



# FIJI HUMAN RIGHTS COMMISSION

GPO Private Mail Bag  
SUVA, FIJI ISLANDS

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## A Submission by Fiji Human Rights Commission to the:

## COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

FIJI  
JULY 2012

## **1.0 Introduction**

The Fiji Human Rights Commission makes its submission to the Committee on the Elimination of Racial Discrimination (CERD Committee) as established under Decree Number 11 of 2009 . This report has been prepared by the Staff of the Commission and is an independent one. The report has addressed certain recommendations of the CERD Committees Concluding Statement only. The information contained below is supplementary.

## **2.0 Mandate**

The powers and duties of the Commission are provided by Section 12 (1) (h) and (n) of the Human Rights Commission Decree which includes the duty-;

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

*(n) to take part in international meetings and other activities on human rights; and to co-operate with other national, regional and international human rights bodies.*

**3.0 Concerns and Recommendations of the CERD Committee on Fiji** as reflected in CERD/C/FJI/CO/17 (16 May 2008).

## **Reservations**

The Commission agrees with the Committee's recommendation to the State party to consider withdrawing its reservations and declarations in light of the development in international law with regard to indigenous peoples' rights. We do urge the State Party to consider the withdrawal of the reservations as it has remained in place since 1973. The removal of reservations would be in view of the/Commitments made by the State party to the Durban Declaration and Plan of Action as well as in line with the Policy Direction expressed in the People's Charter for Change, Peace & Progress.

## **4.0 Fiji Human Rights Commission**

We have noted from CERD: that the “Committee encouraged the State party to take all necessary steps to ensure the independence of its national human rights institutions, in accordance with the Paris Principles of 1993 (general assembly Resolution 48/134. Annex, of 20 December 1993).

### **Current Status**

The Fiji Human Rights Commission continues its work under the Human Rights Commission Decree 11 of 2009. On 18<sup>th</sup> November, 2009, the former Principal Legal Officer of the Commission, Mr. Golman was appointed by the Office of the Prime Minister as the Officer- In- Charge of the Commission. (in the absence of a Chairperson, Commissioners and a Director). All functions are being carried out in accordance with the Decree.

In late 2010, Mr. Golman resigned subsequently to take up further studies. On 4<sup>th</sup> November 2010, Mr. Mishra was appointed to the position of Officer- In- Charge. The work of the Commission was supported by the Staff including a Legal Officer. The Legal Officer resigned in October 2011 and an appointment is anticipated soon.

### **Staffing:**

The current staffing numbers for the Commission is as follows:

Finance:	2
Administration:	3
Complaints:	5
Legal:	1
Education:	2
IT Department:	2
Information Research:	1

With the current staffing structure and with resources available the current Staff are able to carry out the functions listed below as stipulated in the governing Decree:

Section 12 (1) (a) of the Decree is stated as:

*“to increase general awareness of human rights, including by making public statements and educating public opinion and public officials, coordinating human rights programs and acting as a source of human rights information”.*

- 1) The Education and Promotions Team has so far conducted (from January to end of June 2012) Human Rights training in 41 Schools covering a total of 21,636 students and 1,262 teachers. The training includes specific references to the rights enshrined in the Universal Declaration of Human Rights (UDHR) and also the United Nations Conventions namely CRC, CERD, Child abuse and the Child Protection Policy of the Ministry of Education, Fiji. Fact sheets have been produced for the public on the Convention on the rights of the Child and on the Convention on the Elimination of all Forms of Discrimination against Women. Other publications which are disseminated to the public include Posters and Annual Calendars.
- 2) The Commission has a Library equipped with a good collection of books. A section consisting of race relations books is also available, which was funded by the OHCHR in 2004/05. The Research section received a total of 71 requests this year from the public in the areas of Gay Rights, Gender Discrimination, Sexual harassment, Violence against Women, Child Rights and the proposed village by- laws.
- 3) The Complaints Section of the Commission conducted an Inspection of all Prison Facilities in Fiji in 2011 (under Monitoring Places of Detention) and has compiled a report. The report with recommendations has been submitted to all relevant stakeholders for their perusal. It is a fully independent report. The Report can be viewed on [www.fhrc.org.fj](http://www.fhrc.org.fj). Currently, the Section is also inspecting holding cells in Police Stations with a view to determine the provisions for Women detainees.
- 4) In the absence of a Legal Officer, complainants are advised to seek assistance from the legal Aid Commission or to other competent authorities (referred by way of writing). Complaints Section also conducts conciliation conferences with a view to resolve a complaint.

