 18 months, with the possibility of a six-month extension.

272. The offences involve actions against the rights of citizens guaranteed in the Constitution. These include the right to life and to freedom from cruel or degrading treatment; the right to personal liberty; property rights and the right to freedom of religion.

273. The Commission will take into account the views and attitudes of the offenders and victims. It may award compensation to victims from a special fund set up by the State.

274. It recommends amnesty to any person judged to have acted for a political reason. However, the Commission will do this only if it is satisfied that the person has made a full disclosure of all relevant facts regarding his or her participation or involvement. Amnesty will be granted by His Excellency, the President.

**Report of the Sector Standing Committee on Justice, Law and Order on the Promotion of Reconciliation, Tolerance and Unity Bill, 2005 (Bill No. 10 of 2005)**

275. On 1 December 2005, the 2005 report of the Sector Standing Committee on Justice, Law and Order on the Promotion of Reconciliation, Tolerance and Unity Bill was presented in Parliament by the Chairman of the Committee. The Committee had been tasked by Parliament on 2 June 2005 to scrutinize the Bill and report back to the House.

276. The Committee received 272 formal written and oral submissions on the Bill. Most of the oral submissions were made during the public hearings held around the country. Submissions were received from the constitutional officers, disciplinary forces, political parties, NGOs, the legal fraternity, women's organizations, trade unions, professional institutions and organizations, the Fijian institution such as the Bose Levu Vakaturaga and provincial councils, village and Tikina groups, and individuals including those already convicted for coup-related offences. Whereas the Committee received written submissions from some of the more prominent organizations in the Indian community, it did not receive as many views as expected from the Indian community itself during the public hearings. (See the Committee's report in annex VI).

**C. Article 3**

277. Apartheid is not practised in the Fiji Islands. The Government condemns all forms of apartheid or any other form of racial segregation.

278. The Government acknowledges that the people of Fiji deserve to have recognized their aspirations to justice, to equality of opportunity for all, deserve the right to the enjoyment of their human rights, including the right to development, to live in peace and freedom and to equal participation without discrimination in economic, social, cultural, civil and political life.

279. The Government also recognizes that the equal participation of all individuals and people in Fiji in the formation of just, equitable, democratic and inclusive societies will contribute to a country free from racism, racial discrimination, xenophobia and related intolerance.

280. Since 2001 the Government has been working for reconciliation and unity among the diverse racial groups. It is the Government's intention and hope that Fiji becomes truly united, with all citizens living in peace, harmony and prosperity.

281. Although no specific legislation deals with or directly condemns apartheid and racial segregation, the Constitution in its Bill of Rights sufficiently addresses the issue in all its forms.

#### **D. Article 4**

282. Refer to items 21 and 22 in part one of the report.

#### **E. Article 5**

##### **Right to equal treatment before tribunals and other organs administering justice**

283. 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 of race, colour or ethnic origin. The judiciary is completely independent of the legislative and executive branches of Government.

284. The Constitution provides for an independent judiciary.

285. The judicial structure is patterned on the British system. The principal courts are the Magistrate Courts, the High Court, the Court of Appeal, and the Supreme Court. Eight of nine Supreme Court justices are expatriate judges, who are often used in key cases at lower levels. There are no special courts; military courts try members of the armed forces. Magistrate courts continued to try the large majority of cases. In addition to its jurisdiction in serious civil and criminal cases, the High Court is granted special interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

286. The law provides that a person may be arrested only if police believe that a criminal law has been broken or is about to be broken. Arrested persons must be brought before a court without “undue delay”. This requirement is normally taken to mean within 24 hours, 48 hours being the exception. Detainees have the right to a judicial review of the grounds of their arrest.

287. Defendants have the right to a public trial and to counsel. Trials in the High Court provide for the presence of assessors (citizens randomly selected to represent the community); cases in magistrate courts do not.

288. The official language in the courts is English and translation is available for those witnesses or accused who do not understand English. Section 190 of the *Criminal Procedure Code*, for example, provides that evidence given in the accused’s presence in a language not understood by him/her shall be interpreted in open court.

289. Legal aid is made available under the *Legal Aid Act 1968*, but is limited to criminal and family cases only. In the Fiji Islands, legal aid is granted only where people meet a ‘means test’ and a ‘merit test’. The ‘means test’ is based upon a person’s net disposable income/assets, which currently must be below F\$ 4,500 per year (A\$ 3,550). The ‘merit test’ is based upon whether a person has reasonable prospects of success. The Commission is also supplemented by pro bono services from private attorneys.

