



## **SUBMISSION TO THE UNHCHR**

### **Study on “Lessons Learned and Challenges to achieve the implementation of the Rights of Indigenous Peoples to Education”**

#### ***Introduction***

Citizens’ Constitutional Forum Ltd (CCF) is a not for profit organization based in Suva, Fiji which advocates for the protection and promotion of human rights, the rule of law, and democracy. CCF’s vision is to achieve ‘*A nation in which all of Fiji’s people live together in equality, justice and peace, respecting the rule of law, under a Constitution that guarantees democracy and human rights*’.

CCF’s primary activities include:-

- Raising awareness of the Constitution, citizenship, and human rights issues through community workshops and other education programs (including school curriculums);
- Strengthening democratic institutions by advocating for good governance legislation and Constitutional change;
- Countering racism and promoting multiculturalism by making submissions and advocating for the implementation of recommendations on the CERD report and educating on cross-cultural awareness; and
- Facilitating dialogue on indigenous group rights, including land ownership and other resources through landowner and tenant community workshops and by advocating for reform of the Fijian administration.

On 26 November 2008, CCF received an email from the Expert Mechanism of the OHCHR to make submissions for the Study on Indigenous Peoples' Right to Education.

CCF is interested in reporting on other aspects of the Declaration on the Rights of Indigenous Peoples, as Fiji's political and cultural history presents unique challenges for implementation of the Declaration. We also look forward to receiving any reports by the UNHCHR on the issues raised in this submission.

We enclose our submissions on the relevant issues raised by the UNHCHR.

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## **1. Elaboration on the Human Rights based approach to Indigenous Education under relevant international instruments.**

- 1.1. The educational system in Fiji comprises of public and private schools (the classification as public or private reflects the amount of government funding received), with schooling compulsory for year levels 1 through to 8 (i.e. throughout primary school). Unfortunately there is no proper policing or enforcement of the requirement for compulsory schooling.
- 1.2. Many schools are identified with one of the 2 major ethnic groups (indigenous Fijian and Indo-Fijian) and/or a religious group. This means that the student body is mostly made of students from the identified ethnic group. This is now less common in Indo-Fijian schools.
- 1.3. The official languages for Fiji are English, Fijian and Hindustani pursuant to section 4 of the 1997 Fiji Constitution. The Fijian language and culture is taught throughout primary school, with an optional focus at high school.
- 1.4. There are a number of different dialects within Fiji which are learnt through non-formal education (usually in villages and local communities).
- 1.5. The Rotuman language and culture is taught in schools in Rotuma in order to preserve this as a distinctive language and culture within Fiji.
- 1.6. Statistics on the education system, including the ethnic composition of schools can be found in the Fiji Islands Education Commission *Learning Together* report of 2000.<sup>1</sup> This report identified a significant gap in academic performance between indigenous Fijian and other students.
- 1.7. CCF is concerned that indigenous peoples rights to education has not always been implemented in a human rights based approach and notes that:-
  - 1.7.1. Fiji has expressed reservations to the Convention on the Elimination of Racial Discrimination to enable it to maintain a largely segregated school structure;

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<sup>1</sup> Fiji Islands Education Commission/Panel (2000), *Learning Together: Directors for Education in the Fiji Islands*, Government Printer, Suva

- 1.7.2. Indigenous education should be balanced with the rights of minority ethnic groups by promoting multicultural awareness; and
- 1.7.3. Affirmative action programs have failed to address the poor academic performance of indigenous Fijian students and have created social division and resentment between the two major ethnic groups in Fiji.
- 1.8. Affirmative action programs have been established since 1987 for the benefit of indigenous Fijians, but these programs have been widely criticised as being applied in a way which is racist and ineffective.<sup>2</sup>
- 1.9. The 1997 Constitution provides for “*affirmative action and social justice programs to secure effective equality of access to opportunities, amenities or services for the Fijian and Rotuman people... and for all disadvantaged citizens or groups*”. CCF believes that such programs have been applied in a manner inconsistent with the Constitution and in a way that promotes racial segregation and division rather than benefiting disadvantaged persons in society.
- 1.10. Affirmative action programs were suspended by the interim government following the coup on 5 December 2006 for these reasons.
- 1.11. We acknowledge that affirmative action programs are required to ensure equality of access to education for disadvantaged people (whether indigenous Fijians or other groups in society), however in the past these programs have been mismanaged to the extent that they have been ineffective. This issue is discussed in further detail below.

