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**FIJI**

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## I. FIJI AT A GLANCE

1. The following is a statistical overview of the territory, population and economy of the Republic of Fiji:

**Size:** 332 islands (approximately one third of which are inhabited)

Total area: 18,333 km<sup>2</sup> (Viti Levu - 10,429 km<sup>2</sup>, Vanua Levu - 5,556 km<sup>2</sup>)

Sea area (000 km<sup>2</sup>): 1,290

Rural land use:<sup>1</sup>

- Arable: 10 per cent
- Arable km<sup>2</sup>: 1,827
- Permanent crops: 4 per cent
- Permanent crops km<sup>2</sup>: 731
- Permanent pasture: 10 per cent
- Permanent pasture km<sup>2</sup>: 1,827
- Forests and woodland: 65 per cent
- Forests and woodland km<sup>2</sup>: 11,876
- Other land: 11 per cent
- Other land km<sup>2</sup>: 2,010

Capital: Suva

International Airport: Nadi

**Population:** 772,655 (25 August 1996 census)

- 394,999 Fijians (51.8 per cent)
- 336,579 Indians (43.6 per cent)
- 41,077 others (5.3 per cent)

Urban population as a percentage of total (1996): 46.4

- Fijians: 41.0
- Indians: 49.6

Urban population as a percentage of total (1986): 38.7

- Fijians: 38.7
- Indians: 41.4

Rural population as a percentage of total (1996): 64.6

Number of inhabitants per km<sup>2</sup> (1996): 39/km<sup>2</sup>  
(1986): 42 km<sup>2</sup>

Religious affiliation as a percentage of population (1996):

- Christians: 52 per cent
- Hindus: 38.1 per cent
- Muslims: 7.8 per cent
- Others: 0.5 per cent

Life expectancy at birth (1996): 66.6

- Males: 64.5
- Females: 68.7
- Fijians: 66.5
- Indians: 66.5

Total fertility rate (1996): 3.26      (1986): 3.51

- Fijians: 3.9      Fijians: 4.19
- Indians: 2.45      Indians: 2.94

Infant mortality (1996): 22/100,000 live births

- Males: 22/100,000
- Females: 23/100,000

Maternal mortality rate per 100,000 confinements (1996-2001)

Percentage of population under 15 (26 August 1996): 35.4 per cent

Percentage of population 65 and over (26 August 1996): 3.1 per cent

Percentage of population aged between 15 and 64 years: 61.5 per cent

Emigration (1996-2001)

- 1996: 5,190
- 1997: 4,779
- 1998: 5,095
- 1999: 5,196
- 2000: 5,590
- 2001: 6,316
- January-August 2000: 3,786

**Languages:** English, Fijian, Hindi, Urdu and Rotuman.

**Time zone:** 12 hours ahead of Greenwich Mean Time.

**The economy - key financial indicators**

	1996	1997	1998	1999	2000	2001
Gross domestic product						
<u>GDP at market price</u> (\$ million)	2 962.3	3 060.9	3 283.8 (r)	3 662.3 (r)	3 517.4 (r)	3 833.4 (r)
Per capita GDP at current factor cost (\$)	3 298.2	3 323.1	3 523.4 (r)	3 890.5 (r)	3 805.1 (r)	4 102.3 (r)
Constant price GDP growth rate (%)	3.1	-0.9	1.5 (r)	9.6 (r)	-2.8 (r)	3.8 (r)
<u>Labour market</u>						
Labour force	300 400	310 100 (e)	320 200 (e)	330 800 (e)	341 700 (e)	n.a.
Wage and salary earners (mid-year)	110 081	112 932	112 519	n.a.	n.a.	n.a.
<u>Inflation (year-on-year % change)</u>						
All items	2.4	2.9	8.1	0.2	3.0	2.3
<u>Government finance</u> (\$ million)						
Total revenue and grants	743.5	803.5	1 141.2	1 004.5	911.0 (r)	836.4 (r)
Total expenditure (excluding loan repayments)	882.0	1 002.0	977.4	1 014.3	1 023.4 (r)	1 084.5 (r)
Net headline balance	138.5	198.5	163.8	-9.8	-112.4 (r)	-248.1 (r)
<u>Foreign debt outstanding</u> (end of period) <sup>1</sup>						
Total (\$ million)	353.6	352.1	447.4	513.6	529.7	520.0 (p)
Debt service ratio (%)	4.1	2.9	4.1	3.2	3.0 (r)	2.0 (p)
<u>Balance of payments</u> (\$ million)						
Current account balance	87.6	49.9	-11.4	-165.2	-219.9	-114.0
Capital account balance	10.0	-38.7	155.1	171.3	223.0	178.4
<u>Foreign exchange reserves</u>						
<u>Gross foreign exchange reserves (\$ million)</u>	590.6	557.9	764.7	827.0	898.1	846.0
Months of imports (goods and non-factor services)	4.0	3.8	4.8	4.2	4.6	4.4
<u>Money and credit</u> (\$ million)						
Narrow money	456.3	445.3	493.9	694.5	593.7	620.9
Quasi-money	1 032.1	913.2	859.9	851.6	920.1	846.0
Domestic credit <sup>2</sup>	1 322.0	1 187.6	1 232.2	1 285.1	1 358.8	1 324.6

**The economy (continued)**

Gross domestic product	1996	1997	1998	1999	2000	2001
<u>Interest rates (per cent per annum)</u>						
Lending rate	11.57	10.15	9.11	8.47	8.37	8.19
Savings deposit rate	3.27	2.72	1.82	1.19	0.85	0.78
Time deposit rate	5.77	5.18	4.01	2.88	3.00	2.43
91-day RBF note rate <sup>3</sup>	2.81	1.38	2.00	2.00	2.53	1.25
<u>Exchange rates (annual average per F\$)</u>						
US\$	0.7127	0.6932	0.5092	0.5077	0.4708	0.4395
Pound stg.	0.4566	0.4231	0.3074	0.3138	0.3104	0.3051
Euro	n.a.	n.a.	n.a.	.4764	.5098	.4904

Source: Fiji Islands Bureau of Statistics, Commercial Banks, Reserve Bank of Fiji, Government Ministries & IMF Article IV Mission.

Notes:

<sup>1</sup> All values are in Fiji dollar.

<sup>2</sup> From 1997, credit to the private sector is adjusted for NBF Asset Management Bank's non-performing loans and advances.

<sup>3</sup> Weighted average.

(r) revised.

(e) estimated.

n.a not available.

(p) provisional.

**II. HISTORICAL BACKGROUND**

2. Archaeological evidence shows that Fiji was first settled about 3,500 years ago. The original inhabitants are now called "Lapita people" after a distinctive type of fine pottery they produced, remnants of which have been found in practically all the islands of the Pacific, east of New Guinea, though not in eastern Polynesia. Linguistic evidence suggests that they came from northern or central Vanuatu or possibly the eastern Solomons. Before long they had moved further on, colonizing Rotuma to the north, and Tonga and Samoa to the east. From there, vast distances were crossed to complete the settlement of the Pacific to Hawaii in the north, Rapanui (Easter Island) in the east and Aotearoa (New Zealand) in the south. Unlike the islands of

Polynesia which reveal a continuous and steadily evolving culture from initial occupation, Fiji appears to have undergone at least two periods of rapid culture change in prehistoric times. This may have been due to the arrival of fresh waves of immigrants, presumably from the west. Prehistorians have noted that a massive twelfth century volcanic eruption in southern Vanuatu coincides with the disappearance there of a certain pottery style and its sudden emergence in Fiji.

### **Fijian legend and traditional society**

3. According to Fijian legend, the great chief Lutunasobasoba led his people across the seas to the new land of Fiji. Most authorities agree that people came into the Pacific from south-east Asia via Indonesia. Here the Melanesians and the Polynesians mixed to create a highly developed society long before the arrival of the Europeans.

4. Prior to western contact, Fiji's population of about 140,000 people was divided into tribes or clans with no central authority. Traditionally Fijian society was controlled by a chiefly caste endowed with great personal mana from genealogical affinity with the gods. Priests reinforced the legitimacy of powerful chiefly mana through religious ceremonies. Acknowledgement of their lineage from the deities ensured the fertility of the land and prosperity of the people. This supernatural endowment made the political power of the chiefs sacrosanct. Theoretically, everyone knew his place in society and commoners could not enter the established hierarchy, although within the chiefly ranks themselves, prominent men often fought for titled status in an uncertain succession and involved their descent groups in frequent fratricidal warfare.

5. The chiefs were also the economic directors of Fijian society. They made the decisions, delegated authority and controlled the distribution of farm as well as material produce through elaborate ceremonies in which all the people had an enjoyable role. The arrival of European traders and beachcombers in the early nineteenth century brought new weaponry and luxury items to tempt the aristocracy. The islands quickly acquired a reputation for cannibalism and inter-tribal warfare intensified by the European presence. Guns became precious items of exchange for sandalwood and bêche-de-mer as coastal tribes fought the more isolated interior tribes for their more saleable resources.

6. There were several strong native confederations in Fiji each headed by a titled chief. Cakobau, a man of fierce ambition emerged as the leader of Bau, a small but important strategic island off the coast of Viti Levu. Cakobau was an avid warrior and tactician and used his power base to extract tribute from outlying areas. His wealth and power were challenged by other Fijian chiefs, but he was strengthened with valuable weapons stock obtained through his dealings with traders. Although successful, Cakobau was continually manipulated by the Europeans with whom he dealt. Plagued by debt, he participated in several governmental schemes devised by the white settlers for their own benefit. Eventually, he succumbed to pressure to cede Fiji to Britain. Although reluctant to do so, Cakobau believed the islands were too weak to resist Western domination and lamented, "If matters remain as they are, Fiji will become like a piece of driftwood on the sea, and be picked up by the first passer-by."<sup>2</sup>

7. Cakobau's greatest rival for chiefly power in Fiji was Henele Maafu, a Tongan of high rank who came to Fiji as a young man like many Tongan warriors in search of glory and reputation in battle. Maafu made important alliances in the eastern half of the group and

expanded his authority through warfare, using the propagation of his Wesleyan Methodism to legitimize blatant conquests. Maafu was supported by King George Tupou I (Taufa'ahu) of Tonga until American and British pressure checked his ambitions for Fiji. Tupou was forced to abandon his tributaries, but Maafu was successful in securing the Governorship of Lau, a copra-rich group of islands which he made his home. Maafu gained great influence among Fijian high chiefs, although he was a detested outsider.

8. Maafu shared Cakobau's growing anxiety about the motives of the European settlers, and after discussing the matter with British Commissioners, he joined other chiefs in signing the cession papers, advocated originally by his rival, Cakobau. These Fijian chiefs who had spent their lives in violent warfare knew their authority would depend on the potency of their new role in the Council of Chiefs, a body formalized by the Governor Sir Arthur Gordon who promised that the Fijian people would be governed, as far as possible, within traditional practices. Governor Gordon believed that "native races had been shamefully exploited in other parts of the British colonial empire".<sup>3</sup> A protective labour policy ensured Fijians did not have to engage in labour for the empire. A solution was found in the example set by other British colonies in Africa and the Caribbean: Indian indentured labourers. The first Indians arrived in Fiji in 1879 and recruitment ceased in 1916. Of the 60,000 Indian labourers brought to Fiji, about 40 per cent returned to India after their indentures expired.<sup>4</sup>

### **Colonial policy of separation**

9. To avoid possible conflict from Fijian resentment of the influx of new migrants, the colonial Government instituted a policy of physical separation of the Indian and Fijian population. Restrictions on areas of Indian settlement were in place until the 1920s.

10. Political representation for non-Europeans when introduced was on a communal basis, a system continued to present times. The colonial administration encouraged the separate economic development of Fiji's different communities. Fijians were discouraged from engaging in commercial agricultural production, while the colonialists relied upon Indian labourers. Fiji's sugar industry was run by a monopoly, the Colonial Sugar Refinery (CSR) with Europeans dominating management. A recent macro study conducted by Citizens Constitutional Forum and Minority Rights Group found that "... the net effect of these policies was that economic activity and disparities acquired an ethnic character. Income from sugar farming on smallholder farms became the source of cash-income disparity between the tenant Indo-Fijian farmers and indigenous Fijian landowning communities."<sup>5</sup>

11. Akhila Nand Sharma states that "psychologically, the economic sector for Fijians does not augur well with their generous virtues of cultural morality guided by the tradition of 'kerekere' (that is, to request for things when needed without payment of any kind). The Indians are not disadvantaged by this tradition and therefore are placed in a better conducive socio-economic climate that allows them to escalate in monetary economy and educational endeavours than Fijians."<sup>6</sup>

12. Fisk in his analysis of Fiji's economy (1970) identified the "subsistence affluence" of the Fijians, the entrepreneurship and capital of the Europeans, and the wage labour of the Indians as

three ingredients for development of the Fiji situation. These three groups are distinct not only in race and political representation, they each have distinct historical backgrounds, cultural origins, motivations and social values. Such divisions led to the establishment of predominantly Fijian and Indian schools. In 1960, only 6 per cent of schools were officially described as racially mixed.<sup>7</sup>

### **Indigenous Fijian society today**

13. Fijian society is an intricate network, and generalizations are fraught with danger. Although the self-proclaimed King of Bau, Naulivou, and his successors had control over a large area of eastern Fiji, at no time before colonization was Fiji a united political entity. Nevertheless, Fiji does exhibit certain traits that set it apart from its neighbours, and it is this that defines a distinctive Fijian culture.

### **The twentieth century**

14. The twentieth century brought about important economic changes in Fiji as well as the maturation of its political system. Fiji developed a major sugar industry and established productive copra milling, tourism and secondary industries. As the country now diversifies into small-scale industries, the economy is strengthened and revenues provide for expanded public works, infrastructure, health medical services and education.

15. The country's central position in the region has been strengthened by recent developments in sea and air communications and transport. Today, Fiji plays a major role in regional affairs and is recognized as the focal point of the South Pacific.