##### **Security of person**

290. 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.

291. Enforcement of law and order is the cornerstone of every civilized society. The Government has given the Police Force resources to improve some of its outdated equipment.

292. In Fiji, the Police Force forms the first level of response in any situation. It has a high crime detection rate. It is constantly implementing new strategies to combat increases in crimes of violence which are of concern to so many of our citizens. There has recently been an outbreak of this type of crime but the police are confident they will defeat the criminals. Statistics show that violent crime actually decreased in 2004 compared with 2003. The Police Force also reported a two per cent decrease in the number of crimes committed in 2004.

### **Political rights**

293. The 1997 Constitution under Section 6 (f) provides and recognizes that the rights of a citizen include the right to form and join political parties, to take part in political campaigns, and to vote and be a candidate in free and fair elections of members of the House of Representatives held by secret ballot and ultimately on the basis of equal suffrage.

294. Section 36 further provides that every person who has the right to vote in an election of a member of the House of Representatives has the right to do so in secret.

295. The Constitution further states in section 54(1) that the election of a member of each constituency is conducted under the preferential system of voting known as the alternative vote, which means that votes cast for low-polling candidates are transferred to higher-polling candidates according to a ranking of “preferences” specified by the candidates, although voters who so wish may customize the preferences. This makes it necessary, in many cases, for political parties to seek alliances to win constituencies.

296. The 1997 Constitution is a marked improvement over that of 1990 in guaranteeing political rights to all citizens. Every citizen now has the right to participate in the elections. Under section 56, every person registered as a voter (a) must vote in every election and (b) can be nominated as a candidate for election to the House of Representatives. Under section 51 of the Constitution, voters are registered on one of the four separate electoral rolls. The number of members elected from these rolls is proportionate to the ethnic composition of the population. The creation of separate electoral rolls is intended to ensure that the House of Representatives correctly reflects the racial composition of Fiji.

297. Furthermore, unlike the previous Constitution, the new one provides that 25 out of 71 members of the House of Representatives are elected from an open electoral roll on which all communities are registered. As such, we are of the view that Fiji’s reservation to article 5(c) of the Convention should be maintained in so far as it relates to elections.

### **Establishment of the Standing Committee on Constitutional Review**

298. At the seating of the Lower House on 30 September 2004, the Prime Minister Hon. Laisenia Qarase successfully moved the motion on the establishment of the Standing Committee

on Constitutional Review. In support, the Leader of the Labour Party commended the motion. He reaffirmed that it fully supported the agreements reached in the ‘Talanoa Talks’ and that his party was willing to be part of that Committee, and will:

deliberate on those amendments or alterations which are considered to be non-contentious and do not, in any way impinge on the rights or interests of any individual or group or community.

299. In dealing with the more substantive part of the review of the Constitution, the Standing Committee would consider Terms of Reference (TOR) to focus more on Constitutional provisions that are controversial which among other things would include the multi-party Cabinet provision under section 99 of the Constitution.

### **Other civil rights**

300. 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, and 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 nationality**

301. 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.

### **Freedom of religion**

302. The 1997 Constitution provides for freedom of religion, and the Government strongly respects this right. Most ethnic Fijians are Christians, and most Indo-Fijians are Hindu, with a sizable minority of Muslims. The Government strongly protects the rights of all religious groups.

### **Free choice of employment**

303. 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.

304. 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 respective 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.

305. The growth in paid employment has been achieved mainly through private - 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).

306. 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.



307. 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.

308. By law, men and women have equal opportunities for employment.

309. 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**

310. The Government is vigorously pursuing its commitment to providing good, affordable housing for Fiji's low and middle-income earners. For 2005, it set aside \$4 million as grant capital and subsidy for housing projects. This is to be divided equally between the Housing Authority, the Housing Assistance and Relief Trust (HART), the Public Rental Board, and for squatter resettlement. The Government also acknowledges the valuable contribution by organizations such as Rotary Fiji and Habitat for Humanity Fiji, which have assisted a total of 590 families with better homes.

