

## **RACIAL DISCRIMINATION IN FIJI**

SWASTIKA NARAYAN\*

### **INTRODUCTION**

This paper intends to explain the various forms in which racial discrimination has been evidenced in Fiji. To support the arguments, examples obtained from sources including newspaper articles, legislation and government websites will be used.

Article 1 of the *United Nations Convention on the Elimination of All Forms of Racial Discrimination* (CERD) defines racial discrimination as:

... any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.<sup>1</sup>

As this definition is widely accepted and because Fiji is a party to the CERD I explain my topic based on this definition.

Racial discrimination occurs in many ways in Fiji. This paper mainly focuses on racial discrimination in politics. However, some discourse seems to imply that if the discrimination in the political sphere is removed Fiji's race issues will be cured. This view is naïve. In order to contextualise the discussion, this paper will also briefly discuss discrimination in some other key areas: culture and education.

### **The history of ethnic tensions in Fiji**

Part of the difficulty in this area in Fiji comes from its history. Under British rule, Fiji experienced the *girmit* system, under which a large number of Indians were brought to Fiji to work on the farms. This history is at the root of ethnic tensions. At various times the indigenous Fijians have feared that Indians will have power over them, particularly as Indians outnumbered Fijians by 1946 and, in another 20 years time they were counted as the absolute majority.<sup>2</sup>

---

\* LLB Student, University of the South Pacific.

<sup>1</sup> *International Convention on the Elimination of All Forms of Racial Discrimination 1966* (CERD) (Entered into force 04 January 1969) PITS 2 <http://www.paclii.org>.

<sup>2</sup> Winifred Crum Ewing, Williem Adriaan Veenhoven, Stichting & Plurale Samenlevingen, *Case Studies on Human Rights and Fundamental Freedoms: A World Survey* (1975) [http://books.google.com.fj/books?id=3up\\_wO0Hzu8C&pg=PA198&lpg=PA198&dq=Fiji+Census+1946&source=web&ots=E9Mz3cbxPf&sig=lgg8bjaLYo6i2nL09BR6oQx Js&hl=en&sa=X&oi=book\\_result&resnum=8&ct=result#PPT1.M1](http://books.google.com.fj/books?id=3up_wO0Hzu8C&pg=PA198&lpg=PA198&dq=Fiji+Census+1946&source=web&ots=E9Mz3cbxPf&sig=lgg8bjaLYo6i2nL09BR6oQx Js&hl=en&sa=X&oi=book_result&resnum=8&ct=result#PPT1.M1) (Accessed 27 June 2008).

Independence was gained in 1970. The country was led into two coups in 1987 due to immense racial pressure, and fears that an Indo-Fijian dominated cabinet would be unable to respect indigenous Fijian interests.<sup>3</sup> This however, did not resolve the tensions amongst the ethnic groups eventually leading to the drafting of a racially biased *Constitution* in 1990.<sup>4</sup>

The 1990 *Constitution* was later amended as the *Constitution (Amendment) Act 1997* which attempted to balance the ethnic gaps. Part of the balance led to the reform of the Senate. This however, did not answer all the issues.

Despite the new Constitution instability continues to plague Fiji. An attempted coup, ostensibly to protect Fijian interests, occurred in May 2000 following the appointment of an ethnic Indian as Prime Minister, although it was later ruled by the High Court and Court of Appeal to be illegal. On 6 December 2006 the military again took control of the government.<sup>5</sup>

## **RACIAL DISCRIMINATION AT POLITICAL LEVEL**

The US Country Report Highlights of 2005 provides that the Indo-Fijians have been under-represented at all levels of government. This is evident from the 'Senate to the lowest ranking police constable or soldier'.<sup>6</sup> In this paper I only focus on two areas of possible discrimination, the composition of the Senate, which is made up of appointed rather than elected members, and the electoral process.

### **Senate**

Before 1966, all Fijian representatives in the Legislative Council were nominated by the Great Council of Chiefs, with European and Indian members being elected by separate (ethnically based) electoral rolls. In the 1970 (Independence) *Constitution* a Senate which comprised 22 members, of whom 8 were appointed on the advice of the Great Council of Chiefs, 7 were appointed on the advice of the Prime Minister, 6 were appointed on the advice of the Leader of the Opposition and 1 appointed on the advice of the Council of

---

<sup>3</sup> For the first 17 years Ratu Sir Kamisese Mara was Prime Minister and Fijians dominated in Parliament. This changed after the 1987 election, when Ratu Mara lost his position. Another Fijian, Timoci Bavadra was appointed Prime Minister. His cabinet contained fewer Fijians than Indians. This was seen to be threatening Fijian interests and on 14 May 1987 a military coup, led by Sitiveni Rabuka, successful overthrew the government. Power was given to the Governor General, Ratu Sir Penaia Ganilau, however when he tried to reinstate the 1970 *Constitution* a second coup, on 28 September 1987, was staged.