## **2. Good Examples and Lessons Learned in implementing Rights of Indigenous Peoples to Education.**

- 2.1. The 1997 Fiji Constitution provides for every person to have the right to basic education and equal access to educational institutions (s39(1)). There are, however practical difficulties in implementing this right particularly for people who live in rural areas, which are largely comprised of indigenous Fijians.
- 2.2. Primary school education is free in Fiji, however parents are required to pay for school books and contribute to building funds to assist with school resources. Usually the Government allocates and funds teachers

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<sup>2</sup> See NGO Submission to the Committee on the Elimination of Racial Discrimination concerning the Republic of the Fiji Islands (2007), endorsed by CCF

for the schools, and may provide some other limited resources. The remaining materials are funded by the school community.

- 2.3. Section 39(2) of the 1997 Constitution ensures that indigenous Fijians as a community group have the right to establish and maintain places of education and manage them, consistent with Article 14(1) of the Declaration on the Rights of Indigenous Peoples.
- 2.4. There is a high level of community participation in schools, with committees and religious organisations controlling most of the schools in Fiji. The government only controls 2 out of 715 primary schools, and 12 out of 154 secondary schools.<sup>3</sup> Many of the remaining schools are controlled by various religious organisations, and parent teacher associations or committees.
- 2.5. CCF is not aware of any comprehensive statistics on the number of indigenous Fijian schools. The name of the school will often indicate whether it can be identified with the indigenous Fijian community. This identification usually means the school's management committee is dominated by indigenous Fijian members and that the school culture is dominated by the religious and other traditions of that group. This also often means that the student body is largely indigenous Fijian, although these schools are becoming more ethnically diverse to reflect the changes in demographics.
- 2.6. The People's Charter recommends that the ethnic identities in school names should be removed. CCF notes that the identification of schools can have historical or cultural importance. Promoting multiculturalism and human rights, and encouraging further integration of ethnic groups at schools is likely to be more effective at addressing concerns about the racial division in schools than changing school names.
- 2.7. Only recently has Hindustani been taught in indigenous Fijian schools. A trial program was introduced to Class 5 in the second term for 2008 known as "Conversational Fijian and/or Conversational Hindi". Under this program all education workers will undergo the same language learning that has been implemented for students. The program included language and basic culture studies for Fijian and Hindi and is designed to promote a multicultural and peaceful lifestyle in Fiji.
- 2.8. The interim government has also sought to encourage multicultural awareness by facilitating integrated schools and by sending Indo Fijian

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<sup>3</sup> Fiji Islands Education Commission/Panel (2000), *Learning Together: Directors for Education in the Fiji Islands*, Government Printer, Suva, pp27-28

teachers to traditionally Fijian schools and vice versa. CCF considers that this is a human rights based approach to indigenous education that does not diminish the rights of minorities.

- 2.9. CCF is currently working with the Ministry of Education in a consultation process to develop a program that addresses citizenship issues in the school curriculum, thereby promoting multiculturalism and a common national identity. This program is still in the early stages of development. This program is designed to assist with the recognition and distinction of group rights (for indigenous Fijians – which includes land ownership and the Fijian administration) and individual rights (for all Fijian citizens) under the Fiji Constitution.

### **3. Challenges to achieve the implementation of the Rights of Indigenous Peoples to Education.**

- 3.1. With approximately 30% of the population living below the poverty line, the cost of sending children to school can often be prohibitive. This cost is higher for rural families, as children may be required to travel long distances or attend boarding school to receive an education.
- 3.2. Whilst the first 8 years of schooling are compulsory, some students drop out before this. Of the 21,910 students who enrolled in Class 1 in 1988, only 18,318 (or 84%) were enrolled in Class 8.<sup>4</sup> Only 67% of indigenous students continued beyond Class 8 (to Form 3) and nearly half the indigenous Fijian students entering Class 1 in 1988 dropped out of school before they reached Form 5 (for ages 15-16) in 1998.<sup>5</sup> The statistics in the Education Commission Report show that the drop out rate for indigenous Fijians is higher than for other ethnic groups.
- 3.3. The high drop out rate is a factor which contributes to increased poverty and poor socio-economic development.
- 3.4. In the mid 1970's, the government reserved 50% of tertiary scholarships for indigenous Fijians. This program has achieved disappointing results with only 39% of the indigenous Fijian students who received scholarships between 1984 and 1999 completing their graduation.<sup>6</sup> A non indigenous Fijian student may be eligible for a scholarship if annual family income is less than \$10,000 (FJD), however there is no income

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<sup>4</sup> Fiji Islands Education Commission/Panel (2000), *Learning Together: Directors for Education in the Fiji Islands*, Government Printer, Suva, p30

<sup>5</sup> As above

<sup>6</sup> Fiji Islands Education Commission/Panel (2000), *Learning Together: Directors for Education in the Fiji Islands*, Government Printer, Suva, p200

limit or means test applied to indigenous Fijian students. The 2000 Education Commission report recommended that a means test be introduced for indigenous Fijian scholarships, but this has not been implemented to date.