### **Housing authority**

311. Under the Housing Programme, the Housing Authority has brought its lowest interest rate down to 4.45 per cent – the cheapest on the market. This is directly helping working people who want to purchase their own homes.

312. The Authority has become the largest land developer in Fiji for affordable housing. It also provides finance for the purchase of land, and for residential house construction. Its lending rates are giving customers considerable relief in low payments.

313. In the last four years it has received a total of \$7 million in assistance from the Government.

314. The Authority's commitment to the people of Fiji is to produce at least 500 new residential lots every year. It is currently developing approximately 8,000 lots in Suva, Nausori and the Western Division. The Government will spend approximately \$50 million in the next five to ten years to help ease the shortage of homes, and relieve the problem of squatter housing.

315. The Housing Authority serves close to 21,520 customers, about 37 per cent of whom are in the Western division. Western customers are increasing. The Housing Authority is investing \$3.25 million to produce 310 lots at Namosau and on land leased from the NLTB at Tavualevu, Tavua in the West of Viti Levu. The Government is also considering the development of an approximately 500-lot subdivision at Waqadra, Nadi, with plans to acquire more than in the West. In Lautoka it has begun selling 406 new lots from its Field 40 residential subdivision, with prices ranging from \$10,000 to \$40,000. Lots are 99-year lease Crown freehold and are located near Lautoka City.

316. In the Central Division, site investigations studies have begun on a 5,000 lot development on its 900-acre freehold land at Waila, Nausori, called Waila Housing City. This will be carried out in several phases over the next five to seven years. Meanwhile the Waila 3B project at Davuilevu is nearing completion and will produce 466 fully serviced lots.

317. In partnership with the Native Land Trust Board, the Housing Authority has acquired 184 acres of land at Tacirua East Stage Two along Khalsa Road in Nasinu to develop 1,200 lots for both low- and middle-income people to cater for the increasing demand for lots along the Suva/Nausori corridor.

### **Public Rental Board**

318. The primary objective of the Public Rental Board (PRB) is to provide or facilitate short-term rental housing. It focuses its activities on the management of rental estates and maintenance of buildings and grounds, assessment and collection of rents from tenants, and extension of rental estates wherever appropriate.

319. Since 2001, the Government has contributed just over \$3 million to the Board. A further \$1 million was allocated for 2005. The Board currently has a total of 1,745 rental flats. Of these, 1,205 are in the Central Division, 395 in the West, and 145 in the North. Five additional units were completed in Kalabo in 2004, and a further 70 units are close to completion in Raiwai. PRB is also finalizing rezoning of five acres of land in Raiwaqa. It has approval for the development of five acres of foreshore land at Vatuwaqa, and is negotiating purchase of 65 acres of private freehold land at Waila, Nausori. Projects in progress are valued at \$3.5 million. \$10 million are earmarked for proposed developments.

### **Squatter resettlement**

320. The Government is making every effort within its means to provide alternative housing, and resettlement for Fiji's growing squatter population. It is making \$1 million available for this in 2005 and has already committed a substantial amount for a recent resettlement programme for squatter families in Vunivaivai, Narere in the Central Division.

321. The Ministry for Housing and Squatter Settlement which coordinates all squatter settlement has resettled people in homes built by HART, Habitat for Humanity, the Rotary Club, Housing Authority, and upgraded settlements. By the end of the year 2006, it is expected to resettle some 3,000 families. Numerous upgrading programmes are under way. The Ministry is also working with the NLTB on the development of 45 acres at Veikoba, Valelevu and 5,000 acres at Sauniwaqa in Nakasi. A Cabinet Sub-Committee is now studying all issues relating to the squatter situation, including the need to allocate more funds to resettlement.

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

322. The Government wants all citizens, regardless of income level, or social and economic standing, to enjoy good, affordable health care. It has embarked on one of the biggest expansion

and improvement programmes ever in Fiji's health services. It has allocated more than \$520 million to the Ministry of Health in the last four years to carry out policies for better health care for the population. In 2005, the Ministry of Health received \$136.8 million, an increase of \$2.2 million over 2004.

323. Fiji's healthcare is accessible to all. The Government have made outpatient treatment at the government hospitals free, and removed charges for beds, meals and treatment in the general wards. Some 2,747 medical staff provide healthcare services to over two million outpatients and deal with approximately 60,000 admissions annually.