<sup>4</sup> 'In 1990 a new Constitution, which guaranteed Fijian dominance of Parliament was adopted. Fijians had the numerical majority in the House of Representatives. Senate was made up of 34 members, the majority of whom were appointed on advice of the Great Council of Chiefs... Chapter 3 required Parliament to enact laws to protect Fijian and Rotuman interests. Customary law was recognised to form part of Fiji's laws and Parliament was required to have regard to Fijian 'customs, traditions, usages, values and aspirations' in making new laws. (Anita Jowitt, *Oxford Encyclopedia of Legal History* (2008) (pending)).

<sup>5</sup> Anita Jowitt, above n 4.

<sup>6</sup> Fiji Labour Party, 'Us Report Highlights Racial Discrimination in Fiji' (2005) <http://www.flp.org.fj/n050302.htm> (Accessed 18 April 2008).

Rotuma, was created. Under the 1990 *Constitution* Fijian dominance of Senate was cemented. Under this *Constitution* Senate was made up of 34 members, of whom 24 were appointed on advice of the Great Council of Chiefs, 1 on advice of Rotuma Island Council, and 9 appointed by the President on own judgment, from other communities. Under the 1997 *Constitution* the Senate comprises 32 members, of which 14 are appointed on advice of the Great Council of Chiefs, 9 appointed on the advice of the Prime Minister, 8 appointed on the advice of the Leader of the Opposition, and one appointed on the advice of the Council of Rotuma.

The Senators nominated by Great Council of Chiefs represent the fourteen provinces that make up the Republic of the Fiji Islands and usually consist of high chiefs from the respective provinces. They are appointed to protect and safeguard the rights and interests of indigenous Fijians.<sup>7</sup> As with the 1970 *Constitution* there is no requirement that the other Senators that are appointed represent any particular ethnic background (although it can be assumed that the appointee of the Council of Rotuma will be Rotuman). Currently the support of only two additional Senators is needed to give indigenous Fijians effective control in the Senate.

Furthermore, the *Constitution* provides that 9 of the 14 “Great Council of Chiefs Senators” must support a Bill that alters or amends specific laws dealing with the administration of indigenous Fijian affairs before it can be enacted by Parliament.<sup>8</sup> Hence, in terms of any administrative decision-making in relation to Indigenous land issues or general affairs regarding the indigenous Fijians, this leaves the non-Indigenous representatives with no choice then to obey the decisions made.

### **The electoral system**

In addition, discrimination lies in the electoral system. According to Rev. Akuila Yabaki, ethnically based electoral system in Fiji is one of the major causes underlying racial discrimination in Fiji.<sup>9</sup> This is indicated by the existence of ethnic based constituencies, which have been a feature of Fiji’s legislature since colonial times. Prior to 1966, all elective seats in the Legislative Council were based on the ethnic allocation and were elected by voters from specific population groups. This system changed slightly in the 1966 *Constitution*, although ethnic candidates and rolls remained:

In 1904 the first partially elected legislative assembly was formed, consisting 10 officials, 6 elected European members and 2 appointed Fijians. In May 1929 provision was made for elected European and Indian members, with electors being divided into racial rolls. With some changes to the size of the legislature,

---

<sup>7</sup> Parliament of Fiji Islands, ‘Senate’ (2003) <http://www.parliament.gov.fj/mp/senate.aspx> (Accessed 29 June 2008).

<sup>8</sup> Sections 185 & 192 (4) *Constitution (Amendment) Act 1997* Fiji.