- 3.5. In order to encourage indigenous Fijian students to obtain tertiary education, lower university entrance scores are required for these students. A study from the University of the South Pacific<sup>7</sup> found that lower university entrances scores contributed directly to poor performance of students at university. This paper suggested that there needs to be a focus on improving the quality of subject passes if indigenous Fijian students are to succeed at university.
- 3.6. Some reasons which have been identified as contributing factors to the education imbalance of indigenous Fijians and drop out rates are:-
  - 3.6.1. Rural poverty;
  - 3.6.2. Geographical spread and isolation of rural indigenous Fijians;
  - 3.6.3. Student weariness due to daily long distance travel (some students are required to walk more than an hour to and from school each day due to infrastructure and transport problems);
  - 3.6.4. Home conditions not conducive to study;
  - 3.6.5. Family pressures;
  - 3.6.6. Lack of parental guidance and support;
  - 3.6.7. Violence in schools (i.e. some students will refuse to attend school if a teacher subjects them to corporal punishment);
  - 3.6.8. School admission policies;
  - 3.6.9. Peer pressure;
  - 3.6.10. Influence of the church (i.e. there is pressure on families to spend more money on church related activities than education);
  - 3.6.11. Lack of political and economic security in Fiji;
  - 3.6.12. Lack of strong leadership: and
  - 3.6.13. Lack of resources.<sup>8</sup>

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<sup>7</sup> Narsey W, (1995), "Fijian Academic Performance at the USP: Where are the Problems?", unpublished paper

<sup>8</sup> Fiji Islands Education Commission/Panel (2000), *Learning Together: Directors for Education in the Fiji Islands*, Government Printer, Suva, p182; and Lasaqa I, (1984), *The Fijian People Before and After Independence: 1959-1977*, ANU Press, Canberra, pp 86-7

- 3.7. The Education Commission Report of 2000 found that indigenous Fijian families tend to give greater priority than others to social, cultural and religious responsibilities, which is often at the cost of educational needs.<sup>9</sup> The People's Charter suggested a focus on strengthening technical and vocational skills to help improve the educational levels attained by Fiji's youth. This type of education may assist in improving the levels of education for indigenous Fijians, and equip them with the necessary life skills to improve socio-economic development.
- 3.8. Fijian economist and professor at University of the South Pacific, Wadan Narsey, has noted that "indigenous Fijian students are often expected to have a wider focus on sports, culture, dance and song (which turns them into well-rounded persons) while indo-Fijian students are preoccupied with academic success, to the detriment of other important objectives in life".<sup>10</sup> A study by Narsey in 1995 showed that indigenous Fijian students performed much better academically in multiethnic schools. Even prominent and well resourced indigenous Fijian schools which attracted the best indigenous Fijian students showed disappointing academic performance. These statistics support the proposal to have greater incentives for multiethnic schools.
- 3.9. CCF is concerned that the Declaration of the Rights of Indigenous Peoples has been misapplied in Fiji to support the racist policies of previous governments. The compact to the Fiji Constitution recognises the "paramountcy" of indigenous Fijian interests, which rather than promoting equal opportunities for all, has been used to promote racial superiority by successive Fijian governments.
- 3.10. The Constitution also provides for affirmative action programs to assist the most disadvantaged groups in society. In practice, this has been used to promote indigenous Fijian interests in a discriminatory way (race based application irrespective of means).
- 3.11. Poverty in Fiji affects not only indigenous Fijians, but many minority groups such as indo-Fijians, Chinese, and Melonesian peoples. As at 2007, 12.5% of the population of Fiji were living in over 182 squatter settlements across the country, with projected growth likely to increase as more land leases are expected to expire in coming years.<sup>11</sup> Statistics show that there are more indo-Fijians in squatter settlements than

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<sup>10</sup> Narsey W, (2002), *Fijian Education: The Good News*, Fiji Times, September 10

<sup>11</sup> Kevin J. Barr, *Squatters in Fiji: The need for attitudinal change*, CCF Housing and Social Exclusion Policy Dialogue Paper, No. 1, 2007

indigenous Fijians,<sup>12</sup> which is a reflection that these other minority groups have limited access to land, and have a history of being relocation dating back to colonial times when foreign labourers were introduced to Fiji.