324. The Government has some 900 village clinics, 124 nursing stations, 75 health centres, 19 sub-divisional medical centres, and three divisional hospitals. It is considering a proposal of a new \$3 million hospital in Ba in the Western part of Viti Levu to replace the existing one, has opened four new ones in 2002 in Nadi (in the West of Viti Levu), Vunidawa (in the interior of Viti Levu), one on the island of Taveuni and one in Levuka (the old Capital of Fiji).

325. A total of \$1.86 million has been allocated over the last four years towards the cost of overseas treatment. \$500,000 was allocated in 2005. So far, 17 patients have benefited from this support.

326. The Government is determined to control "lifestyle" diseases such as diabetes, hypertension, heart diseases and cancer. These are the main reasons for admissions to hospitals around Fiji. It is of great concern to us that more than 40 per cent of adult deaths each year might have been preventable. The National Centre for Health Promotion is stepping up public education about the risks related to these serious health problems. \$1.8 million will support other preventative health programmes, including non-communicable diseases and suicide prevention.

327. Fiji has low rates of child and maternal mortality. Almost all women now have pre-natal and post-natal care, and almost all births are attended by a doctor, nurse, or trained birth attendant.

328. The Ministry of Health is working to prevent, manage and control HIV/AIDS through activities coordinated and monitored by its National Advisory Committee on AIDS (NACA).

329. To strengthen its efforts, the Cabinet has approved in principle the establishment of a National AIDS Council which will, among other things, coordinate all HIV/AIDS activities and advise the Government on matters relating to controlling the spread of the disease.

330. Budget allocations to NACA increased to \$500,000 in 2005, from \$150,000 in 2002. Health workers are updating their knowledge about the disease. All major hospitals and sub-divisional hospitals have at least one trained counsellor.

331. A milestone achievement was the Government's purchase of the first batch of life-extending anti-retroviral drugs for people living with the disease. Some 20 patients are presently benefiting from this therapy.

332. A \$17.6 million Pharmaceutical Services Centre was opened last year – a giant step forward for quality national health care. A generous gift from the Government and people of Japan, the new pharmacy is the nerve centre for a greatly improved system of national, and regional, pharmaceuticals administration. It ensures reliable and ready supply of quality pharmaceuticals and other medical items to the public and private healthcare sectors across Fiji, and in the region.

### **Delivery of social services**

333. 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.

334. 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 a maximum of \$60 per month. Recipients also receive free education.

335. 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.

336. The Department's roles and responsibilities fall into two broad categories: statutory and non-statutory functions.

337. Statutory functions 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.

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.

338. The non-statutory 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.

These functions relate primarily to the provision of the family assistance allowance as a means of income support and targeted financial assistance through the poverty alleviation programme. This programme is channelled through sponsor NGOs that are contracted to oversee the implementation of the projects. The administration of the family assistance scheme and the poverty alleviation programme 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 for the delivery of welfare services.

#### **The right to social security and social services**

339. The plight of the disadvantaged, the poor and those vulnerable to poverty is a major concern. The Government is working towards eradicating poverty in Fiji through providing both immediate relief and long-term sustainable measures. The United Nations Development Programme/Fiji 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 through the Ministry of Education, which allows school fees to be waived for children whose families earn less than FJD\$ 5,000 per year.

340. NGOs provide some welfare assistance in Fiji, generally through non-cash donations.

341. 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**

342. The programme 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:

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

343. The Poverty Alleviation Committee processes all project applications submitted to the divisional and district offices at its headquarters. It 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 carrying out the approved projects.

**Family Assistance Allowance**

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

345. The Department receives applications from all who are eligible under the above criteria. To ensure that assistance is provided to the poorest of the poor, all applicants must undergo a means test.

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

346. 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 above-mentioned Family Assistance and Poverty Alleviation schemes.

**Care and Protection Allowance**

347. The Care and Protection 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**

348. Experience has shown that most people seek welfare assistance as a last resort 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. Poverty alleviation fund 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 the average Fijian household income is much lower than that of Indo-Fijians.

349. 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**

350. 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 Department is also 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.

351. The Department does not administer any affirmative action specifically to upgrade the welfare of a particularly less fortunate or poorer group, but through the above programmes is able to reach out to a wider section of the community which requires these services.