### **Government and external relations**

16. Fiji is a sovereign democratic State. A British colony from cession in 1874 to 1970 when it gained independence, Fiji became a Republic in 1987 following two coups d'état. After the coups, Ratu Sir Kamisese Mara headed an Interim Government as Prime Minister. The Interim Government ran the country for three years until the first general election, held in May 1992. This election saw the victory of the Soqosoqo-Ni-Vakavulewa-Ni Taukei party (SVT a Great Council of Chiefs sponsored party) and the official entry of the Prime Minister Rabuka into power.

17. Twenty months later, another general election was held following the defeat in Parliament of the budget bill. The SVT Party again dominated this election, winning 31 seats. The remaining 39 seats were shared between National Federation Party 21, Fiji Labour Party 7, Fijian Association Party 5, General Voters 3, All National Congress 1 and two Independents.

18. The general election, held from 8 to 15 May 2000, was the first under the 1997 Constitution. This election brought a lot of surprises. Altogether, 16 political parties and 304 candidates (communal seats - 163, open seats - 141) contested this election. The number of registered voters was 441, 265. This election brought an outright majority for the Fiji Labour Party (FLP) which won 37 seats, Fijian Association Party (FAP) 11 seats, Party of National Unity (PANU) 4 seats, Soqosoqo-Ni-Vakavulewa-Ni Taukei (SVT) 8 seats,

Independents 5, Nationalist Vanua Takolavo Party (NVTLP) 1, Veitokani Ni Lewenivanua Vakarisito (VLV) 3 and United General Party (UGP) 2. The leader of FLP, Mr. Mahendra Pal Chaudhry, was appointed as the fourth Prime Minister of Fiji. History was created when the National Federation Party (NFP), which had been at the political scene of Fiji since 1966, failed to win any seat.

19. The government team included FLP, FAP, PANU, VLV, and two independents. This election also saw eight women candidates in the House of Representatives, of whom five were appointed as Cabinet ministers. This Government ruled the country for one year.

On 19 May 2000, a civilian coup attempt took place with the backing of a few soldiers from the Counter Revolutionary Warfare Unit (CRWU) of the Republic of Fiji Military Forces (RFMF) who stormed the Parliament and took Prime Minister Mahendra Chaudhry and his Cabinet as hostage. The President declared a state of emergency and purported to prorogue Parliament for six months pursuant to section 59 (2) of the Constitution.

20. On 29 May, the Commander of RFMF abrogated the Constitution and assumed executive authority. The President, Ratu Sir Kamisese Mara, was asked to step aside. The Vice-President, Tui Vuda Ratu Josefa Iloilo, was appointed as the Interim President. An interim administration comprising 20 Ministers and 8 Assistant Ministers was appointed and Laisenia Qarase was appointed as the Interim Prime Minister. A three-day meeting of the Great Council of Chiefs (GCC) took place on 8, 9 and 13 March 2001. GCC appointed Ratu Josefa Iloilo as President and Bau Chief Ratu Jope Seniloli as Vice-President. Tui Vuda Ratu Josefa Iloilo was sworn in as Fiji's third President and Commander-in-Chief of the armed forces on 15 March 2001.

21. The President Ratu Iloilo reappointed the interim Cabinet (after the Court of Appeal decision in Republic of Fiji v. Chandrika Prasad which affirmed that the 1997 Constitution had not been abrogated) as a caretaker Government to govern Fiji until elections could be held at the end of August 2001. The Soqosoqo Duavata Ni Lewenivanua, led by the interim and caretaker Prime Minister, Laisenia Qarase, gained the majority of parliamentary seats. However, Prime Minister Qarase and Chaudhry are still negotiating the presence of the Fiji Labour Party in the Cabinet pursuant to the constitutional provisions. The matter is before the Fiji court for final determination. Fiji's final appellate court, the Supreme Court, is to hear the appeal in due course.

### **III. LAND AND PEOPLE**

#### **A. The land**

22. Fiji lies in the heart of the Pacific Ocean midway between the Equator and the South Pole, and between longitudes 175 and 178 west and latitudes 15 and 22 south. Fiji's Exclusive Economic Zone contains approximately 330 islands, of which about one third are inhabited. It covers about 1.3 million square kilometres of the South Pacific Ocean, and Fiji's total land area is 18,333 square metres. There are two major islands - Viti Levu, which is 10,429 square kilometres, and Vanua Levu, which is 5,556 square kilometres. Other main islands are Taveuni (470 km<sup>2</sup>), Kadavu (411 km<sup>2</sup>), Gau (140 km<sup>2</sup>) and Koro (104 km<sup>2</sup>). Ninety per cent of the land is owned by indigenous Fijians in trust while 2 per cent is State land and 8 per cent is freehold land. Only 16 per cent of Fiji's land mass is suitable for agriculture

and are found mainly along the coastal plains, river deltas and valleys. The capital is Suva and it is one of two cities in Fiji. The other city is Lautoka and both are located on the main island of Viti Levu.

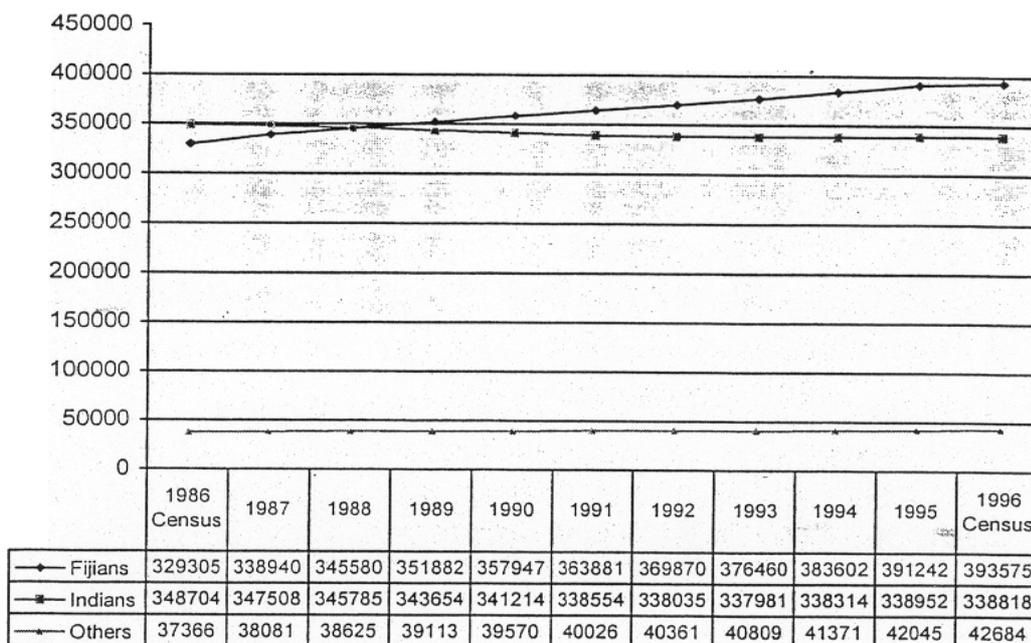
**Climate**

23. Fiji enjoys a tropical South Sea maritime climate with no great extremes of heat or cold. The islands lie in an area occasionally traversed by tropical cyclones, which are mostly confined between the months of November to April. On average, some 10 to 12 cyclones per decade affect some parts of Fiji, and 2 or 3 cyclones can be very severe. At all seasons the predominant winds over Fiji are the Trade Winds from the east to the south-east. On the western and eastern sides of Viti Levu and Vanua Levu, however, daytime breezes blow in across the coast. In general, the winds over Fiji are light to moderate, the most persistent being the period July-December. Temperature averages 22 degrees Celsius (72 degrees Fahrenheit) for the cooler months (May to October), while for the warmer months (November to April) temperatures are higher with heavy downpours. Although rainfall is highly variable, the average rainfall increases steadily inland from coastal areas. It usually increases between December and April, especially over the larger islands but during May and October it is often deficient, particularly in the dry zone on the western and northern sides of the main islands.

**B. The people**

24. The population of Fiji, as recorded in the most recent census of population on 25 August 1996, stood at 772,655. There were 358,131 persons in the urban areas and 414,524 in rural areas. Of the total, 394,999 were Fijians (51.1 per cent), 336,579 were Indians (43.6 per cent) and 41,077 others (5.3 per cent).

**Figure #: Population of Fiji 1986-1996**



Source: Bureau of Statistics.

25. Compared with the 1986 census, there was a net increase of 57,280 persons during the 1996 census, Fijian numbers had increased by 65,694 persons, and Indian numbers registered a decrease of 12,125 persons as a result of high international emigration and a lower rate of natural increase. The net population loss of Indians through emigration between the censuses, was estimated at 58,300 persons. The number of other ethnic groups component increased by 3,711 persons. The annual average growth rate between the last censuses was 8 per cent.

26. Fiji has a relatively young population with about 53 per cent, or 413,100 persons below the age of 25 years. This percentage has declined from the 1986 figure of 58.7 per cent. Using the generally accepted definition of youth as persons aged 15-24 years, the 1996 estimates show that this category makes up 20 per cent of the total population, representing a reduction of 4 per cent from the 1991 estimate. Approximately 60 per cent of the youth population reside in rural areas.

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

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

29. Fiji population is comprised of indigenous Fijians and Rotumans and of migrant communities of Indian, European and Chinese origins and people of other Pacific island descent.

### **Indigenous Fijians**

30. Indigenous Fijians are the largest ethnic group in Fiji and currently make up just over 50 per cent of the population. The community, however, is far from homogeneous. It comprises a number of distinct ethno-linguistic groupings divided into numerous communities, groups and clans. Uneven development between rural and urban areas, and central and remote islands, has also led to large economic disparities within the indigenous community. Periodically, indigenous Fijians from different regions have asserted claims for greater autonomy on the basis of these separate histories and economic conditions. These conditions have proved to be quite challenging for those indigenous political leaders appealing for ethnic solidarity.

## Census of population 1881-1996

		Census dates											
Ethnic group	Sex	4 April 1881	5 April 1891	31 March 1901	2 April 1911	24 April 1921	26 April 1936	2 Oct. 1946	26 Sept. 1956	12 Sept. 1966	13 Sept. 1976	31 Aug. 1986	25 Aug. 1996
Total	Total	127 486	121 180	120 124	139 541	157 266	198 379	259 638	345 737	476 727	588 068	715 375	775 077
	Male	70 401	66 367	66 874	80 008	88 464	107 194	136 731	178 475	242 747	296 950	362 568	393 931
	Female	57 085	54 813	53 250	59 533	68 802	91 185	122 907	167 262	233 980	291 118	352 807	381 146
Chinese	Total	+	+	+	305	910	1 751	2 874	4 155	5 149	4 652	4 784	4 939
	Male	+	+	+	276	845	1 476	2 105	2 624	2 910	2 503	2 546	2 573
	Female	+	+	+	29	65	275	769	1 531	2 239	2 149	2 238	2 366
European	Total	2 671	2 036	2 459	3 707	3 878	4 028	4 594	6 402	6 590	4 929	4 196	3 103
	Male	1 879	1 273	1 531	2 403	2 297	2 263	2 467	3 374	3 427	2 605	2 240	1 713
	Female	792	763	928	1 304	1 581	1 765	2 127	3 028	3 163	2 324	1 956	1 390
Fijian	Total	114 748	105 800	94 397	87 096	84 475	97 651	118 070	148 134	202 176	259 932	329 305	393 575
	Male	60 899	56 445	50 357	46 110	44 022	49 869	59 862	74 989	102 479	131 413	167 256	199 895
	Female	53 849	49 355	44 040	40 986	40 453	47 782	58 208	73 145	99 697	128 519	162 049	193 680
Indian	Total	588	7 468	17 105	40 286	60 634	85 002	120 414	169 403	240 960	292 896	348 704	338 818
	Male	388	4 998	11 353	26 073	37 015	48 246	64 988	88 359	122 632	147 194	175 829	171 796
	Female	200	2 470	5 752	14 213	23 619	36 756	55 426	81 044	118 328	145 702	172 875	167 022
Part European	Total	771	1 076	1 516	2 401	2 781	4 574	6 142	7 810	9 687	10 276	10 297	11 685
	Male	387	529	759	1 217	1 454	2 325	3 195	4 008	4 951	5 358	5 396	6 052
	Female	384	547	757	1 184	1 327	2 249	2 947	3 802	4 736	4 918	4 901	5 633
Rotuman	Total	2 452	2 219	2 230	2 176	2 235	2 816	3 313	4 422	5 797	7 291	8 652	9 727
	Male	1 126	1 056	1 036	1 043	1 129	1 413	1 696	2 232	2 939	3 666	4 387	5 008
	Female	1 326	1 163	1 194	1 133	1 106	1 403	1 617	2 190	2 858	3 625	4 265	4 719
Other Pacific islanders	Total	6 100	2 267	1 950	2 758	1 564	2 353	3 717	5 320	6 095	6 822	8 627	10 463
	Male	5 629	1 923	1 584	2 429	1 271	1 470	2 145	2 839	3 207	3 474	4 499	5 414
	Female	471	344	366	329	293	883	1 572	2 481	2 888	3 348	4 128	5 049
All others	Total	156	314	467	812	789	204	514	91	273	1 270	810	2 767
	Male	93	143	254	457	431	132	273	50	202	737	415	1 480
	Female	63	171	213	355	358	72	241	41	71	533	395	1 287
Growth rate		-	-0.5	-0.1	1.5	1.2	1.6	2.7	2.9	3.3	2.1	2.0	0.8

31. Many Fijian leaders have argued that as a group indigenous Fijians are the poorest in the country. In many areas, including educational performance, and representation in commercial and certain economic sectors of the economy, indigenous Fijians are underrepresented. However, indigenous Fijians also maintain privileges in Fijian society. In addition to owning over 80 per cent of Fiji's land, they make up over 99 per cent of Fiji's military (FMF), 75 per cent of Fiji's police, 90 per cent of permanent secretaries, 75 per cent of Fiji's nurses, and hold the most senior positions in the military and police force. The focus of most recent policy initiatives has been on addressing indigenous Fijians' disadvantaged positions in business and education.