<sup>9</sup> Citizens’ Constitutional Forum Limited (CCF), ‘CERD Submission Highlights Race-Based Voting and Lack of National Identity as Major Problems of Racial Discrimination’ (2008) [http://www.ccf.org.fj/news\\_detail.php?news\\_id=77&PHPSESSID=1874354f38f7fd217a67e0e92a5bdc91](http://www.ccf.org.fj/news_detail.php?news_id=77&PHPSESSID=1874354f38f7fd217a67e0e92a5bdc91) (Accessed 18 April 2008).

this system continued until the 1960s, when the move towards independence gained momentum. Although Indian interests wanted universal suffrage and a common roll, the 1966 Constitution retained ethnic candidates and rolls, and instituted a complex system of cross-voting, in which all voters were registered on both ethnic and national rolls, with some candidates being elected by voters from their ethnic roll, and some being elected by the national roll.<sup>10</sup>

The 1970 Independence *Constitution* retained the ethnic rolls. Under this *Constitution* the House of Representatives comprised 22 Fijian, 22 Indian, and 8 “other races” members and the cross voting system developed in the 1966 *Constitution* was continued. The 1990 *Constitution*, developed following the 1987 coups, guaranteed Fijian dominance of Parliament. The House of Representatives was boosted to include 70 members, with 37 Fijian representatives, 27 Indian representatives, 1 Rotuman representative, and 5 “others” making up the lower house. There was a strict ethnic basis for electing all the members of Parliament.

The 1997 *Constitution* reduced the possibility of Fijian dominance of Parliament but retained the strict ethnic basis for electing the majority of the members of House of Representatives. The seat allocation now stands at 23 to indigenous Fijians, 19 to Indo-Fijians, 1 to Rotuman Islanders, and 3 to minority groups.<sup>11</sup> A further 25 are elected from an open roll in which people of all races vote.

The allocation of seats in the government has always been unequal. According to the 2007 demography report of Bureau of Statistics, the population of indigenous Fijians raised from 393,575 in 1996 to 473,983 in 2007, while the population for Indo-Fijians decreased from 338,818 to 311,591 and for other races it decreased from 42,684 to 42,326.<sup>12</sup> This ethnically based allocation of seats gives priority to the larger population. This allows indigenous Fijians, who are already the numerical majority, to have a majority say in the government, whilst other races remain under represented.

Moreover, the ethnically based voting system helps to maintain the continuing political instability in Fiji because of the division of seats along racial lines.<sup>13</sup> Rather than voting for candidates based upon their leadership qualities, the electoral system entrenches the focus on race, and the underlying notion that a person of a particular race will be biased towards his or her race, rather than concerned about the Republic of the Fiji Islands and all of its citizens as a whole.

---

<sup>10</sup> Anita Jowitt, above n 4.

<sup>11</sup> Wikipedia – The Free Encyclopedia, above n 3. S 51 *Constitution (Amendment) Act 1997* Fiji.

<sup>12</sup> Fiji Islands Bureau of Statistics Report, ‘Census 2007’ (2006)  
[http://www.statsfiji.gov.fj/Census2007/census07\\_index.htm](http://www.statsfiji.gov.fj/Census2007/census07_index.htm) (Accessed 29 June 2008).

<sup>13</sup> This is even seen in the administration of the 2006 national elections, where the supervisors at most of the polling stations were predominantly Indigenous Fijian civil servants. This gives an implication of a systemic ethnic bias. Fiji Non-Government Organisations, ‘Submission to the Committee on the Elimination of Racial Discrimination Concerning the Republic of the Fiji Islands’ (August 2007)  
<http://www2.ohchr.org/english/bodies/cerd/docs/ngos/ngosfiji72.pdf> (accessed 29 June 2008).

To ease this problem, an alternative method of voting was suggested which required that the ethnic constituencies be abolished and then replaced by “one man one vote” electoral system. The ethnically based voting system was described as one that was (at least perceived as being) biased towards the majority race which consequently stirred ethnic tension.<sup>14</sup> However, the “one man one vote” electoral system was undermined by the (now deposed) Prime Minister Laisenia Qarase, with the reason that introducing such an electoral system would be too early for the developing state of Fiji.<sup>15</sup>

## **OTHER UNDERLYING SOURCES OF GRIEVANCES**

Whether or not it is too early to change Fiji’s voting system, or restructure its Senate, it would be naïve to think that fixing up these issues will in themselves heal the ethnic tensions in Fiji. In this section some of these, very controversial, issues will be highlighted.

### **The land issue**

The ownership of the customary land is a crucial issue in Fiji currently. At present, the indigenous Fijians own 87% of land in Fiji, although it can be leased for a period of up to 99 years. All native land leases are managed by the Native Land Trust Board (NLTB) on behalf of the Fijian landowners.<sup>16</sup> A point to note is that all the members of the NLTB are indigenous Fijians.