### **Education and training**

352. This is covered under Article 7.

### **Refugees and minorities**

353. The Constitution also protects the rights of immigrants and refugees. The laws of Fiji apply to all people who are within the jurisdiction of Fiji and this includes immigrants and refugees. The immigrants would be subject to the laws of Fiji and would also be entitled to the protection of the Constitution and the Human Rights Act 1999.

354. Fiji is a signatory to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. National legislation implementing these obligations has been passed.

355. The law includes provisions for providing refugee and asylum status in accordance with the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol.

356. Persons seeking refugee status or who have been granted refugee status in Fiji have the right to have their human rights protected. Since ratifying the Convention Fiji is obliged to ensure that refugees are given protection and provided with due process. Any action or decision taken in respect of immigrants and refugees must be in compliance with human rights laws.

### **Immigration Act 2003<sup>7</sup>**

357. According to the Immigration Act 2003:

“refugee” means a person who -

(a) Owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear is unwilling to avail himself of the protection of that country; or

(b) Not having a nationality and being outside the country of his habitual residence is unable or owing to such fear, is unwilling to return to such country.

358. The Immigration Act was passed by Parliament in 2003. According to the Fiji Government Gazette on 23 November 2005, only certain provisions of the Act were given legal effect; in particular Part 5 which relates to Trafficking and Smuggling of Persons. Consultations are currently under way before the Minister concerned can decide if the whole legislation is being enforced.

359. There had recently been much controversy over section 8 (1)(g) of the Act which provides that people who are not citizens of Fiji but who are registered in the *Vola Ni Kawa Bula* (VKB), may enter, reside and work in Fiji without a visa or permit. Such registration only available to individuals who can justify to the Native Lands Commission that they are of indigenous ancestry. It is argued that such provision is discriminatory. It may have been designed to encourage indigenous Fijians and their descendants to come to Fiji, but it is unfair to those of other races who claim to be Fijian Islanders but now possess overseas citizenship and who are not eligible to be registered in the VKB.

360. Section 8(1) (g) of the Immigration Act 2003 has not been given any legal effect at the moment.

## **F. Article 6**

### **Constitutional redress**

361. Section 38 of the Constitution provides protection against unfair discrimination on one or more of the grounds contained therein. Under section 21(1), the Bill of Rights Chapter of

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<sup>7</sup> This piece of legislation has recently been enacted with the objective of complying with International Law standards. As far as this Act is concerned, Part 6 dealing with Refugee Status is not enforced yet.



the Constitution, binds the legislative, executive and judicial branches of government at all levels (central divisional and local), as well as all persons performing the functions of any public office.

362. Section 41 of the Constitution provides the avenue for any person to apply to the High Court for constitutional redress. The right to make an application for constitutional redress is without prejudice to any other action which may be brought by a person. Under that Section, the High Court is bestowed with the original jurisdiction to not only hear and determine applications for constitutional redress but also to hear cases referred by any subordinate court. In so far as remedies are concerned, the High Court has wide powers under this section to make such orders and give such directions as it considers appropriate.

363. Pursuant to section 41(10), the Chief Justice has made rules with respect to practice and procedure of the High Court in relation to applications for constitutional redress. While the rules required that applications for constitutional redress must be filed within 30 days from the date when the matter first arose, the High Court, in December 2002, ruled that this limitation was not reasonable or justifiable – *Railumu and Ors. v. Attorney General of Fiji* (Suva High Court miscellaneous application No. 81 of 2002, 24 December 2002). In July 2004, the Fiji Court of Appeal in *Singh v. Director of Public Prosecutions and Attorney General* (Court of Appeal Criminal Appeal No. AAU0037 of 2003) provided further guidance as to the situations in which an application for constitutional redress may be made.

364. In recent years, several applications have been filed in the High Court for Constitutional Redress. In addition to the framework under the Constitution, Part III of the Human Rights Commission Act 1999 makes further provision for investigation and conciliation of complaints of unfair discrimination. It also details the remedies that may be awarded by the High Court in proceedings for unfair discrimination. These include declarations, restraining orders, damages, performance orders and such other relief that the High Court thinks fit.

## **Criminal law**

365. In the Public Order Act, on ‘inciting racial antagonism’ an offender once found guilty shall be liable on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding five hundred dollars or to both such fine and imprisonment. In the Penal Code, on ‘seditious intention’ the punishment for a guilty offender is a misdemeanour. For ‘sacrilege’ the punishment is 14 years imprisonment according to the Penal Code.