- 3.12. Recently, the failure of successive governments to address expiring long term land leases has meant that many of these minority groups have been left homeless after leases expire.
- 3.13. One controversial affirmative action program that was introduced in 2005 provided free scholarships to all indigenous Fijian students in Form 7 for 2005, regardless of parental income. The Fiji Teachers Union and other NGO's (including CCF) opposed this. The program was discriminatory on the grounds that assistance was provided on race rather than means. Further, despite the fact that nearly 40% of indigenous Fijian students attended indo-Fijian schools,<sup>13</sup> scholarships were only given to those students attending indigenous Fijian schools. This program promoted racial segregation.
- 3.14. In mid 2006, the Fiji Human Rights Commission reported that affirmative action programs amounted to unfair discrimination and was therefore unconstitutional. There have also been reports of misuse of funds provided under these programs. A local newspaper reported that more than half of the \$2 million FJD allocated was allegedly misused.<sup>14</sup> The Auditor-General's report in 2005 identified problems such as excessive labour payments, failure to keep proper records, and wrongly authorise payments.<sup>15</sup>
- 3.15. Since the coup in December 2006, all affirmative action programs have been suspended.
- 3.16. The Convention on the Rights of the Child requires that education be directed to ensuring all children develop abilities to their fullest potential and respect for human rights and fundamental freedoms.
- 3.17. Currently, the education system in Fiji has not effectively addressed issues such as the racial divide, gender equality, peace, tolerance and

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<sup>12</sup> Kevin J. Barr, *Squatters in Fiji: The need for attitudinal change*, CCF Housing and Social Exclusion Policy Dialogue Paper, No. 1, 2007, p7

<sup>13</sup> Fiji Islands Education Commission/Panel (2000), *Learning Together: Directors for Education in the Fiji Islands*, Government Printer, Suva

<sup>14</sup> Wilson C, "\$1M Lost in School Plan", *Fiji Sun*, 6 December, p1

<sup>15</sup> Auditor-General of Fiji, (2005) *Special Investigations Report of the Auditor General of the Republic of Fiji Islands*, November 2005, Section 02

friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.

- 3.18. The People's Charter has recommended that a common national identity and cultural awareness be promoted through education in order to address some of the issues which have led to a coup culture and racial division within Fiji. It is not yet clear how or when these recommendations will be implemented by the government.

#### **4. Key Proposals to achieve the implementation of the Rights of Indigenous Peoples to Education.**

- 4.1. CCF acknowledges that there are clearly problems with indigenous Fijians performance in school and tertiary education and access to equal education resources. Affirmative action programs need to identify genuine needs (of all ethnic groups) and be monitored regularly. Programs need to be directed at improving academic performance and reducing the drop out rate of indigenous Fijian students.
- 4.2. Indigenous Fijian students perform better in multi-ethnic schools. If scholarship programs were means tested and equal university entrance requirements were applied, this is likely to encourage better university results. This would have the added advantage of promoting multiculturalism and racial harmony.
- 4.3. CCF makes the following recommendations for the implementation of the rights of indigenous peoples to education:-
  - 4.3.1. That a more integrated approach be taken which equally respects the rights of minority ethnic groups in Fiji.
  - 4.3.2. That the education of indigenous rights include the education on other human rights, including multiculturalism and gender equality.
  - 4.3.3. That affirmative action programs should be means based, and that the processes and procedures for designing, implementing, monitoring these programs should be effective, transparent and accountable.
  - 4.3.4. That multiethnic schools be actively encouraged and supported with appropriate funding due to their better performance rates for indigenous Fijian students.

- 4.3.5. That application forms for schools should not require students to disclose racial background – this leads to segregated schools and encourages racial discrimination. For statistical purposes, identification as indigenous Fijian should be an optional question on enrolment.
- 4.3.6. That the government develop a system that encourages and support indigenous students that excel in education (and to discourage discontinuance of studies early) that is effective and non-discriminatory.
- 4.3.7. That the government address the funding gap which exists between rural and urban schools to ensure that all Fijians have equal access to all levels and forms of education.
- 4.4. CCF does not believe that implementing these objectives would have a detrimental effect on indigenous rights to education in Fiji provided that changes are implemented in consultation with the broader community and involving all ethnic groups.