32. It is clear that indigenous Fijians' underrepresentation in business is closely linked to their underachievement in education. The Government has formulated programmes aimed at improving the educational performance of indigenous Fijians, including F\$ 2.6 million for indigenous Fijian education through the Fijian Affairs Board and special scholarships reserved for indigenous Fijians.

### **Indo-Fijians**

33. Indo-Fijians constitute the second largest ethnic community. Like the indigenous community, the Indo-Fijian community is far from uniform. The first Indians to arrive in Fiji came under the indenture system. Following the indenture period, many remained as tenant cane farmers, while those who could afford it left farming and became wage labourers, ran small businesses or trained to become professionals. During the inter-war years, a new monied class of Gujarati Indians in search of economic opportunities arrived in Fiji. By the 1960s, the Gujarati Indians had come to rival Europeans for dominance of the economy. Indo-Fijians currently living in Fiji tend to identify themselves as part of the Gujarati community or as individuals whose families arrived during the indenture period; in some cases, the two groups have little regard for each other. Religion plays an additional role in the divisions within the Indo-Fijian community. While the majority of Indo-Fijians are Hindus, the community also includes Christians and Muslims. The numerical dominance of people of Indian Hindu origins has been a source of some tension. There have been periodic claims for separate political representation by Muslims of colonial Indian origin.

### **The Banaban community**

34. The Banaban community owns Rabi Island, off the coast of Vanua Levu, where most of its members live. Banabans are originally from Ocean Island (Banaba) in the British Gilbert and Ellice Islands colony. They first arrived as settlers (1,003 of them) in December 1945. The British Phosphate Commission, with funds from the Banaban Trust Fund, purchased Rabi from the British colonial Government in Fiji, for the resettlement of Banabans. In the period from 1945 to 1995, the population of Rabi grew from 1,003 to over 5,000.

35. The plight of Banabans in Fiji has its roots in one of the worst instances of colonial exploitation in the South Pacific. Phosphate was discovered on Banaba in 1900. The Pacific Islands Company (PIC), which discovered the phosphate, persuaded the British Government to annex Banaba. It acquired land for mining of phosphate at extremely low prices in 1912. It also

set up the Banaban Trust Fund into which it deposited royalties for use by the Banaban community. In 1916 Banaba/Ocean Island was made part of the Gilbert and Ellice Islands colony without consultation or the consent of its people. In 1920, the Australian, British and New Zealand Governments acquired the interests of PIC in Banaba; thereafter the phosphate industry was run on a commercial basis by the British Phosphate Commission. Over time, it increased its mining area, destroying the subsistence base for the community, and paid extremely low rates of compensation.

36. In 1947, a statement of intention was signed between a team of British officials and Banaban leaders, declaring that the Banabans would live on Rabi in the Fiji Islands. As a result of this statement, the Banaban Settlement Ordinance of 1945 was formulated, providing for the administration of Rabi through the Rabi Island Council. Banabans on Rabi became subject to Fijian tax and were entitled to the services provided by the Fijian Government. The British Phosphate Commission extended its lease over the remaining land. The Ordinance also established the Banaban Trust Fund Board which was replaced by the Banaban Settlement Act when Fiji became independent.

37. Failure to reach agreement on compensation led the Banaban community to initiate legal action against the British Phosphate Commission and the British Government. The courts decided that the British Government had been guilty of moral negligence. This ruling compelled the British Government and the Phosphate Commission to negotiate a settlement. The Banabans were offered F\$ 10 million, which was placed in trust and regulated by the Banaban Settlement Act, which is entrenched under Fiji's 1997 Constitution.

38. Because of its access to its own developmental funds, this minority community was largely excluded from the mainstream developmental process. Since the 1980s all indicators for the social well-being of the community have shown a serious decline.

### **The Chinese community**

39. The Chinese presence in Fiji dates back to the mid-eighteenth century when people from China travelled to the region in pursuit of *bêche-de-mer* (sea cucumber) and sandalwood, much valued commodities in China. The number of Chinese in Fiji increased after World War I. New settlers provided labour for the booming banana export industry in the 1920s and 1930s. Many of them went on to produce bananas and other products on leased lands. The 1930s and 1940s saw another Chinese migration to Fiji. For the first time, many Chinese began applying for citizenship. The community gradually increased from the end of World War II. However, Fiji's independence had left many Chinese with a feeling of uncertainty, and between 1968 and 1974 nearly 20 per cent of them left Fiji.

40. Chinese began to enter the commercial sector, mainly as independent traders, as early as the 1940s. By the mid-1970s, the community was firmly established in retailing and other industries. Equally, members of the community have done well in paid employment. In 1996, over 40 per cent of its economically active members were employed as legislators, professionals, senior officials and technicians. This compared with 15 per cent for indigenous Fijians and 22 per cent for Indo-Fijians.

41. These achievements reflect the educational attainment of Chinese students in relation to the indigenous Fijian and Indo-Fijian populations. For example, 18.5 per cent of Chinese adults had attained post-secondary qualifications in 1996, compared with 6.5 per cent for Indo-Fijians and less than 5 per cent for indigenous Fijians. This reflects the importance attached by Chinese families to higher education.

42. Despite its general economic success, the Chinese community has remained politically marginal. This has been one of the reasons behind its extremely high emigration rates. But since the early 1990s, an estimated 2,500 Chinese have come to Fiji. On the whole, the status of the community is different from that of the other smaller communities. Its success in education and business has opened opportunities for emigration. Although the Chinese community's political representation is marginal at best, the community enjoys a higher income and runs its own educational and cultural institutions. Its comparatively better economic position domestically, and a higher rate of emigration, have acted as safety valves during periods of political turbulence. If the energies and resources of this once vibrant community are to be harnessed for Fijian society as a whole, the Constitution and policies need to promote their sense of belonging as equal citizens.

### **The Rotuman community**

43. Rotuma is a remote island approximately 500 km north of Viti Levu island and Suva. Rotuma was officially ceded to Britain in 1881 after religious "wars" broke out between two different groups: Roman Catholics and Wesleyan Methodists. This led Rotumans' chiefs to ask Britain to annex the island. However, Britain decided in 1881 that Rotuma would be administered through the Colonial Office in Fiji. Because of limited economic and educational opportunities, Rotumans sought education and employment on Viti Levu from the early colonial period. In 1981, the total population of Rotumans was 8,078; of these only 2,578, or 32 per cent, were living on Rotuma island compared with 3,235, or 56 per cent in 1966. The proportion of the community living outside of Rotuma has been steadily increasing.

44. The patterns of migration have changed, however. In the 1930s, Rotumans mostly left Rotuma to work in the gold mines. Recently, Rotumans have left their island to take up tertiary education in Viti Levu and for highly skilled occupations. In 1996, over 30 per cent of Rotumans were engaged in legislative, professional and technical occupations - a considerably higher rate than Indo-Fijians and indigenous Fijians. Significantly, a higher percentage of Rotuman students complete post-secondary education than indigenous Fijians. Yet, Rotumans feel that successive Governments have neglected their community. They cite erratic shipping to the island, poor infrastructure and the subsequent lack of economic and educational opportunities, some of which are due to the island's marginal influence over the national decision-making process.

45. The 1997 Constitution provides several mechanisms through which the community can broaden its political influence. It guarantees Rotumans a seat in Parliament and provides for the appointment of a Rotuman senator. Additionally, the open seats provide opportunities for the community on the mainland to influence election outcomes. Moreover, the Rotuma Act and the Rotuman Lands Act are entrenched in the Constitution. Finally, the Constitution's social justice provisions provide a basis for enhancing the social and economic well-being of the most disadvantaged within the community, especially those on the island of Rotuma.

### **Other communities**

46. Other smaller communities include Europeans, part-Europeans, Solomon Islanders, other Pacific Islanders, and tiny populations of other ethnic origins. There is little research on smaller minority groups in Fiji. Little is known about the income, occupations and social development of these communities.

### **The European and part-European communities**

47. Fiji's European and part-European communities trace their origin to the early 1800s when settlers began to establish a commercial presence. Following colonization, their numbers grew as trading opportunities expanded. Throughout the colonial period, the European and part-European communities enjoyed a relatively privileged position through their dominance of commerce and colonial administration. They also had enjoyed direct representation in the colonial legislature.

48. Under the 1970 Constitution, the European community was guaranteed a level of political representation that was disproportionately larger than its population. Since then, the Europeans have largely supported the Alliance Party, and its elected members were well represented in the Cabinet at senior levels. Europeans received reduced representation under the 1990 Constitution, raising their concerns about their identity and sense of belonging.

49. Overall, the European community continues to have the highest income. Just under 50 per cent of the economically active European and part-European population are in high-wage legislative, professional and technical occupations. Europeans' emigration rates are the highest of all the minority communities, following similar trends in the Chinese and Indo-Fijian communities.

### **The Melanesian communities**

50. The Melanesian communities, comprised of the descendants of the Solomon Islands and Ni-Vanuatu, were brought into Fiji effectively as slave labour in the early nineteenth century. Most of their descendants live in relatively closed communities in Suva, Lautoka and Levuka, over 60 per cent of all households belonging to these communities live below the official poverty line. Only a tiny number are either in higher-paying occupations, or have professional or higher education qualifications. Further, only 12 students were in technical and tertiary institutes in 1999.

### **Gender inequalities**

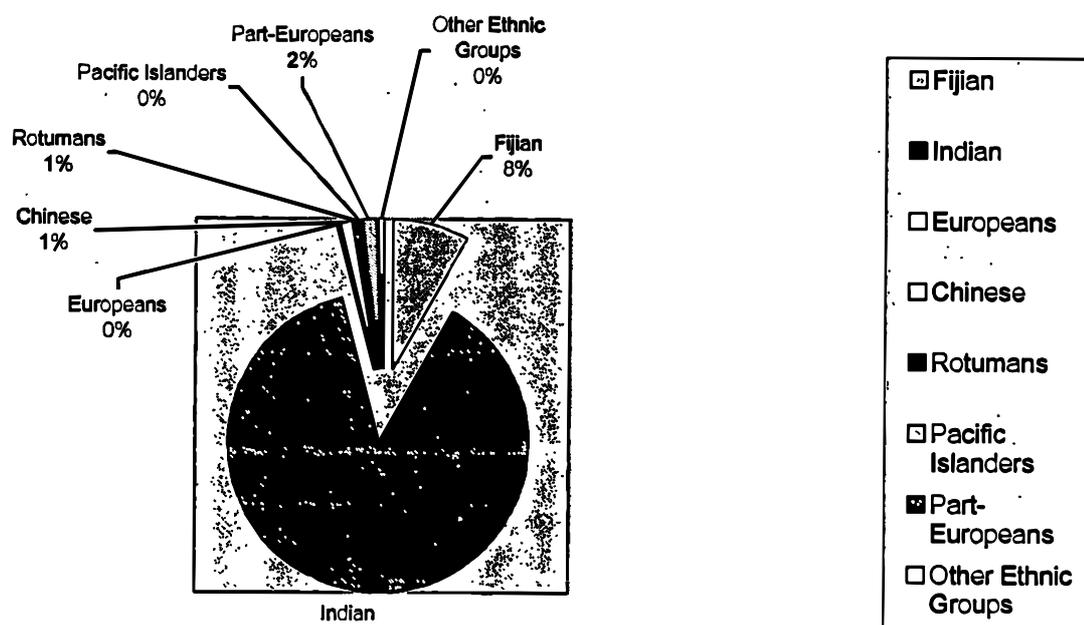
51. While women constitute just under 50 per cent of the population, they comprise only 33 per cent of the economically active population, and less than 25 per cent of those in formal paid employment. Fiji's women workers were the main human resources for the economic reconstruction that occurred after the 1987 crisis. Ironically, following the crisis

of 2000, many of the sector's enterprises were among the first to close and leave the country - often leaving secretly, and without paying outstanding wages and other employee entitlements. By July 2001, almost 4,000 jobs had been lost in the sector. As in 1987, women workers and women generally have borne the heaviest price for the economic downturn.

### Recent emigration of skilled professionals

52. The recent emigration of skilled professionals has severely affected the nation. Figures from the Bureau of Statistics are tabulated below:

**Fiji citizens emigration - 2001**

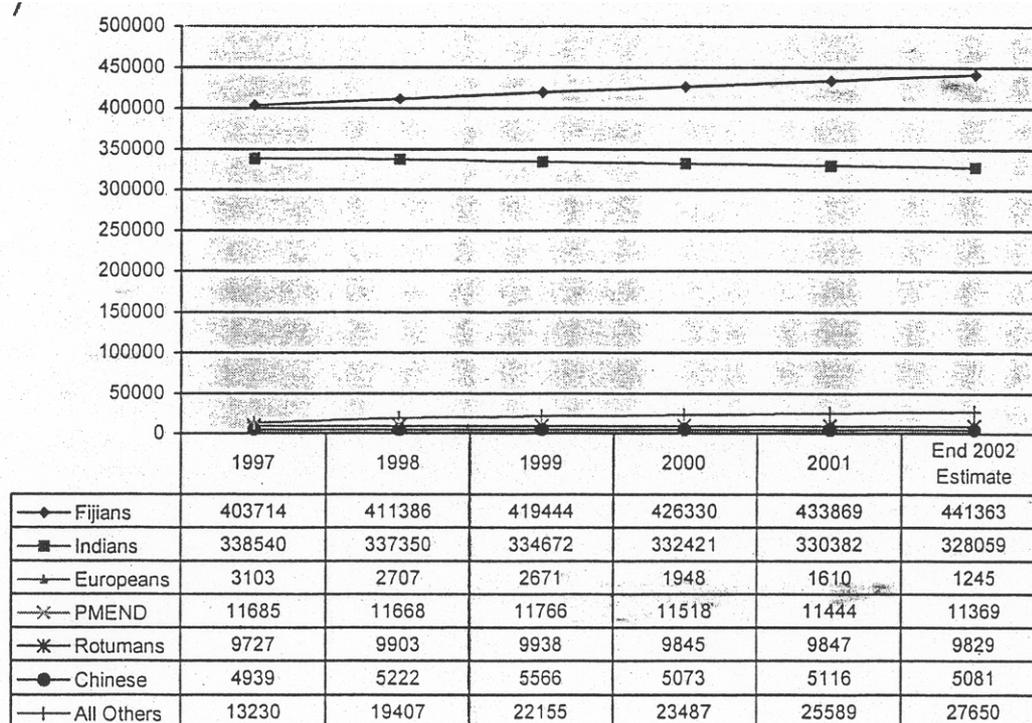


### Provisional population statistics for 2001

53. The provisional population estimates by the Bureau of Statistics for Fiji as at 31 December 2001 is as follows:

Fijians	436,027
Indians	332,377
Others	<u>56,883</u>
Total	825,287

**Figure #: End of year population estimates for Fiji 1997 to 2002**



Source: Bureau of Statistics.