## **G. Article 7**

### **Education**

#### **The right to education**

366. Section 39 of the Constitution of the Fiji Islands 1997 states:

- (1) Every person has the right to basic education and to equal access to educational institutions.

- (2) Every religious community or denomination and every cultural or social community has the right to establish and maintain places of education and to manage them, whether or not it receives financial assistance from the State.
- (3) The admission policy of a place of education referred to in subsection (2) may be administered on the basis of the need to maintain its special character but, subject to that, those concerned in its management must ensure that it is open to all qualified students without discrimination on any ground prohibited by this Constitution.
- (4) Nothing contained in, or done under the authority of, a law prescribing standards or qualifications for educational institutions is inconsistent with this section to the extent that the requirements of the law are reasonable and justifiable in a free and democratic society.

### **The school curriculum and human rights**

367. The Ministry of Education school curriculum tries to combat discrimination in the form of the subjects offered to students. For Primary school students, Social Studies is offered (Year 1-8), Social Science (at lower secondary, Year 9-10) and History (Year 11-13).

368. In all these subjects discrimination is adequately addressed. Comparisons are made between Fiji and other countries of the world. Students learn about the evil of apartheid system also with the multiracial Government of Fiji coming up to the two coups 1987, 2000 and thereafter. Discrimination is also addressed in the English curriculum, especially in essay writing and comprehension.

369. Human Rights issues are specially and fully addressed in the primary Social Studies curriculum and the secondary Social Science subject. Apart from those, human rights issues are also covered in the History section of Social Science, where students can study the United Nations Organization and its subsidiary bodies, and they also cover the various treaties and conventions on Human Rights. Human Rights issues are also part and parcel of the study of history in higher level of Secondary school curriculum.

### **Curriculum goals 2006-2015**

370. In developing the curriculum, the Ministry of Education ensures that it is aligned to the holistic development of the child. In particular, the Ministry focuses on the:

- Development of a National Curriculum Framework for Fiji that encompasses early childhood education to Form 7 inclusive of special education and technical and vocational education and training;
- Development of a curriculum that is grounded in the local culture with its values and lifelong skills and at the same time addressing globalization, modernization and utilizes technologies as we advance into the future;

- Inclusion of relevant areas of learning that will promote a better understanding and appreciation of the value of life and our different cultures;
- Introduction of assessment tools that will measure children's learning effectively;
- Mapping out of clear pathways for children's education in preparation for the world of work.

**Affirmative action on improving the education of indigenous Fijians and Rotumans**

371. Fijians and Rotumans are lagging behind in many if not all areas of education, from primary to tertiary education.

372. The Blueprint for Affirmative Action on Fijian Education was developed by the Ministry of Education and published in December 2000. It is a 10-year plan that points the direction and approach to be followed, so as to allow Fijian students to compete on a "level playing field".

373. The major categories of the development programme include:

- Upgrading Fijian schools and ensuring that every Fijian student receives the best education possible;
- Finding new pathways for Fijian education as well as redirecting current policies so that they impact Fijian education more powerfully;
- Seeing to it that every Fijian child is ready to face the challenges of the future;
- Aligning the country's vision for development.

374. Affirmative Action programmes are specified in the Act, and the Ministry of Education supervises programmes 2, 3, 4 and 5:

- 2. Enforcement of Fijian and Rotuman education;
- 3. Rural education;
- 4. Vocational education and training;
- 5. Special education.

375. The Blueprint projects target Fijian schools. All students in a targeted school, irrespective of ethnicity, will benefit from the assistance. Assistance goes to the school, and individual students can access them through their school.

376. The major performance indicator is performance in the external examinations. Projects have been under way now for over three years. However, it is not yet possible to provide an objective analysis of school performance without a representative sample.

### Comparative analysis of overall average performance

Years	School leaving examination	Seventh form examination
2002	48.45	49.78
2003	49.18	68.54
2004	58.49	77.72

*Source:* Ministry of Education.

377. The general performance in Fiji Seventh Form Examination (FSFE) is better than in the Fiji School Leaving Certificate (FSLC – Form 6) in each of the three years. The results show an improvement in the performance of indigenous Fijians in education since the implementation of the Affirmative Action Scheme.