As mentioned earlier, indentured labourers from India were brought by the British to work on farms. Most Indo-Fijian farmers, the descendants of the Indian farmers, remained tenants of Indigenous landowners.<sup>17</sup> Problems emerged in the late 1990s, as, en-masse, agricultural leases began to expire. Upon the expiry of leases of native land, many Indigenous land owners evicted the predominantly Indo-Fijian tenants from their land. Despite making lease payments and providing hard labour the farmers were denied the right to renewal of leases. It had an enormous effect on sugar cane farmers, forcing them to find places to live elsewhere. This led to a flooding of urban areas with squatter settlements, especially closer to Suva city. This is evident from the fact that from 1999 to 2004 about 5,545 leases expired affecting about 27,725 households.<sup>18</sup> Certainly, this affected indigenous Fijian families as well. However, while the indigenous Fijians had a choice of staying on the land if they complied with the *vanua* and *lotu* obligations, the Indo-Fijian families had to leave because that was the only option. Since 1999, no alternative lands have been acquired by the NLTB to assist the resettlement of Indo-Fijians.<sup>19</sup>

---

<sup>14</sup> Fiji Broadcasting Corporation, above n 6.

<sup>15</sup> Fiji Broadcasting Corporation, above n 6.

<sup>16</sup> Native Land Trust Board, ‘NLTB Property in Fiji: Secured, Protected and Great Value!’ <http://www.nltb.com.fj/> (Accessed 27 June 2008).

<sup>17</sup> Fiji Non-Government Organisations, above n 13.

<sup>18</sup> Fiji Non-Government Organisations, above n 13.

<sup>19</sup> Fiji Non-Government Organisations, above n 13.

More recently, there were controversies regarding the introduction of new bills by the Qarase-led Government: the *Qoliqoli* and Indigenous Tribunal bills. This would have affected all non-Indigenous citizens and residents, including Indo-Fijians, as these bills would have imposed many restrictions on non-indigenous people over the ownership and the use of lands and the sea in Fiji. These bills however, had enormous opposition,<sup>20</sup> and are currently not law.

Whilst land is a sensitive issue, and is seen as being a part of “indigeneity”, the displacements of citizens who have been in a country for generations is also a sensitive issue. Without honest discussion about the land issue tensions will remain.

### **Religious discrimination**

In Fiji religious freedom is protected and the state does not endorse religious discrimination. However, some criminal activity focuses specifically on non-Christian religions. It is evident from sources that religious attacks are made in Fiji, where temples and mosques are broken into. Apart from stealing money or offerings kept in the temples, religious idols have been broken and shattered into pieces.<sup>21</sup> This is certainly not only stealing but a means of “racial” attack.

Recently, the former Vice-President and Bau Chief, Ratu Joni Madraiwiwi, requested the Methodist Church of Fiji to respect the dignity of everyone in Fiji and emphasised that no person should be discriminated on the basis of their race, religion or skin colour.<sup>22</sup> However the attacks continue. Whilst they are not endorsed by the State, a state which wants to address ethnic tension needs to address the attacks on temples and mosques as being manifestations of ethnic tension.

### **Discrimination in relation to education scholarships**

An issue which is close to the hearts of university students, and is a significant source of grievances, is the allocation of scholarships for higher education. Access to education provides access to opportunities and positions of power, so discrimination in relation to the award of scholarships has considerable flow on effects.

Current government policies mostly give protection to indigenous Fijian interests. For instance, the Fijian Affairs Board (FAB) provides scholarships (known as FAB scholarships) to help students financially in their education. However, this scholarship is largely limited to indigenous Fijian students (Rotuman students of paternal lineage – not maternal - are also eligible). This is explained by one of the requirements for the application of the FAB Scholarships which states that the applicant must be a Fijian i.e.

---

<sup>20</sup> Fiji Non-Government Organisations, above n 13.

<sup>21</sup> Fiji Labour Party, ‘Attack on Temples Anger Hindus’ (2005) <http://www.flp.org.fj/n050414.htm> (Accessed 16 April 2008).

<sup>22</sup> Robert Matau, ‘Church Stays Out of Charter’ *The Fiji Times Online* (Suva, Fiji) 2 April 2008 <http://www.fijitimes.com/story.aspx?id=85337> (Accessed 16 April 2008).

registered in the Vola Ni Kawa Bula (VKB) or a Rotuman. Rotuman in this case must be an applicant of paternal lineage.<sup>23</sup>