## Language

54. English is the lingua franca, but Fijian and Hindi are also taught in schools as part of the school curriculum. Indigenous Fijians have their own dialects and one can tell from their dialects where they come from. Indians, too, have their own dialect, and generally speak a distinctive Fiji-Hindi dialect which is not the same as the one spoken in India.

## Religion

55. As Fiji is a multiracial, multicultural country, the major religions of the world are represented in it. More than half of Fiji's population are Christians (52.9 per cent), Hindus (38.1 per cent), Muslim (7.8 per cent), Sikhs (0.7 per cent), others (0.5 per cent).

## Land administration

### *Classification of land*

56. Fiji's land tenure system has its roots in the Deed of Cession. The actual part of the Deed relating to landownership was:

“That the absolute proprietorship not shown to be now alienated so as to become bona fide the property of Europeans or other foreigners or now in the actual use or occupation of some Chief or tribe or not actually required for the probable future support of some Chief or Tribe shall be whereby declared to be vested in Her Majesty, heirs and successors.”

57. Under the Deed of Cession, the Crown was the absolute owner or ultimus haeres of all lands in Fiji, except private freehold lands and native land which is defined as land in actual use or occupation by chiefs and their subjects, together with land which the chiefs and their subjects may actually require from time to time for their probable future use and support. The Lands Commission, established soon after cession, determined the ownership of land which has largely remained until today. The Lands Commission determined claims by Europeans and other foreigners who had acquired land prior to cession in a bona fide manner. The Lands Commission also recognized the protection of native forms of tenure systems<sup>8</sup> - the mataqali was recognized as the main landowning unit in Fijian society.

58. Only 8 per cent (415,000 acres) of all land in Fiji is private freehold, 2 per cent is held by the State (still referred to as Crown Land) and the remaining 90 per cent being native land. This is in contrast to many other countries where the indigenous owners were dispossessed through colonization.

59. Native land is owned in trust by the Native Lands Trust Board (NLTB) established in 1940 under the Native Land Trust Act. Native land is inalienable by sale. NLTB administers land that is not required for occupation by the members of a mataqali and in effect has power to lease the land without the consent of the mataqali. Some of the excess land has historically been used for growing sugar cane and other crops, commonly by descendants of indentured Indians. More recently coastal land has been used for tourism schemes.

60. In April 2002, amendments to the Native Land and Native Land Trust Act were passed by Parliament. These facilitate the transfer of State land to the Native Land Trust Board in trust for landless Fijians to be given land which was unclaimed at cession and landowning units called Yavusa to take back the land of smaller landowning units, mataqali whose members were extinct at cession. These two pieces of legislation for the transfer of State Schedule A and State Schedule B lands to the Native Land Trust Board were introduced by the SVT Government of Sitiveni Rabuka (February 1999 and were before the Joint Parliamentary Committee Stage in May 1999 when general elections were held) and had also been placed before Parliament by the coalition Government of Mahendra Chaudhry in October 1999 and were also before a Joint Parliamentary Committee when the coup attempt occurred.

61. State Schedule A land is land which belonged to extinct mataqali and were controlled and administered by the State. When the Native Lands Ordinance was enacted in 1880, the Crown had already provided for the situation where a mataqali became extinct. This was contained in section 13 of that Ordinance which provided that “If any mataqali should cease to exist by the extinction of its members the land shall fall to the Crown as ultimus haeres (ultimate heirs) to be allotted to the Qali of which it was part, or other divisions of people which may apply for the same, or retained by the Crown or dealt with on such terms as the Governor may deem expedient.” The Lands Commission established that there were lands that were vacant at

Cession and to which no valid claim had been made. From the outset after Cession, the British Colonial Administration, on behalf of the British Crown, adopted a sympathetic approach. Fijians were assured that “their lands were theirs and would never be taken from them”. The Crown laid no claim to this category of land, but for administration purposes, control of Schedule B land was vested in the Crown, as there was no other body, at that time, to look after the interests of the native landowners.

62. The transfer facilitates the full and speedy compliance of the State with its obligation under section 18 (1) of the Native Land Trust Act. That section provides that “If the President is satisfied that the land belonging to any mataqali is insufficient for the use, maintenance or support of its members, it shall be lawful for the President, by proclamation, to set aside such Crown land or land acquired for or on behalf of Fijians by purchase, as in his opinion may be required for the use, maintenance or support of such mataqali. Any area so set aside shall be deemed to be a native reserve.” The processing of all claims to extinct mataqali lands or vacant lands from landless Fijians or those with insufficient lands, for maintenance and support, can then be done in one central location, i.e. NLTB and not, as hitherto, in both NLTB and the Ministry of Lands.

63. With the enactment in 1940 of the Native Land Trust Act (Cap. 134), and the establishment of the Native Land Trust Board, it would have been reasonable for the crown to have transferred to NLTB control over State Schedule A and State Schedule B land. This was not done, creating an anomaly in land administration that is now addressed by the transfer. These lands are to be allotted by NLTB for the benefit of Fijians who do not have sufficient lands for their maintenance and support, and to Fijians who are landless. According to records in the Native Lands Commission, some 223 tokatoka and mataqali in seven provinces in Fiji do not own lands. The details are as follows:

**Details of mataqali which do not own land**

Province	No. of unit	Male	Female	Total
	Tokatoka/Mataqali			
Cakaudrove	1	3	0	3
Macuata	10	124	100	224
Lomaiviti	98	1 290	1 190	2 480
Rewa	1	3	11	14
Nadroga	12	117	121	238
Ba	59	872	784	1 656
Ra	42	454	451	905
Total	223	2 863	2 657	5 520

64. Ownership of native land is retained by the native landholders, and the agricultural land is administered under the Agricultural Landlord and Tenant Act (ALTA) of 1976. There are a few native leases for agricultural purposes that have 999-year terms. State land is governed by the Crown Lands Act, and administered by the Lands and Surveys Department of the Ministry of Lands. However “native land” is not owned by indigenous Fijians in the context as that of a

freehold interest in contemporary society, it is merely held in a group trust, meaning the ordinary Fijian cannot sell it or use it as security for a loan. It is not owned at an individual level and can never be considered as personal property as there is no individual title to it.<sup>9</sup>

65. In Fiji, as in other societies the world over, land holds a special place. There is a sense of belonging and interconnectedness between the Fijian and the land (Vanua). In the Fijian language, Taukei which is how Fijians refer to themselves, and Kai Vanua means literally “land people” and “owner”. Like many other indigenous groups, Fijians view the land with sacredness and spirituality. Philosophically and spiritually, there is a deep-rooted belief in stewardship of the land. It is accepted that the present generation has a responsibility in respect of the land that relates to the spirit of their forefathers along with the expectations of their descendants, in addition to the needs of the present generation.

66. Some 420,000 hectares of native land are leased out to 24,700 tenants for agriculture, commerce and industry.

Province	Freehold land	State administrated land	Native land	Native land leased	% of native land leased	Total
Ba	10 323	46 871	191 347	94 284	49	248 541
Bua	17 725	2 331	119 164	27 566	23	139 220
Cakaudrove	50 512	10 296	223 939	30 370	14	284 744
Kadavu	1 717	440	34 743	2 031	6	36 900
Lau	4 490	347	32 437	514	2	37 275
Lomaiviti	5 583	1 698	35 142	1 897	2	42 422
Macuata	12 595	15 147	170 040	57 267	34	197 782
Nadroga/Navosa	6 205	20 585	206 636	69 847	34	233 427
Naitisiri	7 343	13 052	146 101	24 509	17	166 496
Namosi	386	473	56 015	3 628	6	56 874
Ra	5 815	24 128	102 408	23 572	23	132 350
Rewa	2 661	2 196	18 212	6 223	34	23 068
Serua	12 297	346	34 141	21 905	64	46 784
Tailevu	4 437	3 593	117 260	23 463	20	125 290
Total	142 090	141 502	1 487 581	387 075		1 771 173

Source: Native Land Trust Board cited on <http://www.nltb.com.fj>.

Note: Native land leased is at 30 August 2000, and does not include timber concessions which make up an area of approximately 304,000 hectares.

67. The agricultural land was held on a 30-year lease under ALTA with rental set at 6 per cent of unimproved capital value. Some 13,140 agricultural leases began expiring in 1997, the majority of such leases (3,459) expired between 1999 and 2000. Under the 1999 Coalition Government led by Mahendra Chaudhry, ALTA became very controversial as some indigenous owners sought the return of their land. The Government offered compensation

of \$28,000 to farmers whose leases had expired and who did not wish to be resettled. This sum was controversial as it represented in many cases significantly more in dollar terms than the accumulated total received by landowners over the last 30 of 50 years of the lease.<sup>10</sup>

68. Native land has also been made available for major hotels and businesses that create a source of income for thousands of people. Landowners have also benefited from leasing out the land. Rental payments now amount to more than \$12 million per year and this is expected to increase in the years to come.

69. The uncertainty over the current contest for land results in an unsettled and volatile political situation, tenure insecurity, environmental insecurity and resultant institutional insecurity. This uncertainty together with other issues led to the unsuccessful coup attempt led by George Speight on 19 May 2000. The push by Mahendra Chaudhry's coalition Government for the retention of ALTA in opposition to the desire of many indigenous landowners advised by NLTB for more equitable and flexible lease arrangements under the Native Land Trust Act (NLTA) was a catalyst for the events leading up to the coup. In the run-up to the coup, there was much inflammatory and uninformed diatribe. The Government naively pushed for a tenant-driven solution while landowners saw ALTA as a threat to their ownership. Such is their legitimate right and it is their legal prerogative to repossess the land. The landowners saw the Chaudhry government as attempting to challenge their rights and autocratically strive for a continuance of the pro-tenant (i.e. pro-Indian) status quo.<sup>11</sup>

70. The current impasse over the agricultural leases under the Agricultural Landlord and Tenant Act (ALTA) for sugar cane, Fiji's second largest export earner, whose farmers are mainly Indian Fijians, requires the balancing of the needs of the Fijian Landowning Units whose lands are currently leased for sugar cane production and the needs of the tenants leasing native land and whose leases will expire between 1997 and 2024.

71. The Government has formed a Sugar Industry ALTA Task Force comprised of industry stakeholders, including the Native Land Trust Board, the Sugar Cane Growers Council, the Fiji Sugar Corporation. The main aim and focus of this Task Force is to discuss and find an amicable solution to the ALTA/NLTA legislation impasse.

72. A Sugar Industry ALTA Task Force Sub-Committee was also formed to carry out the following tasks:

- To facilitate a speedy preparation of lease titles;
- To issue sugar cane contracts in a timely manner;
- To formulate FAS application forms;
- To create awareness and educate landowners and ex-ALTA tenants on the Farming Assistance Scheme and Resettlement Programmes.

73. The Government is committed to ensuring that the solution that is developed is one that is acceptable, fair and just to both the landowners and the tenants.

74. To this end, in October 2001 the Department held three consultation meetings with stakeholders, such as NLTB, FAB, Roko Tuis, Regional Development, MASLR, Youth and Sports, and Fiji Sugar Corporation, on divisional basis, with the aim of discussing and developing a system whereby the Fijian Affairs Baord/Roko Tuis could take the leading role in organizing Provincial Task Forces with a proactive approach to dealing with the expiry of ALTA leases and to increasing awareness of the Farming Assistance Scheme and Resettlement Programmes among our rural communities. These in turn will reduce the uncertainties that currently exist in our farming community.

75. The Government hopes to introduce a Bill in the July 2002 session of Parliament to deal with agricultural leases.

76. The Land Conservation and Improvement Act (LCIA) provides for the establishment of the Land Conservation Board, whose main function is to exercise general supervision over Fiji's land and water resources. The Act is a very important legislation that is fundamental to Fiji's commitment to global and regional support for the sustainable use of its land and water resources. Fiji is committed to the sustainable use of its land and water resources and is a signatory to the various international agreements and conventions like the Rio Declaration or Agenda 21, the United Nations Framework Convention on Climate Change, and the United Nations Convention on Biological Diversity. MASLR is the focal point for the United Nations to combat desertification/land degradation in Fiji. The commitment of the Ministry of Land and Mineral Resources to the affirmative action and sustainable uses of Fiji's land and water resources is reflected in its participatory land-use planning programme which is based on old Tikina or District boundaries. This is to enhance the full support and involvement of the landowning units in the planning, decision-making and sustainable uses of their resources to optimize benefits. The analysis of various biophysical and socio-economic data is a prerequisite for a successfully formulated participatory land-use plan. The focus of the programme is the development of the Tikina of Nagonenicolo Participatory Land-Use Plan as a pilot project.

77. There have been other land conflict flashpoints, including Monasavu, Emperor Goldmines, Turtle Island Resort, Nadi Airport site and several widely publicized closures of schools and of a mosque. The arrogation of freehold land by former landowners, such as the takeover of Turtle Island Resort and the troubles over the Nadi Airport site, highlights the long-standing animosity over previous land dealings. The Government is considering various mechanisms to resolve such issues, including analysis of the 1996 Waitangi Act in relation to Maori land claims under the Waitangi Treaty.