378. Total funding for projects in the 2004 budget for projects under the affirmative Action blueprint was \$1,250,000.

379. Advancing the right of indigenous children to education has received growing national and international attention. Today, with the development and strengthening of indigenous people's organizations and the establishment of structures within the United Nations, such as the Permanent Forum of Indigenous Issues, there is a genuine opportunity to bring indigenous issues, and in particular, indigenous children's rights, to the forefront of both national and international agendas. This is exactly what the Government of Fiji is doing. Promoting the rights of indigenous children is one of the best ways of promoting the rights of all members of indigenous communities and thus ensuring the perpetuation of their way of life, their practices and beliefs.

380. This principle is anchored in the principles and provisions of the Convention on the Rights of the Child. It was reinforced by the General Assembly of the United Nations at its Special Session for Children in May 2002 that called for measures to be taken to guarantee equal access to services for indigenous children. At that session, States were also urged to ensure that indigenous children have access to quality education in a form that respects their heritage and sustains their cultural identity.

### The role of the Fiji Human Rights Commission

381. Education on human rights principles under Section 42 of the Constitution states:

- (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 ...

382. The Commission promotes human rights awareness and knowledge through its Education/Promotions Division. The functions of this Division include:<sup>8</sup>

- Providing education and training on human rights to the people of Fiji;
- Promoting human rights awareness and knowledge through the use of publications, leaflets, poster competitions, essay competitions, radio broadcasts, video documentaries and the Commission's website;
- Working with the media to highlight human rights issues in Fiji;
- Coordinating all forums convened by the Commission.

383. The Commission gives out information to promote international standards of human rights to the State and other vital stakeholders such as the church and political parties, who are supposed to play an important role in the advancement of human rights issues in the country. The support of these institutions is very vital because without it racial tensions and other human rights related problems will not be effectively addressed to the people and the country as a whole.

384. The Commission has specific activities in its Strategic and Corporate Plans to promote the human rights of all citizens in Fiji. In 2005 the Commission tackled issues through a workshop for Nationalists and with the Great Council of Chiefs.

385. In 2001, the Commission launched an Awareness Campaign on the issue of racial discrimination. It consisted of a national painting competition on the theme "Race Relations in Fiji"; and two radio programmes specifically focusing on human rights and race relations were broadcast by the Commission. Also in 2001, Commission representatives attended the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa and the Asia-Pacific region preparatory meeting in Iran.

386. Recently, the Commission facilitated a national race relations seminar, entitled "Reconstructing Race Relations in Fiji" which was attended by senior government officials, political parties, church and religious groups, youth representatives, the army, police, human rights defenders and our senior chiefly elder and other government officials headed by the Deputy Prime Minister.<sup>9</sup>

387. According to the Commission, the objective of the Seminar, inter alia is to drive to the participants to accept the concept of equality enshrined in the Constitution and at the same time appreciate the importance of indigenous rights as human rights without any misconstrued ideology that encourages and promotes discrimination and any other form of injustice.

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<sup>8</sup> Fiji Human Rights Commission website: [www.humanrights.org.fj](http://www.humanrights.org.fj).

<sup>9</sup> According to the information provided by the Commission's officials and the Fiji Human Rights Commission website: [www.humanrights.org.fj](http://www.humanrights.org.fj).

388. In 2004 the Commission set up their “Race Relations Unit” which has the mandate to look at issues of discrimination on the bases of race in Fiji.

### **Information**

389. The Ministry of Information, Communications and Media Relations is the major information agency providing the link between the government, the media and the public. Government’s role is to better inform the public about major national development issues and evolve an informed approach to resolving them. The Information Services division includes a News Department, Film and Television Unit, Photography Unit, and a Research, Publication and Website Section.

390. The media in Fiji include radio, the newspaper press, television and magazines. The media promotes 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.

391. 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.

392. 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**

393. 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 website.

394. 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.

395. As far as the media is concerned, there are various programmes on television and radio that aim to address the public in the two major vernaculars, Fijian and Hindi:

(a) Radio:

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

Hindustani radio - Nav Rashtra - broadcasts 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);

Hindustani TV - Jharoka (30 minutes) every Sunday;

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

(c) Print:

Press releases - daily;

Supplements - monthly;

Website - includes all daily press releases that are downloaded on a daily basis.