The FAB is a legally recognised body in Fiji. It looks after the well-being of the Fijian people.<sup>24</sup> However, it breaches the right to equality. One of the justifications given by the government on such issue is that the average income of indigenous Fijians is below that of Indo-Fijians and other ethnic groups and so it is the Fijians who are disadvantaged.<sup>25</sup> However, statistics do not support this assumption. The Fiji Poverty Report 1997 indicates that ‘poverty is not concentrated in rural or urban areas nor in any ethnic group. It is an under-current in all communities in Fiji.’<sup>26</sup> The FAB scholarships certainly do not meet the legal standards that the *Constitution*, the *Human Rights Commission Act* and international law require.<sup>27</sup>

A specific emphasis may be made to the Bachelor of Laws (LLB) programme on this campus. Indigenous Fijian as well as Indo-Fijian students study the LLB. While quite a number of indigenous Fijian students are on FAB scholarships, Indo-Fijian students largely do the same courses with private funds. Certainly there are scholarships for providing support to Indo-Fijian students and others but they are only eligible if their parents’ annual income does not exceed FJ\$10,000. However, the scholarships for indigenous Fijians do not have any income limit. This also leads to the possibility of “elite capture”, whereby already wealthy indigenous Fijians “capture” the scholarships, whilst indigenous Fijians who would be unable to study without the provision of a scholarship, and maybe have better grades, may not be granted one.<sup>28</sup>

## **SOLVING THE PROBLEMS? THE AFFIRMATIVE ACTION PROGRAMME**

In accordance with s 44 of the 1997 *Constitution*, which requires that:

**44.**-(1) The Parliament must make provision for programs designed to achieve for all groups or categories of persons who are disadvantaged effective equality of access to:

- (a) education and training;
- (b) land and housing; and
- (c) participation in commerce and in all levels and branches of service of the State.

---

<sup>23</sup> Ministry of Fijian Affairs, ‘Criteria’ <http://www.fijianaffairs.gov.fj/FASUCriteria.html> (Accessed 27 June 2008).

<sup>24</sup> Section 4(4) *Fijian Affairs Act* [Cap 120] (Fiji).

<sup>25</sup> Fiji Human Rights Commission, *Report on Government’s Affirmative Action Programmes, 2020 Plan for Indigenous Fijians and Rotumans and the Blueprint* (2006) [http://www.humanrights.org.fj/pdf/AA\\_report.pdf](http://www.humanrights.org.fj/pdf/AA_report.pdf) (Accessed 18 April 2008).

<sup>26</sup> Margaret Chung, ‘The Fiji Poverty Report’ (1998) 13(2) *Pacific Economic Bulletin* 133, 135. See also Fiji Human Rights Commission, above n 25, 5, 45 - 48.

<sup>27</sup> Fiji Human Rights Commission, above n 25, 5.

<sup>28</sup> Fiji Human Rights Commission, above n 25, 88 - 89.

the *Social Justice Act 2001* was passed, and an affirmative action plan, the “2020 Plan” was developed. However, a review of the affirmative action plan carried out by the Fiji Human Rights Commission indicated that it was seriously flawed. The overall findings were that ‘[o]verall, but with some exceptions, the affirmative actions programmes put in place by the Government... do not comply with the Constitution. The Social Justice Act 2001 does not comply with the Constitution.’<sup>29</sup> Criticism of the programmes included:

The programme as a whole lacks a proportional balance between any disadvantage intended to be addressed and the measures taken to alleviate this disadvantage. Minor or even presumed but non-existent disparities between ethnic groups have been used to justify the complete exclusion of groups other than indigenous Fijians and Rotumans from the bulk of the programmes

The programmes fail to make provision for *all* who are disadvantaged. This is particularly so in relation to women, who are far more disadvantaged than men. Individual programmes are weighed so disproportionately against Indians, women and other disadvantaged groups as to undermine the legality of all the programmes based on ethnicity.

No programme accurately links its goals to the disadvantage borne by the target group that it is intended to overcome.

Few programmes identify any performance indicators and those that do have no historical component.<sup>30</sup>

The Human Rights Commission Report goes on to analyse each programme separately, but it is clear from this summary that the affirmative action programme in the “20/20 Plan” itself entrenched racial discrimination.

## CONCLUSION

This paper concludes with the fact that racial discrimination exists in Fiji in politics. However, even if discrimination within the Senate and the electoral system were remedied, there are a number of other areas in which racial discrimination exists. The supposed solution, the “20/20 Plan” is itself racially biased and therefore flawed. These other areas are more “personal”, affecting peoples’ day to day lives. Because of this they are, maybe, more significant in fuelling resentments. Unless these are addressed, racial tension will continue.

---

<sup>29</sup> Fiji Human Rights Commission, above n 25, 5.

<sup>30</sup> Fiji Human Rights Commission, above n 25, 5 – 6.