- Monasavu Hydro Dam Catchment area - at the time of the resumption, land was only taken to the high water line of the dam, rather than taking and compensating for the whole of the water catchment area. Landowners had the right to use the timber to the detriment of the dam. Access roads were first closed off intermittently in 1998, and customary landowners in June-July 2000 held the dam and hydro station in the aftermath of the coup attempt of 19 May 2000. This resulted in major power blackouts on the main island of Viti Levu, resulting in arrangements of statutory compensation for the whole water catchment area.

- The case of Emperor Goldmines relates to claims by former landowners to what is currently freehold land. This has resulted in production downturn with resultant socio-economic effect on the community and State revenue.
- The Turtle Island incident captured international attention, as tourists were present and inconvenienced. A financial and associated settlement has temporarily resolved the issue.

#### **IV. GENERAL POLITICAL STRUCTURE**

##### **A. The Legislature**

###### **Constitution**

78. The Constitution Amendment Act of 1997, amending the 1990 Constitution, came into force on 25 July 1998. The adoption of the new Constitution in October 1997 led to Fiji's readmission as a member of the Commonwealth and the restoration of full relations with many trading and diplomatic partners, after its exclusion following the two coups d'état of 1987. The 1997 Constitution places great emphasis on fundamental rights, freedoms and representation, and is in conformity with the major United Nations instruments relating to land rights, customs, traditions and cultural inheritance.

###### **Constitutional documents since independence from the United Kingdom**

79. Since independence from the United Kingdom in 1970, Fiji has had three Constitutions. Our first Constitutional Documents are contained as a schedule of the Independence Order 1970 made by the Queen in Council on 30 September 1970, after the enactment of the Fiji Independence Act 1970 on 23 July 1970 by the United Kingdom Parliament. In pluralist societies, such as Fiji, the Constitution is of more than usual importance, for during the formative period of the nation, it provides a broad framework for the development of mutual relations among the various communal groups and, more importantly, it indicates the thinking and attitudes of the majority indigenous community (who believe that they have an inherent right to political dominance) towards the other communities and the inherent problems of communalism and nation-building.<sup>12</sup> This was written when Fijians at the 1966 census comprised 42.4 per cent of the population, less at that date than Fiji Indians.

80. At that time and to this day, Fiji Indians have a predominant share of economic and commercial power; there was a fear that if granted equal political rights, they would take over the country. This fear was recognized by the British colonial rulers who introduced the divisive system of communal representation and communal electoral rolls. Then as it is today, different communities are represented by their own kind.

81. An important feature of the 1970 Constitution is that it provides entrenchment provisions for matters affecting Fijian land and customs from Parliamentary action. Under section 68 of the 1970 Constitution, the nine Acts or Statutes which govern native land and institutions<sup>13</sup>

cannot be amended unless supported by a three-fourths majority in the House of Representatives and, if the amendment affected Fijian land, customs or customary rights, by at least six of the eight senators nominated by the Bose Levu Vakaturaga.

82. The 1970 Constitution was abrogated in a bloodless coup d'état on 14 May 1987 led by then Lieutenant Colonel Sitiveni Rabuka.

83. Our second Constitution was promulgated on 25 July 1990 by decree of the first President of the Republic of Fiji, Ratu Sir Penaia Ganilau. The 1990 Constitution was promulgated to restore parliamentary government after the 1987 military coup.<sup>14</sup> This Constitution provided for its review before the end of seven years after the date of its promulgation, and in 1995 a three-member Fiji Constitution Review Commission (FCRC) was appointed by the President. It was chaired by Sir Paul Reeves, former Governor-General of New Zealand and Anglican Archbishop with former Speaker of the Fiji Parliament, Mr. Tomasi Vakatora, an Indigenous Fijian, and Australian national University academic Dr. Brij Lal, an Indo-Fijian, to be its other members.

### **The Fiji Constitution Review Commission**

84. The terms of reference of FCRC required a review “with a view to promoting racial harmony and national unity and the economic and social advancement of all communities”, and one which bears in mind international human rights standards. On 6 September 1996, FCRC presented to His Excellency the President, its report titled “Fiji Islands: Towards a United Future”. FCRC recommended the retention of a 70-member House of Representatives, but with 45 seats opened for all races. It also recommended 12 Fijian communal seats, 10 for Indians, 2 for general voters and 1 for Rotumans.

85. However, a 25-member Joint Parliamentary Select Committee (JPSC) was appointed by the Prime Minister on 10 September 1996 to consider and deliberate upon the report of FCRC. Of the 694 recommendations of the report, JPSC adopted 577, amended 40 and totally rejected/made redundant 77.

### **Parliament**

86. Fiji's Parliament largely follows the procedure and customs of the British Westminster system. All three constitutions provide for two Houses of Parliament - an elected House of Representatives and an appointed Senate.<sup>15</sup> The current composition of the elected members of the House of Representatives is dictated by the ethnic composition and distribution of the population. In this respect the Constituency Boundaries Commission, established under section 75 of the 1997 Constitution, determines the boundaries of constituencies for the election of members to communal seats and open seats.<sup>16</sup>

87. The President appoints the 32 Senators. The Senate has no power to initiate or veto legislation; it only has the power to debate and delay it. Fourteen indigenous Fijians are appointed on the advice of the Great Council of Chiefs, nine on the advice of the Prime Minister, eight on the advice of the leader of the Opposition and one from Rotuma appointed on the advice of the Rotuma Island Council.

### **Parliament under the 1970 Constitution**

88. Under the 1970 Constitution, there were 52 elected members broken down as follows: 12 Fijians; 12 Indians; 3 general electors (elected from Fijian, Indian and general elector rolls, respectively) and 10 Fiji, 10 Indian and 5 general elector members (elected from the national rolls).

89. The Senate comprised 22 members, 8 nominated by the Bose Levu Vakaturaga, 1 by the Council of Rotuma, 7 by the Prime Minister and 6 by the leader of the Opposition.

### **Parliament under the 1990 Constitution**

90. The number of the elected members of the House of Representatives under the 1990 Constitution increased by one. There were 72 members, with the following composition: 37 Fijians (of whom 32 were elected from rural provincial constituencies and 5 from urban centres), 27 Indians, 1 Rotuman and 5 from other ethnic groups. The Senate consisted of 34 members of whom, 24 were nominated by the Bose Levu Vakaturaga, 1 by the Council of Rotuma and 9 by the President in his own deliberate judgement. In fact, these 9 were from other ethnic groups.

### **Parliament under the 1997 Constitution**

91. The House of Representatives comprises 71 members - 25 are selected on open rolls, and 46 are elected on communal (ethnic) rolls. The candidates for the 25 open seats can come from any ethnic group. The candidates for the 46 communal seats are distributed as follows: Fijians 23, Indians 19, Rotumans 1 and others or general voters 3 seats. The Upper House or the Senate consists of members of whom 14 are appointed by the President on the advice of the Bose Levu Vakaturaga, 9 by the President on the advice of the Prime Minister, 8 by the President on the advice of the leader of the Opposition and 1 by the President on the advice of the Council of Rotuma.

## **B. The Judiciary**

92. The judiciary is independent of the Government in its judicial functions, which are not subject to ministerial or Cabinet direction or control. The Constitution guarantees the independence of the judiciary by placing the appointment of judges in the hands of the President after consultation with the independent Judicial and Legal Services Commission. Members of the judiciary cannot be removed except under a complicated system of checks and balances.

93. The judiciary operate in the courts at various levels in the hierarchy. Fiji's highest court is the Supreme Court established by the Constitution, while the lowest court is the Magistrates Court from which appeal can be had to the High Court. From the High Court, one can appeal to the Court of Appeal, and thence to the Supreme Court.

94. The Magistrates Courts exercise both limited civil and criminal jurisdiction within the limits of the Division in which they are situated. Their jurisdiction also extends to territorial waters adjacent to the Division. The distribution of business between Magistrates Courts within a Division is subject to the direction of the Chief Justice. At the present time, there is a Chief Magistrate and 14 resident magistrates centred in the main towns.

95. In 1991, the Small Claims Tribunal Decree was enacted by legislation to transfer the resolution of small claims from the Magistrates Courts to the newly created Small Claims Tribunals. Under the Decree the Tribunals are divisions of the Magistrates Courts. The Tribunals have jurisdiction in respect of any claim not exceeding \$2,000 in value and such other jurisdiction as conferred on them by any other law.

96. The 1997 Constitution grants to the High Court original jurisdiction to hear and determine any question relating to the protection of fundamental rights and freedoms of individuals guaranteed in chapter IV, of the Bill of Rights. It has unlimited original jurisdiction to hear and determine any civil or criminal proceedings. It also has unlimited powers to hear and determine appeals in both criminal and civil matters from courts subordinate to it. The Fiji Court of Appeal, however, hears appeals generally from any person convicted of any offence from the High Court. The final appellate court is the Supreme Court which, under the Constitution, determines any appeal from a final decision or order of the Fiji Court of Appeal. It also has powers to review, modify, reverse or affirm such decisions or other orders, as it sees necessary in the interest of justice.

### **C. The Executive**

#### **Executive Authority**

97. Under the 1997 Constitution, the executive authority of the State is vested in the President who is the Head of State, and who also symbolizes the unity of the State. As President he is also the Commander-in-Chief of the armed forces. The President is appointed by the Bose Levu Vakaturaga (The Great Council of Chiefs) after consultation by the Council with the Prime Minister. The term of office for the President is five years. He is eligible for reappointment for one further term of five years, but is not eligible for reappointment after that. The President is assisted by Cabinet with the Prime Minister as Head of Government. The President, in his own deliberate judgement, appoints as Prime Minister the member of the House of Representatives who appears to him best able to command majority support in the House.

98. The 1997 Constitution provides for power-sharing by making it compulsory for any party which has eight or more seats in Parliament to be part of the Cabinet in proportion to their numbers in the House.

#### **Cabinet**

99. The Cabinet is made up of the Prime Minister and other ministers, including the Attorney-General. Government policies are made by the Cabinet, and special subcommittees coordinate and plan details of government activities. In addition, the Cabinet also advises the President on matters of government and is responsible to Parliament for any advice given to the

President. The Cabinet decisions are put into effect by individual ministers and each minister is allowed considerable discretionary powers in the ordinary affairs of a department. These departments are staffed by a career public service, whose members do not relinquish their jobs on a change of government. The new public sector reform aims to bring about a change in the quality of service provided by the public service.

### **Government departments**

100. About 17 ministries or government departments conduct the affairs of the Government, and the minister who heads a department is responsible to Parliament for its activities. These departments are staffed by a career public service, whose members do not relinquish their positions on a change of government. The Public Service Commission (PSC) has made good progress with the civil service reforms where corporate planning has been the major drive in the clarification of departmental objectives and outputs. From early this year, PSC has delegated its constitutional and statutory powers to Permanent Secretaries and Heads of Departments who have signed Performance Agreements for their respective Departmental accountabilities. PSC, in consultation with ministries and staff associations, is also devising a new Performance Management System that will link wage and salary increases to public sector performance and productivity.

101. The country has a well-developed system of local government. City and town councils fall under the general supervision of the Ministry of Housing, Urban Development and Environment. Suva and Lautoka have city councils, while Nadi, Ba, Tavua, Sigatoka, Rakiraki, Labasa, Nausori, Levuka, Savusavu and Lami have town councils. Municipal councils have the power to levy rates in order to fund operating and capital developments. The Government helps local bodies with technical services, town planning, grants and loans. Each municipal council is headed by a mayor and elected councillors.

### **Fijian administration**

102. The system of colonial government established in Fiji after cession was an attempt to incorporate native chiefs into governmental positions. In contrast to French and other Pacific colonies in the late nineteenth century where indigenous political institutions were simply bypassed, in Fiji a serious attempt was made to keep the spirit of indigenous institutions alive. Sir Arthur Gordon, the first governor and John B. Thurston the second governor genuinely sympathized with the Fijian people and sought to identify and preserve those features of traditional society and organization which they considered to be valuable. The Council of Chiefs was the most crucial element in the native administration they created. The work of the council in codifying and revising Fijian customs provided the foundation for the retention of village life in Fiji, the continuation of chiefly authority in internal Fijian affairs and the preservation of a distinct Fijian culture and economy despite external change in the country.

### **Bose Levu Vakaturaga (The Great Council of Chiefs)**

103. Today, the Bose Levu Vakaturaga (BLV), or the Great Council of Chiefs, is the highest assembly of the traditional chiefs of Fiji, with a small number of specially qualified commoners, who meet at least once a year to discuss matters of concern to the Fijian people. In earlier days

this Council had the power to pass laws and regulations binding on Fijians, but this power was removed towards the end of the colonial era when separate Fijian regulations were abolished. Despite this, the Council's advice is always sought on matters affecting the Fijian people, and it continues to be held in high esteem by all communities in Fiji. BLV appoints the President of the Republic of Fiji.

104. The Ministry of Fijian Affairs facilitates the link between the Government, the Fijian Affairs Board (FAB) and the Great Council of Chiefs (GCC) and other related institutions in policy formulation, legislative assistance, budgetary provisions and implementation of programmes aimed at attaining greater well-being and good government of the indigenous Fijians. It has various Departments that include the following:

(a) Native Lands and Fisheries Commission - Ascertains and determines lands which are rightful and hereditary property of Fijians in accordance with the provisions of the Native Lands Act (Cap 133), Fijian customs and usage, and the provisions of the Fisheries Act (Cap 158);

(b) Fijian Education Unit (FEU) - Ensures that funds provided for Fijian education are used in such manner as to enhance the opportunities available to Fijians to attain tertiary and professional qualifications. FEU also provides funds for textbooks for both primary and secondary schools;

(c) Institute of Fijian Language and Culture - Ensures the production of the Fijian Monolingual Dictionary research documentation, consultation with interests groups and presentation to various forums for endorsement. It also researches and documents all aspects of the indigenous culture through audio and video media and written publications;

(d) Centre for Appropriate Technology and Development - Provides short- and long-term technical and vocational training courses, seminars and workshops for rural participants;

(e) Statutory Authorities - Fijian Affairs Board and the Native Lands Trust Board.