Contents also include speeches and features, profiles on the various ministries and links to other government and statutory websites.

## **Culture**

396. A perpetual challenge in Fiji is the degradation and loss of cultural expression. The survival of these unique and sometimes fragile cultures depends on their continued relevance and value to communities and their promotion by decision-makers.

397. The Government's Affirmative Action Programmes under the Social Justice Act has continued to prioritize the rejuvenation and protection of culture, tradition and heritage in all communities of Fiji.

398. The primary objective of enhancing cultural programmes is to reinforce pride and dignity in one's language and culture. Programmes undertaken by these centres are aimed at rekindling cultural identity amongst the communities, passing on the art of dance, for instance, or the preservation of language and culture to the younger generation.

399. The main role of the cultural enhancement programme is to foster reconciliation and successful multi-ethnic cooperation amongst the diverse communities in Fiji.

400. To fulfil this obligation, the Ministry of Multi-Ethnic Affairs has continued to encourage the retention of traditional skills and knowledge through awarding grants to cultural centres around the country.

### **Cultural grants**

401. Under the Cultural Enhancement Programme of the Multi-Ethnic Affairs Ministry for the Indian and Minority communities in Fiji, five cultural centres - in Suva, Ba, Nadi, Labasa and Savusavu - were assisted by the Ministry through quarterly grants. Administrators and committee Members of the Cultural Centres were appointed by the Ministry to oversee the operations of the Centres. Students studied at the various centres to learn music, dance, vocals, yoga, harmonium, tabla, sitar and the keyboard.

### **Achievements 2001-2005**

#### *2001*

402. In the Ministry's budget a sum of \$41,456 was allotted in 2001 for grants to the Centres. Details of the disbursement of grants are as follows:

	\$
Suva Indian Cultural Centre	21,456.00
Labasa Indian Cultural Centre	5,000.00
Ba Indian Cultural Centre	5,000.00
Nadi Indian Cultural Centre	5,000.00
Savusavu Multi Cultural Centre	5,000.00

#### *2002*

403. In 2002 the Ministry budget made provision for \$41,456 in grants to the centres. Details of disbursement of grants are as follows:

	\$
Suva Indian Cultural Centre	27,456
Labasa Indian Cultural Centre	4,000
Ba Indian Cultural Centre	4,000
Nadi Indian Cultural Centre	4,000
Savusavu Multi Cultural Centre	2,000



2003

404. In 2003, the Ministry budget made provision for \$100,000 in grants to the centres. Details of disbursement of grants are as follows:

	\$
Suva Indian Cultural Centre	30,000
Labasa Indian Cultural Centre	12,500
Ba Indian Cultural Centre	12,500
Nadi Indian Cultural Centre	12,500
Savusavu Multi Cultural Centre	12,500

\$20,000.00 was not utilized during that year.

2004

405. In 2003, the Ministry budget made provision for \$150,000 in grants to the centres and disbursed as follows:

	\$
Suva Indian Cultural Centre	50,000
Labasa Indian Cultural Centre	25,000
Ba Indian Cultural Centre	25,000
Nadi Indian Cultural Centre	25,000
Savusavu Multi Cultural Centre	25,000

406. The Centres also organized their own fundraising activities to supplement their operational costs. The Nausori Cultural Centre was established in November 2004, with each existing Centre contributing \$1,000. The Ministry is also contemplating increased participation at the centres and other community organizations with more emphasis on the minority communities.

2005

407. A sum of \$150,000 was provided for in the Ministry's budget for grants in 2005 to the Centres and disbursed as follows:

	\$
Suva Indian Cultural Centre	35,000
Labasa Indian Cultural Centre	19,000
Ba Indian Cultural Centre	19,000
Nadi Indian Cultural Centre	19,000
Savusavu Multi Cultural Centre	19,000
Nausori Indian Cultural Centre	19,000
Minority Community Reserve	20,000

**List of annexes**

Annex	
I.	Fiji's Core Documents
II.	Social Justice Act
III.	Progress Report on the Implementation of Affirmative Action Programmes Under the Social Justice Act
IV.	Reports and Submissions from NGOs for the 16 <sup>th</sup> & 17 <sup>th</sup> Periodic Report
V.	The Reconciliation, Tolerance and Unity Bill
VI.	Reports of the Sector Standing Committee on the Reconciliation Bill

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