- 5) It would be worth to note that the Complaints Section was able to activate the relevant agencies in “Right to Housing” complaint in Vanua Levu whereby by 52 families were being evicted from the land on which they had built their homes by paying a minimal fee to Landowners. This complaint was also viewed as Unfair Discrimination on the basis of Race. The tenants were Fijians of Indian origin and had moved out from their sugar cane farms after the expiry of their land leases. By raising the complaint with the State authorities, Land authority and the Police and conducting site visits thereafter forwarding the investigations, the eviction was averted. We have been informed that the Land authority is in the process of finalising the allocation of the said plots.
- 6) **Inter- Agency Networks:** The Commission has been a member of the Coordinating Committee on Children, has contributed to the Universal Periodic Review- Fiji Report and is has also contributed to the CEDAW Consultations organised by the Ministry for Social Welfare and, Women and Poverty Alleviation meetings on the Concluding Observations on Fiji.

### **Summary of Statistics for Complaints /Legal**

2010 (January- December)	240
2011 (January –December)	250

Legal: 29 matters were taken to Court. These were largely on behalf of women in relation to Family Court matters.

### **5.0 Recommendation: 15 (CERD/C/FJI/CO/17**

“The Committee recommends that the State party adopt a comprehensive law on the elimination of racial discrimination, including regarding acts perpetrated by private persons, taking into consideration all elements of the Convention. Furthermore, the State party should expedite the review of its legislation so as to ensure full compliance with the Convention”.

We have noted from the State Report dated 10 February 2012 that while ‘there is yet to be specific race legislation or domestic law on racial discrimination per se, there are laws that prohibit discrimination on the grounds of race.

The State has been progressive in its efforts to cover race based discrimination in its domestic laws. The Human Rights Commission Decree does cover racial discrimination and other Domestic Laws which have covered CERD are the Executive Authority Decree number 2 of 2009, State Services Decree, Administration of Justice Decree, Employment Relations Promulgations 2007, Crimes Decree, National Employment Centre Decree, Media Decree, iTaukei Affairs Amendment Decree, and the Public Order Amendment Decree 2011. However, a law revision on these is necessary to meet all requirements under CERD.

#### 6.0 Recommendation 16:

“...the State Party take all necessary measures to ensure that the registration of ethnic identity in Fiji is made on the basis of self-identification, and that the operation of the present system does not lead to discriminatory treatment”.

The Commission notes that the Government has now put in place a name for all citizens living in Fiji as “Fijians”. The streamlining through the removal of race from all Government forms is a welcome move.

### **7.0 Conclusion**

- 1) That the State ensures that the Fiji Human Rights Commission be adequately resourced in accordance with the Paris Principles (General Assembly resolution 48/134, of 20<sup>th</sup> December 1993);
- 2) That the State amends its laws in full compliance of the Convention against the Elimination of Racial Discrimination;
- 3) That the State ensures that race based voting is eliminated from the new Constitution;

- 4) That the Commission welcomes the State Parties announcement and commitment towards a new Constitution for Fiji and requests the State to engage in a National Public Education Campaign to ensure that all citizens are fully aware of the new Constitution and its provisions once it is enacted; and
- 5) That the State addresses the issues raised by the NGO Coalition of Human Rights.



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Rajinesh Mishra

Officer- In- Charge