105. Fiji is divided into 14 provinces which are themselves composed of still smaller administrative units, the basic one of which is the village (koro). At the head of a village is the turaga-ni-koro, elected or appointed by the villagers. Several koros form a tikina, and administrative sub-unit of a province, while a province (yasana) consists of a number of tikinas. Each province is governed by a council with an executive head (roko tui) whose appointment has to be approved by the Fijian Affairs Board, which must also approve all rates and by-laws applied by the provincial council. The Fijian Affairs Board is regarded as the guardian of the Fijian administrative system and many other aspects of Fijian custom. This system of local government is exclusively Fijian.

### **Race relations**

106. The Ministry of National Reconciliation and Unity was set up in September 2000 by the Interim Government to promote social cohesion and racial harmony in our community following

the social and political upheavals of May 2000. In September 2001, when the new Government was sworn in, the Ministry merged with the Ministry of Information and became the Department of National Reconciliation under the Ministry of National Reconciliation, Information and Media Relations. The Department's vision is to have a united Fiji where all communities live in peace, harmony and prosperity and whose mission is to promote harmony and social cohesion among the diverse communities. The focus of the Department last year (2001) had been on five main areas:

- Relief for and rehabilitation of affected families;
- Promotion of social and political unity at the vanua, district and national levels;
- Cooperation between Christian organizations and the vanua;
- Promotion of equal opportunities for all and correction of disparities in development;
- Promotion of greater patriotism/national allegiance.

107. As a result of the increasing number of racially insensitive remarks made this year in Parliament and in other forums, a ground-breaking agreement was signed between the Prime Minister and the Parliamentary Leader of the Fiji Labour Party to discourage members of the House of Representatives from engaging in speech and conduct detrimental to good race relations in Fiji.

108. The agreement was motivated by concern about what they considered to be deteriorating standards of debate with some Members making ill-considered, intemperate and insensitive racial remarks.

109. Such was the case at the last sitting of the House, resulting in deteriorating relations within the House and in bringing down the quality of debate. Such utterances have also given rise to negative feeling amongst our different communities, undermining efforts at promoting national reconciliation and unity.

110. As a first step, they also agreed to speak to their respective parliamentary caucuses and to remind them of the code of behaviour that binds Members of the House of Representatives.

111. The two leaders further decided to draw the attention of the Members to the relevant provisions of the Standing Orders of the House of Representatives.

112. Standing Order No. 43 (5) clearly states that a Member must not use offensive words against any other Member or words which are likely to promote or provoke feelings of ill-will or hostility between different communities in the Fiji Islands. Standing Order No. 114 (2) reminds all Members that they must behave in the House with decorum.

113. Fiji's Constitution under section 30 recognizes that the right to freedom of expression may be limited by law in order to prevent 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 persons.

114. Finally, the two leaders agreed that they would both call on the Speaker, Hon Ratu Epeli Nailatikau, to ask for his support in this collective endeavour. They will request him to be more vigorous and vigilant in exercising his authority to remind Members of what is required and expected of them as Members of the House, in accordance with the Standing Orders.

### **Rehabilitation and reconstruction**

115. Relevant ministries took on the urgent task of rehabilitating affected families. Due to a lack of funds, rehabilitation programmes could not be completed before the August elections. The Department played a facilitative role as some displaced families sought the Department's help directly. Police played a pivotal role also through the PR programmes by winning useful grounds of reconciliation for the farmers and their home districts.

### **Responsive government services and correction of development disparities**

116. Government ministries have an important influence in the Ministry's national reconciliation and unity outcomes. Representatives of government line ministries form the Project Unity Managers Committee. The Department promotes the use of Fijian language in services for indigenous Fijians.

### **Fostering national allegiance and patriotism**

117. The Ministry of Education, through the school curriculum, promotes national pride and patriotism. The National Arts Council of the Cultural Heritage Department also proposes the development of cultural and creative arts programmes to encourage multiracial interaction and appreciation. The Department has also proposed the reviewing of citizenship processing rules. The celebration of national holidays should be seen as events promoting nationhood. Focus should be on nation-building and promotion of unity.

### **Promotion of unity through non-Christian organizations**

118. Non-Christian religious organizations, mainly of Indo-Fijian membership, have expressed interest in developing unity projects and this would be taken up with them again.

### **Assignments for 2002**

119. For the year 2002 the Ministry will focus on providing extensive public relations programmes to promote unity and racial harmony. The Government has also decided that a large-scale Fiji Day celebration be organized this year. The Department has devised a work plan for 2002. Below are areas into which the Department is planning to look:

- Rehabilitation and resettlement of affected families;

- Fijian unity and multiracial harmony programmes;
- Responsive public service;
- Fostering national allegiance/patriotism;
- Establishment of a permanent unity and reconciliation machinery.

### **Rehabilitation and resettlement of affected families**

120. The Department will be looking specifically at the affected farmers at the Girmit Centre and at Valelawa Camps, the ex-ALTA families. It also intends to review squatters and other policies.

### **Fijian unity and multiracial harmony programmes**

121. Under this programme there will be:
- (a) Review of the unity promotion with the Fijian Administration System;
  - (b) Church unity promotion programmes;
  - (c) Special public relations cultural programmes.
122. Responsive public service will include:
- (a) Timely response to complaints and disputes;
  - (b) Public awareness plan for services;
  - (c) Review of key policy areas;
  - (d) PR programme for key government services;
  - (e) NGO/private sector plans for improved participation.
123. National allegiance/patriotism will be fostered through:
- (a) Public relations campaigns on national institutions;
  - (b) Nation-building through national celebrations of national holidays;
  - (c) Strengthening citizenship processing systems, e.g. public oath ceremony programme.

124. A permanent unity and reconciliation machinery will be established with the following tasks:

- (a) Research and exposure to useful experience;
- (b) Effective media coverage of events, projects, meetings and compilation of resource material on DVD and VHS.

## V. THE ECONOMY

125. The following are some of Fiji's economic indicators:

- Gross domestic product per capita 2001/2002 - F\$ US\$;
- Gross domestic product 2000/2001 (average annual percentage growth, 2000/2001 prices) - 2.2 per cent;
- Inflation 2002 - 0.3 per cent;
- Average annual unemployment rate 2001 - 10.8 per cent;
- Net external debt (US\$/F\$ billion) 2001 - 5.5;
- Fijian dollar per United States dollar (average of daily figures 2002) - 0.48.

126. Amongst the challenges to the development of the Fiji economy are the geographical isolation of the nation, its vulnerability to cyclones and droughts, its small domestic market and its reliance on a small export base dealing in an open market in international trade.

127. The political crises in 1987 and May 2000, deflated investor confidence, resulting in a lethargic national economy. The sluggish economy led to major job losses, outward migration and a brain drain, a lowering of living standard, and increased poverty and crime rates.

128. In 2000, GDP declined to 2.8 per cent. Similar declines were registered in all sectors of production except in the wholesale and retail trade (9.5 per cent) and community and social sectors (1.8 per cent).

129. The growth forecasts are 1.5 per cent for 2001 and 3.5 per cent for 2002. Improved predictions in the tourism sector, gold and fisheries industries are set to contribute well to future economic growth.

130. May 2000 saw the closure of several factories in the manufacturing industry. This impacted the labour market adversely, especially for women employed in the manufacturing and garment industries.

131. Poverty continues to be a growing concern for Fiji. The Fiji Poverty Study, 1996, based on the household income and expenditure survey, revealed that 25.5 per cent of households live below the poverty line. The study further revealed that single-headed households make up 20 per cent of the poor and that one in seven of the poor are female-headed households. The Government is taking steps to address this problem.

132. The Government has accordingly reconstituted the Ministry for Women to sit alongside the Department of Social Welfare and the Department of Poverty Alleviation. The Department for Culture and Heritage is now relocated in the tourism sector. This structural reorganization recognizes the thread that links women, gender and poverty, as was correctly flagged in the 2000 Millennium Declaration. The Government also recognizes that alleviating poverty will advance women and take us closer to achieving our goal of social equity. A total budget of \$157 million has been allocated to poverty alleviation and rural development in the 2002 government budget, an increase of \$56 million compared with the 2001 allocation.

133. Fiji's GDP for the period 1966-1999 averaged around 4 per cent, while GDP per capita<sup>17</sup> grew by 2.0 per cent on average. Although, the average growth rate for the period is similar to that of well-performing developing countries, such as Mauritius and Trinidad and Tobago, there have been protracted periods of strength and weakness in Fiji's economy.

134. This can be clearly seen in figure 1. During the same period, employment growth has averaged around 3 per cent, while the unemployment rate has been around 5-6 per cent. Employment rose substantially in 1971, mainly due to major infrastructure developments, and in 1989 and 1993 as a result of the introduction of tax free zones/factories (see figure 2). However, with the exception of these years, the annual growth rate in employment has generally been below 2 per cent.

135. The major sectoral performances for 2001 are as follows:

- The tourism industry remained resilient despite the negative flow-on effects of the terrorist attacks against the United States on international travel. Cumulative to November, visitor arrivals totalled 316,137, an increase of 17.2 per cent over the same period in 2000;
- Total cane harvested amounted to around 2.8 million tonnes, generating just over 293,000 tonnes of sugar, a considerable decline of 25.9 and 14.0 per cent, respectively, over the previous season;
- The garment industry continued to be affected by deteriorating global conditions, which dampened export demand, in turn resulting in factory closures. However, on a positive note, two new factories have opened while an existing garment manufacturer is expected to expand operations in 2002;
- The performance of the mining sector was positive. In 2001, total gold production was around 124,240 ounces, 1.8 per cent higher than in 2000. The rise was largely due to the increased yield of better quality ore from the mines;

- Timber production, for the first three quarters of the year, rose by 8.8 per cent compared with the same period in the previous year. The gains in production reflected favourable weather conditions for logging, as well as a rise in export demand;
- Fresh fish production improved, mainly due to positive market penetration into Asia and the United States. Up to September 2001, production increased by 10.5 per cent;
- Non-sugar agricultural production expanded by 5.2 per cent in the first nine months of 2001, over the corresponding period in 2000. The favourable outcome was underpinned by increases in the production of ginger, yaqona, vegetables, rice and other root crops, which more than offset declines in the production of dalo and fruits;
- For the retail sector, the Reserve Bank's December Retail Sales Survey revealed that total sales are estimated to have increased by 13.2 per cent in 2001. Retail sales are forecast to rise further in 2002;
- Activity within the building and construction sector picked up in the September quarter. Relative to the June quarter, both the number and value of building permits issued increased by 28.5 and 38.4 per cent, respectively. During the same period, the total value of building permits implemented also increased.

136. In other developments, the labour market generally improved in the December quarter despite weakening conditions in the garment industry. The number of emigrants, however, has continued to grow, particularly in the professional workers category. Nevertheless, the results of the Reserve Bank's December Business Expectations Survey suggest that most firms, except for those in the garment industry, are optimistic about employment prospects in the medium term (12 months).

### **Economic forecast for 2002 by the Reserve Bank of Fiji**

137. Growth in 2002 is expected to be broad-based across all sectors of the economy, with the exception of the cane and sugar sector, which is projected to contract further. The major sectors/industries anticipated to drive growth this year are:

- Wholesale and retail trade;
- Transport;
- Community, social and personal services;
- Tourism; and
- Mining and quarrying.

138. The better economic projection for 2002 largely reflects the backdrop of:
- Strengthening consumer demand - Consumer retail spending is anticipated to pick up this year supported by higher disposable incomes. As the economic activity picks up, employment is expected to rise. Also, the Government has announced that it will lower personal income tax rates;
  - 2002 budget is expected to increase people's take-home pay. The increase in the number of tourists arriving onto our shores is also expected to boost retail spending;
  - Expansionary fiscal policy - Commitment by the Government to increase its capital expenditure allocation in the medium term will boost long-term economic growth;
  - Accommodative monetary policy - The Reserve Bank's current accommodative monetary policy stance will continue to support the recovery of the economy, through low interest rates and the placement of sufficient liquidity in the financial system to meet any pick-up in demand for loans;
  - Improving global economic conditions - The recovery of the world economy this year is expected to have positive flow-on effects on the domestic economy through higher trade flows;
  - Optimistic private sector - Results of various private sector surveys conducted by the Reserve Bank point to an optimistic outlook by the private sector, in line with our growth projections for this year.

## **VI. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED**

### **A. The law in Fiji - nature and composition**

#### **Legal history**

139. Up to the middle of the nineteenth century, Fiji, like other countries in the South Pacific region, was never a united political entity, either as a whole or even in a significant part of the country. At that time, many separate communities, although of similar racial origin, inhabited Fiji which was never unified politically. These separate communities were ruled by their individual leaders or chiefs, and were regulated partly by their customs and practices which had become well established, and partly by orders and commands of their leaders. As the nineteenth century advanced, leaders of exceptional prowess and intelligence managed to assert their dominance so effectively over large parts of the country that they could claim that these areas were under their governance. To exert their control over such extended areas, those dominant or paramount leaders could no longer rely upon the customs and practices of individual communities, nor upon the goodwill of individual chiefs and verbal arrangements made with individual chiefs. Accordingly, most dominant chiefs followed the suggestions of their European advisors and issued written constitutions and laws to apply throughout their extended kingdoms.

140. Written Constitutions and laws were issued in 1867 by Ratu Seru Cakobau, paramount chief of Bau and parts of Viti Levu, and also by the paramount chiefs of Bua, Cakaudrove and Lau. In 1871 Cakobau issued a more ambitious Constitution, which purported to be for all the Fiji Islands, while the Tui Lau and Tui Nayau promulgated a rival written constitution for the chiefdom of Lau in the eastern islands. In 1873 Cakobau enacted a further written constitution for the whole country, as short lived as its predecessor, coming to an end when the country was ceded to Great Britain as a colony on 10 October 1974.

141. While a British colony, constituent laws for the Fiji Islands were enacted in Letter Patent, Orders in Council and Royal Instructions issued by the British Crown. Changes were issued by appropriate amendments to the Letters Patent, Orders in Council and Royal Instructions issued by the British Crown. Local legislation was enacted by the Governor and were referred to as “ordinances”. When it became obvious that the colony was to achieve self-governance or independence, Britain established constituent laws to increase the extent of self-governance. Written constitutions were enacted in 1963 and 1966 by British Orders in Council to provide increasing self-government.

142. The Fiji Independence Order was issued by the Queen in Council in 1970, the written constitution (1970 Constitution) had been drafted in London by British officials after extensive discussions with local leaders and brought into force by the Order in Council made by the Queen. Existing laws were not rejected outright upon independence. Instead, they were “saved”, a transitional step to avoid a vacuum pending the creation of “local” laws by the new legislature. Saved laws included:

- (a) Legislation in force in England at a particular date;
- (b) Common law and equity;
- (c) “Colonial” legislation, i.e. ordinances enacted by the Governor-General before independence.

143. A successful military coup was staged in 1987, a drastic method of revocation of the 1970 Constitution. The military government abrogated the Constitution and then enacted decrees to govern. In 1990 a written Constitution was brought into force by decree of the President on the advice of the Cabinet. In 1997 this was replaced by a Constitution enacted by the Parliament of Fiji which came into force on 17 July 1998.

144. Section 195 (2) (d) of the 1997 Constitution Amendment Act continues in force all written laws in force as if enacted or made under or pursuant to that Act. Section 195 (3) provides that English laws are to be construed with such modifications as are necessary to bring them into conformity with the Constitution. By virtue of the Supreme Court ordinances 1975, existing laws included:

The statutes of general application which were in force in England at the date when the colony obtained a local legislature, that is to say, on the second day of January 1875 ... subject to the provisions of section 37 of this Ordinance ... (sect. 35);

All imperial laws extended to the colony by this or any future ordinance shall be in force therein so far only as circumstances of the colony and its inhabitants and the limits of the Colonial jurisdiction permit, and subject to any existing or future ordinances of the colonial legislature and for the purpose of facilitating the application of the said laws, it shall be lawful for the court to construe the same with such verbal alteration not affecting the substance as may be necessary to render the same applicable to the matter before the court ... (sect. 37).

145. Statutes of general application have been defined by the Supreme Court<sup>18</sup> as being "... used to distinguish public statutes not necessarily binding upon all the population, for example, the Companies Act or the Friendly Societies Act on the one hand and the public statutes which on the other hand are binding upon everyone, for example the Offences Against the Person Act or similar legislation". A related question arises as to who bears the burden of proof in relation to the applicability of these Acts of "general application". The Supreme Court held<sup>19</sup> that there is a general presumption in favour of general applicability, which throws the burden proof on to the party disputing. As for how these statutes of general application rank in relation to other types of law, it is clear that imperial legislation is inferior to the Constitution.

### **Sources of law**

146. The law in the Republic of Fiji today consists of:

- (a) Acts passed by the Parliament acting within the scope of its powers under the Constitution, together with delegated or subordinate legislation made under such Acts;
- (b) Decrees promulgated by the Interim Government between 1987 and 1990;
- (c) The Fijian common law, which developed from the English common law and is interpreted and enunciated by the Courts;
- (d) Subsidiary legislation made by ministers, local government bodies and statutory authorities.

147. As mentioned earlier, Fiji was the subject of two military coups in 1987. In this period, three sources of law existed: (a) decrees issued by the Governor-General during the period of emergency from 14 May to September 1987; (b) decrees issued by the head of the interim military government; and (c) decrees issued by the President of the Republic of Fiji.

148. In State v. Afasio Mua and Ors,<sup>20</sup> the Chief Justice held that all statutes in force before the advent of the military government and the declaration of the Republic continued in full force, except as specifically repealed or amended by subsequent decrees.

### **Customary law**

149. The Native Lands Act Cap 133 makes express provision for the customs or customary law to determine the basis of rights to customary land, that is, land owned in accordance with custom, by the courts or tribunals authorized to make such determinations. Section 3 provides

that “Native lands shall be held by native Fijians according to native custom as evidenced by usage and tradition”. Other situations where the courts have applied customary law in Fiji without express statutory authorization are indirect or interstitial applications, that is, where custom or customary law is taken into account as a factor within the scope of existing law. For example, where the court is provided a statutory discretion, a custom or customary law may often be a relevant factor to take into consideration when exercising that discretion. The Supreme Court so held in R. v. Vodo Vuli.<sup>21</sup>

### **Common law and equity**

150. The principles of common law and equity were introduced, together with English Statutes of general application, in all countries of the South Pacific which were under the control of Britain or of the British Colonies of Australia and New Zealand during their period of dependency. The Supreme Court Ordinance 1875, which is still in force, having been continued by the 1997 Constitution, provides:

The common law, the rules of equity and the statutes of general application which were in force in England at the date when the colony obtained a local Legislature, that is to say, on the second day of January 1875 shall be in force within the colony (sect. 35);

All imperial laws extended to the colony by this or any future ordinance shall be in force therein so far only as the circumstances of the Colony and its inhabitants and the limits of the colonial jurisdiction permit, and subject to any existing or future Ordinances of the Colonial Legislature ... (sect. 37).

151. The Supreme Court Ordinance of 1875, however, does not make explicit whether the cut-off date (the date on which common law and equity is introduced, from which it follows that changes to the common law and equity that occur in England or elsewhere are not binding) provided by section 35 refers only to English statutes of general application or whether it also applies to common law and equity. This has been interpreted by the courts in the Fiji Islands<sup>22</sup> as providing a cut-off date for both statutes of general application and common law and equity. This would seem to mean that any subsequent changes made to the common law and equity after the cut-off date would not be binding on the country, though no doubt very persuasive.

152. As for the status of common law and equity in relation to other types of law, it is obvious that they are subordinate to the Constitution and may be changed or abolished by clear terms in the Constitution. The Constitution being the supreme law to the extent that the principles of common law and equity conflict with the terms of the Constitution, they must be held to be modified or abolished. There being nothing in the Supreme Court Ordinance 1875 to indicate a change from that relationship in England that clear words in legislation or subsidiary legislation could change or abolish the common law and equity, the principles of common law and equity in Fiji are subordinate to legislation and subsidiary legislation and may be modified or abolished by clear terms in them.

### **The Attorney-General**

153. The Attorney-General is the Government's principal adviser on the law, and represents the State in all civil cases. The Attorney-General holds a ministerial post. Since independence from the United Kingdom, the Attorney-General also holds the portfolio of the Ministry of Justice. It is the Director of Public Prosecutions who has responsibility for enforcing the criminal law. The Office of the Director of Public Prosecutions is a constitutional independent office; however, for administrative purposes, it comes under the Ministry of Justice. The Director of Public Prosecutions is concerned with instituting and prosecuting certain types of criminal proceedings, but must exercise an independent discretion and must not be influenced by government colleagues.

154. The Minister for Justice is concerned with the administration of the courts, prisons and legal registries in the Fiji Islands. Prison policy and the administration of custodial centres are functions of the Prisons Department of the Ministry of Justice. The Prisons Department is headed by the Commissioner of Prisons who is appointed by the Judicial and Legal Service Commission. The Minister appoints to each prison establishment a board of visitors representing the local community who need to satisfy themselves as to the state of prison premises, administration and treatment of inmates. They are required to report to the Minister any abuse or matters of concern which come to their attention. Prisons are subject to inspection by Magistrates appointed by the Minister to whom he reports directly. All reports, including those which are critical, are taken very seriously by both ministers and the Commissioner of Prisons.

155. Responsibility for the treatment of offenders under 18 is shared between the Ministry of Social Welfare and the Ministry of Justice.

156. As provided in the Constitution, the Commission on the Prerogative of Mercy, which is chaired by the Attorney-General with two members from the community, is responsible for advising the President on whether there are exceptional grounds for exercising the prerogative of mercy to pardon a convicted person or to remit all or part of a penalty imposed by a court.

### **The criminal law**

157. The initial decision to begin criminal proceedings normally lies with the police, once they have brought a criminal charge. Certain "small" crimes are prosecuted by police prosecutors while others are the responsibility of the Director of Public Prosecutions. A private person may institute criminal proceedings in a few cases though this is extremely rare in practice.

### **Criminal proceedings - trial**

158. Criminal trials take the form of a contest between the prosecution and the defence. Since the Constitution provides for the presumption of the innocence of an accused person until guilt has been proved, the prosecution is not granted any advantage, apparent or real, over the defence. A defendant (or accused person) has the constitutional right to a legal adviser and may be assisted by legal aid from public funds through the Legal Aid Commission. If remanded in custody, the person may be visited by a legal adviser to ensure a properly prepared defence.

159. The prosecution, except for minor charges, is required either automatically or on request to disclose to the defence all evidence against the accused on which the prosecution propose to rely. In addition, the prosecution must disclose any other material which is relevant to the issues in the case.

160. Criminal trials normally take place in open court, and the rules of evidence (concerned with the proof of facts) are rigorously applied. If evidence is improperly admitted, a conviction can be quashed on appeal. During the trial the defendant has the right to hear and cross-examine witnesses for the prosecution, normally through a lawyer; to call his or her own witnesses who, if they will not attend voluntarily, may be legally compelled to attend; and to address the court in person or through a lawyer, the defence having the right to the last speech at the trial. The defendant cannot be questioned without consenting to be sworn as a witness in his or her own defence. When he or she does testify, cross-examination about character or other conduct may be made only in exceptional circumstances; generally the prosecution may not introduce such evidence.

### **The civil law**

161. The main subdivisions of the civil law of the Fiji Islands are: family law, the law of property, the law of contract and the law of torts (covering injuries suffered by one person at the hands of another, irrespective of any contact between them and including concepts such as negligence, defamation and trespass). Other branches of the civil law include administrative law (particularly concerned with the use of executive power), commercial law and industrial law.

### **Civil proceedings**

162. Civil proceedings are instituted by the aggrieved person; no preliminary inquiry on the authenticity of the grievance is required. Actions in the High Court are usually begun by a writ of summons served on the defendant by the plaintiff, stating the nature of the claim. A defendant intending to contest the claim informs the court. Documents setting out the precise question in dispute (the pleadings) are then delivered to the court.

163. Civil proceedings, as a private matter, can usually be abandoned or ended by compromise at any time. Judgements in civil cases are enforceable through the authority of the court. Most are for sums of money and may be enforced, in cases of default, by seizure of the debtor's goods or by a court order requiring an employer to make periodic payments to the court by deduction from the debtor's wages. Other judgements can take the form of an injunction restraining someone from performing an illegal act. Refusal to obey a judgement may result in imprisonment for contempt of court. Arrest under an order of committal may be effected only on a warrant. Normally the court orders the costs of an action to be paid by the party losing it.

## **B. Fundamental human rights under the law**

164. Under the Constitution the possession of rights and freedoms is an inherent part of being a member of our society. They can only be restricted by a democratic decision of Parliament. The role of Parliament, therefore, is not to confer rights but to consider whether they need to be

restricted, balancing the needs of society against those of the individual. The following paragraphs set out the mechanisms and legal safeguards through which human rights in the Fiji Islands are protected.

### **Constitutional protection of human rights**

#### **1970 Constitution**

165. The provisions for the protection of fundamental rights and freedoms of the Independence Constitution of 1970 follow the style of the Universal Declaration of Human Rights and of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1953,<sup>23</sup> and express both the rights and freedoms and the exceptions to them in very detailed terms. Section 3 provides that every person whatever his race, place of origin, political opinions, colour, creed or sex, subject to the rights of others and public interest, is entitled to life, liberty, security of person, protection of the law, freedom of conscience, religion, assembly and association and protection of privacy and from deprivation of property without compensation. Other fundamental rights and freedoms protected are freedom from torture or inhuman or degrading punishment or other treatment; protection from slavery and forced labour; freedom of expression; freedom of movement; and protection of persons detained under emergency laws.

166. Section 15 of the 1970 Constitution specifically dealt with the prohibition of a law or any public authority from discriminating against an individual on the basis of race, place or origin, political opinions, colour or creed. Interestingly “sex” was excluded from the list of grounds on which discrimination is prohibited while it was a prohibited ground in terms of access to other political rights - life, liberty, security of person, protection of the law, freedom of conscience, religion, assembly and association and protection of privacy and from deprivation of property without compensation.

167. Section 15 (2) defines the term “discriminatory” to mean preferential treatment. However, this prohibition could be overridden in these areas: appropriation of revenues; a law with respect to marriage, divorce, and adoption; in public emergency measures or in circumstances where it is reasonably justifiable in a democratic society.

168. Under section 17, an aggrieved person who believes that any of the provisions of chapter II have been contravened by government action could apply to the Supreme Court for redress as it had original jurisdiction to hear such matters. However, section 17 (6) notes that the Supreme Court can abandon an appeal, if the aggrieved person’s action is found to be frivolous or vexatious. There were few challenges to the fundamental rights and freedoms provision of the 1970 Constitution. As for the inclusion in the introductory section<sup>24</sup> stating that “whereas” the people of the country are entitled to certain rights, “therefore” the provisions are designed to protect those rights and freedoms, the Supreme Court in Fiji Waterside Workers Union v. Reginam,<sup>25</sup> held that the introductory provision was enacting, and so added a limitation to the fundamental freedom of expression in respect of the “public interest” which was not contained in the specific section protecting freedom of expression.

169. The court in R. v. Butadroka<sup>26</sup> held that the constitutional rights of freedom of expression, assembly and association are not infringed by statutory ban on racially inflammatory statements. Other case law concerning the fundamental rights and freedoms provisions include Veitata v. R.<sup>27</sup> concerned the right to independent and unbiased court as provided in section 10 (1); Sundarjee Bros. v. Coulter<sup>28</sup> concerned the right to freedom of movement prescribed in section 14; Fiji Waterside Workers Union v. Reginam<sup>29</sup> also concerned the right to freedom of assembly and association as provided in section 13, as well as the right to freedom of expression provided in section 12.

### **1990 Constitution**

170. The 1990 Constitution continued the prohibition on discrimination established by the 1970 Constitution. The prohibited grounds were race, colour and place of origin. For the first time in Fiji, “sex” became a prohibited ground of discrimination, except in the following cases:

- (a) States of emergency;
- (b) Appropriation of taxes;
- (c) Appointment to public offices;
- (d) Exercise of judicial authority;
- (e) Laws in force before 23 September 1966;
- (f) Fijian regulations made under section 6 of the Fijian Affairs Act for the peace, order, welfare and good government of Fijians.

171. Section 18 precluded the equality provision of any law if its objective was to improve the conditions of disadvantaged individuals or groups, including those that are disadvantaged, inter alia, on the basis of race. Similarly, the fundamental rights provisions of the 1990 Constitution were rarely subject to litigation in a court of law. Section 156 of the 1990 Constitution attempted a rather cursory definition of the terms “Fijian”, “Rotuman” and “Indian”.

172. The court system under the 1990 Constitution was restructured to make the Supreme Court the final appellate court. In addition to this formal court restructuring, section 122 of the 1990 Constitution provided for the establishment of Fijian courts having such jurisdiction and powers as Parliament may provide. However, this was not implemented.

### **1997 Constitution**

173. The rights protected by the Bill of Rights chapter of the 1997 Constitution are:

- Personal liberty;
- Freedom from servitude and forced labour;

- Freedom from cruel or degrading treatment;
- Freedom from unreasonable searches and seizure;
- Arrested or detained persons;
- Rights of charged persons;
- Access to courts or tribunals;
- Freedom of expression;
- Freedom of assembly;
- Freedom of association;
- Labour relations;
- Freedom of movement;
- Religion and belief;
- Secret ballot;
- Privacy;
- Equality;
- Education;
- Protection against compulsory acquisition of property.

174. The equality provision in section 38 further expanded the prohibited grounds of discrimination to include ethnic origin and primary language (or mother tongue) in addition to race, ethnic origin, colour and place of origin. Therefore, today, discrimination on the grounds of race, ethnic origin, colour and place of origin is unlawful under the Constitution.

#### **Exceptions to the right to equality under the 1997 Constitution**

175. Whereas section 38 (2) enumerates the grounds on which discrimination is unlawful, there are exceptions to this right, i.e. where discrimination would not be unlawful, which are found in four subsections of section 38: s38 (2)(b); s38 (6); s38 (7) and s38 (9). Significantly, section 38 (9) provides for measures for the good governance of Fijians and Rotumans.

176. Section 38 (9) sanctions laws or administrative actions which limit the right to equality for the purpose of providing for the application of the customs of Fijians or Rotumans or of the Banaban community:

- (a) To the holding, use or transmission of, or to the distribution of the produce of, land or fishing rights;
- (b) To the entitlement of any person to any chiefly title or rank;
- (c) To imposing a restriction on the alienation of land or fishing rights held in accordance with Fijian, Rotuman or Banaban custom, or to permitting the temporary alienation of that land or those rights without the consent of the owners.

177. To the extent permitted by subsection (10), a law, or an administrative action taken under a law, may limit a right or freedom set out in this section for the purpose of providing for the governance of Fijians or Rotumans or of the Banaban community and of other persons living as members of a Fijian, Rotuman or Banaban community (emphasis added). Some commentators since the events of 19 May 2000 have described as sinister the inclusion of this exact provision in the Fundamental Rights and Freedoms Decree of 2000 promulgated by the Interim Military Government when in fact it was not a totally new provision, but a carbon copy of the provision in the Bill of Rights of the 1997 Constitution.

178. Section 38 (10) provides: “A limitation referred to in subsection (9) is valid only if it:

- (i) accords to every person to whom it applies the right to equality before the law without discrimination other than on the ground of race or ethnic origin; and
- (ii) does not infringe a right or freedom set out in any other section of this chapter.” (chapter IV - Bill of Rights).

179. It should be appreciated that Fiji has a written Constitution that echoes in its own words the spirit of the Convention on the Rights of the Child. Because racial discrimination is prohibited by the Constitution, no legislation or policy can co-exist with the prohibition, it being both the national policy and legislation on the Convention irrespective of the political party in power and so long as the particular Constitution provisions continue to be in force.

180. Insofar as Fiji’s accession to the Convention is clearly subject to the reservations and declarations already mentioned, the comprehensive fundamental rights guaranteed to the individual of any race by the Constitution must be read together with the reservations. Thus purely and simply, in the Fiji context the electoral, land and educational laws and systems of the country cannot be regarded as racially discriminatory or as having the effect of perpetuating racial discrimination. The Constitution itself contains provisions for the enforcement by the High Court of Fiji of the fundamental rights conferred upon the individual. The individual himself is given very firm stand to bring an action based even on a mere likely violation of any of the rights. Other legislation prohibiting discrimination includes:

- (a) Human Rights Commission Act No. 10 of 1999;

- (b) Ombudsman Act;
- (c) Public Order Act;
- (d) Penal Code;
- (e) Immigration Act;
- (f) Education Act.

### **The Human Rights Commission Act**

181. Under the Human Rights Commission Act discrimination is generally unlawful in employment, education, membership of employees' and employers' organizations and the provision of professional training and accreditation, goods, facilities, services, premises, housing and accommodation. The Act also makes unlawful "indirect discrimination" - that is a requirement or condition which is imposed equally on all racial groups, but which can be met by a much smaller proportion of people of one group compared with the proportion of people not of that group. The Act provides for enforcement through conciliation by the Commission or civil proceedings against persons or organizations.

### **Public Order Act 1969**

182. This enactment is aimed at the maintenance of public order. It also makes it an offence to "incite hatred or contempt of any class of person" or "hatred of any race or community".

### **Immigration Act 1971**

183. The principal consideration under this enactment is of course whether an individual is a citizen of Fiji. Apart from that, the statute prescribes a list of prohibited immigrants, in which racial considerations do not appear.

### **Education Act**

184. The Education (Establishment Registration of Schools) Regulations, promulgated under the Act, provide in regulation 9 that "... while a registered or recognized school may, when selecting pupils for admission give preference to pupils of a particular race or creed, no admission shall be denied solely on grounds of race or religion".

### **Penal Code**

185. The offence of sedition is defined in the Penal Code to include "... the issue or circulation of a seditious publication ... (appearing to have the object of promoting feelings of hostility between different or races of the community) ...".

## **Ombudsman Act 1998**

186. This enactment regulates the operations of the Ombudsman, which office is provided for in the 1997 Constitution (chapter IX of the 1970 Constitution and chapter X of the 1990 Constitution). The Ombudsman is authorized to investigate any action alleged or appearing to be in contravention of the fundamental rights and freedoms guaranteed to the individual under the Constitution. He may remedy any such complaint by recommending that further consideration be given regarding the subject of the complaint by those complained against or that the omission be rectified or the decision cancelled, reversed or varied or that that pertinent law be reconsidered.

### **C. The Fiji Human Rights Commission**

187. The Fiji Human Rights Commission was established in accordance with section 42 of the 1997 Constitution which tasks the Commission with educating the public about human rights and making recommendations to the Government about matters affecting compliance with human rights and other functions as Parliament decides.

188. Protection against racial discrimination is further addressed in the Human Rights Commission Act No. 10 of 1999,<sup>30</sup> which prohibits, inter alia, racial discrimination in certain areas of public life in section 17 (2).

189. The Commission is tasked with educating the public about human rights, investigating and resolving complaints of unfair discrimination as prohibited under its principal Act (No. 10 of 1999), and investigating allegations of violations of the Bill of Rights (chap. 4) of the 1997 Constitution. This makes discrimination unlawful in the following areas:

- (a) Employment;
- (b) Education;
- (c) Vocational training;
- (d) Professional partnerships;
- (e) Trade or vocational accreditation;
- (f) Membership of trade unions and employers' unions;
- (g) Housing and accommodation;
- (h) Provision of goods and services, including loans and insurance;
- (i) Access to public places.

190. The establishment and continued existence of the independent Commission is an indication of Fiji's commitment to the protection of international principles of human rights.

#### **D. The Ministry for Women and the Convention on the Elimination of All Forms of Discrimination against Women**

191. The Ministry for Women is responsible for the implementation of the Women's Plan of Action (1999-2008) which guides the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Fiji in 1995. The Ministry, in consultation with women's NGOs, wrote and presented Fiji's first periodic report on CEDAW in February 2002.

#### **E. The Coordinating Committee on Children and CRC**

192. The Coordinating Committee on Children is a Cabinet subcommittee formed in 1992 after Fiji ratified the Convention on the Rights of the Child (CRC). The Committee is comprised of line ministries responsible for implementing the obligations of the Government under CRC with NGOs carrying out work with regard to children. The Committee submitted Fiji's report on the implementation of CRC to the Committee on the Rights of the Child in 1996 and has formulated a plan for the active implementation of CRC to be included for the first time in the Government's Strategic Development Plan due to be launched later this year.

#### **F. The Office of the Ombudsman**

193. The Office of the Ombudsman has been established to investigate complaints against public officers alleging maladministration. The details of this function are contained in the report to the International Convention on the Elimination of all Forms of Racial Discrimination. The 1997 Constitution Amendment Act contains a number of new provisions relating to the Ombudsman, aimed at increasing the jurisdiction of the Ombudsman to include complaints against the Native Land Trust Board and the Banaban and Rotuma Island Councils, previously excluded under the 1990 Constitution. The 1997 Constitution also ensures that the Ombudsman, unlike the President, is appointed by the Constitutional Offices Commission, as provided under the 1990 Constitution and that the Ombudsman must retire upon reaching the age of 65 years. The Office of the Ombudsman is also affected by the freedom of information provision and the Code of Conduct provisions of the 1997 Constitution. In 1998, the Ombudsman's Act came into force, setting out how the Ombudsman is to conduct his investigations, granted him and his staff immunity and empowered the competent Minister to make regulations.

#### **G. The Ministry of Foreign Affairs and External Trade**

194. The Ministry of Foreign Affairs and External Trade is responsible for the ratification of treaties on behalf of the Government of Fiji and coordinates the preparation and presentation of Fiji's various periodic reports to the United Nations human rights treaty bodies.

### Notes

- <sup>1</sup> Boydell, S. (September 2001), "Land Tenure Conflict in the South Pacific", Consultancy Report prepared for the Food and Agricultural Organization (FAO) of the United Nations. Data prepared on 1993 land-use data and from the CIA (2000) CIA World Factbook 2000 - Country Listings [web site]. CIA [cited 22/04/01], available from <http://www.cia.gov/cia/publications/factbook/indexgeo.html>.
- <sup>2</sup> Derryck Scarr, "Cakobau and Maafu: Contenders for pre-eminence in Fiji", Pacific Islands Portraits (Canberra, Australian National University Press, 1970), p. 123.
- <sup>3</sup> Roy, W.T., 1977. "Britain in Fiji, 1875-1970: a case study of ends and means in colonial administration", Australian Journal of Politics and History 23 (December): 373-382.
- <sup>4</sup> Gillion, K.L., 1962. Fiji's Indian Migrants: A History to the End of Indenture in 1920. Melbourne: Oxford University Press, p. 190.
- <sup>5</sup> Prasad, Satendra, Dakuvula Jone, Snell Darryn. "Economic Development, Democracy and Ethnic Conflict in the Fiji Islands: Minority Rights Group and Citizens Constitutional Forum, November 2001, p. 3.
- <sup>6</sup> Sharma, Akhila Nand. "Positive Discrimination" in Fiji Coup, Crises and Reconciliation, 1987-1997, edited by Ganesh Chand and Vijay Naidu - Suva, Fiji: Fiji Institute of Applied Studies, 1997.
- <sup>7</sup> Norton, Robert, Race and Politics in Fiji (St. Lucia, University of Queensland Press, 1977), p. 27.
- <sup>8</sup> Boydell, S. (2000) Coups, Constitutions and Confusion in Fiji, Land Tenure Centre Newsletter 80 (Fall 2000): 2.
- <sup>9</sup> Ibid., 4.
- <sup>10</sup> Ibid., 4.
- <sup>11</sup> Ibid., 5.
- <sup>12</sup> Vasil, R.K. (1972), "Communalism and Constitution making in Fiji", in Pacific Affairs 45 (1 & 2): 21-41.
- <sup>13</sup> The Fijian Affairs Act; the Fijian Development Fund Act; the native Lands Act; the Rotuma Act; the Rotuma Lands Act; the Agricultural Landlord and Tenant Act; the Banaban Land Act; and the Banaban Settlement Act.
- <sup>14</sup> Reeves, P., Lal, B. and Vakatora, T. (1996), Towards a United Future: Report of the Fiji Constitution Review Commission. Suva: Fiji Government, Parliamentary Paper No. 34, 1996. Page 1.

<sup>15</sup> Section 30 of the 1970 Constitution; section 39 of the 1990 Constitution; and section 45 of the 1997 Constitution.

<sup>16</sup> This body existed under section 47 of the 1990 Constitution.

<sup>17</sup> GDP per capital is the value of final goods and services produced within a country, divided by its population.

<sup>18</sup> Indian Printing and Publishing Company v. Police (1932) 3 FLR 142.

<sup>19</sup> Mohammad Isaac v. Abdul Kadir (1962) 9 FLR 152.

<sup>20</sup> High Court of Fiji, judgement of 9 June 1988 (unreported).

<sup>21</sup> Rev Cas 6/1981 (unreported) (14 August 1981).

<sup>22</sup> E.g. Victor Jiwan Raju v. Reginam (1977) 23 FLR 1, p. 5.

<sup>23</sup> Ratified by the United Kingdom in 1969.

<sup>24</sup> See appendix 1, 1970 Constitution.

<sup>25</sup> (1977) 23 FLR 196.

<sup>26</sup> Supreme Court, 9 August 1977 (unreported).

<sup>27</sup> (1977) 23 FLR 294.

<sup>28</sup> (1987) 33 FLR 74.

<sup>29</sup> (1977) 23 FLR 196.

<sup>30</sup> See appendix 10.

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