

Strengthening Democratic Institutions and Implementing 1997 Constitutional Provisions

REPORT OF ACTIVITIES 1999

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1.0 OVERVIEW: A NEW ERA IN FIJI POLITICS

In 1999, Fiji experienced a historic transformation. It conducted its first general elections under a new constitution approved in 1997. This general elections held under an entirely new voting arrangement powered a coalition government comprising of the Fiji Labour Party (FLP), the Fijian Association Party (FAP) and the Party of National Unity (PANU) – the first multiracial government in Fiji's history. But this transformation also happened because the 1997 Constitution made a decisive commitment to promote multi-party government.

Fiji's transformation however has not been without problems. Many questions were raised about the new electoral arrangements, and parties such as the Soqosoqo Ni Vakavulewa Ni Taukei (SVT) felt cheated as they would have won twice as many seats under the 'first past the post' system which was rejected during the constitution review process. Segments of its indigenous population have rejected the 1997 Constitution and have taken various actions to undermine the government and the constitution.

Besides issues relating to the legitimacy of the constitution and government, other areas of concern remain. These include the fact that the 1997 constitution is not yet fully implemented. Its commitment to social justice, and the development of policies aimed at reducing the disparities between ethnic groups is yet to be implemented. The provision for a Freedom of Information and Leadership Code have not yet been approved. The implementation and public understanding about human rights and bill of rights remain weak. In these and many other ways the democratic institutions and processes remain highly vulnerable. The CCF programmes were committed to improving the sustainability of democratic institutions and processes by reducing their vulnerabilities in a number of ways. The programmes through which these were approached are summarized in this report.

2.0 INTRODUCTION

2.1 REPORT PERIOD

This report is for the period 1st January to 31st December, 1999.

2.2 PROGRAMME LOCATION

Suva, Lautoka, Labasa and regional centres of the Fiji Islands.

2.3 PROGRAMME PARTNERS

International: Conciliation Resources (London)
Minority Rights Group (London)

National: Office of the Supervisor of Election s Government of Fiji NGO Coalition on Human Rights Community groups

2.4 BACKGROUND

Exactly ten years after the 1987 coups, the new constitution was introduced. This step towards the restoration of a democratic and more representative government was a historic and momentous moment for Fiji. This signed document by the leaders of Fiji's ethnically based political parties and their supporters marked the end of an era of division, uncertainty and conflict.

In 1993 Fiji's Parliament approved the terms of reference for a review of the 1990 Constitution. In 1995 the Government of Fiji set up a commission to review the Constitution and to make recommendations to promote racial harmony and national unity and the economic and social advancement of all communities and bearing in mind internationally recognised principles and standards of individual and group rights. Even before the appointment of the Commission, a number of academics, religious leaders, and NGO representatives had decided to form an informal network to promote public debate on the future constitutional settlement. The failings of the 1990 Constitution, even regarding the welfare of indigenous people, had become obvious. These independent efforts crystalized into the Citizens' Constitutional Forum (CCF) in 1991.

In 1997 Fiji adopted a new Constitution which has two principal aims: (a) to provide a basis for ethnic co-operation and national unity; and (b) to enhance democracy, accountability, and the promotion of human rights. One of the steps, which was undertaken in the spirit to achieve that goal, was the 1999 General Elections under entirely new electoral arrangements.

This first election after the introduction of a new constitution was held in May 1999 under a preferential voting system where 25 of the 71 elected Members of Parliament were elected in "open" (non-ethnic) seats. The election results gave a landslide victory to the Fiji Labour Party (FLP). While any election results could be open to interpretations, one particular conclusion drawn by many is that the result amounted to a rejection of the two major political parties who had entered into a spirit of compromise and consensus to bring about the adoption of 1997 Constitution. Both Soqosoqo Ni Vakavulewa Ni Taukei (SVT) and the National Federation Party (NFP), suffered heavy losses. The National Federation Party won no seats at all. It lost Indian support for having entered into a coalition with SVT, an ethnic Fijian party, which was led by Sitiveni Rabuka. This is an indication that the racial divide, which surfaced in the military coup of 1987, is still deeply felt and acute.

The Labour party came into power under in coalition with the Fijian Association Party (FAP) and the Party of National Unity (PANU).VLV became a part of this government under the multi-party provisions of the constitution.

3.0 PROGRAMME OBJECTIVES

While it is clear that the new government is willing to abide by the rules of the new constitution, it was also realised that this is not the same as implementing the provisions of the new constitution. The activities of CCF were based on the assumption that these objectives cannot be achieved in the absence of strong pressures, and assistance, from civil society, as political parties have limited stake in them and after do not fully appreciate the substance of specific constitutional provisions.

These activities focused on three key areas:

- (a) the development of multiculturalism to enhance understanding of and respect for all cultures as a basis for inter-ethnic co-operation;
- (b) the promotion of human rights; and
- (c) the strengthening of democratic institutions.

The aims of the activities were to create conditions for sustaining democracy and the protection of rights in Fiji. The country opted for these objectives when the 1997 Constitution was adopted. It set up a new model of democracy in multi ethnic societies, providing for co-operation rather than competition between ethnic communities. Thus the principal objective of CCF was to ensure the success of the Constitution as a framework for national and inter-ethnic politics, the exercise of democratic rights, the accountability of government, and securing social justice and other rights.

The CCF was also committed to promoting the integrity of the 1997 constitution by making efforts to educate citizens, political parties and national leaders about the spirit and intent of constitutional provisions. It also promoted understanding about specific and general constitutional principles and mechanisms. It especially tried to focus public attention on ways in which both groups and individual rights were protected under specific provisions and assist groups and communities to think about ways in which the full potential of the constitution can be realised.

The specific programme activites are described in the sections that follow

4.0 PROGRAMME ACTIVITIES

4. 1 VOTER EDUCATION

In the lead to the 1999 General Elections, there was a great need for voter education. Even with the ads in the television, newspapers and workshops held by the Elections Office, it was felt that more work still needed to be done especially in rural and village areas. The CCF held approximately 50 workshops

around Viti Levu and Vanua Levu. This does not count those workshops held with families and friends or those who took the materials and held workshops themselves. Materials such as a voter education kit, posters in Fijian, English and Hindi and pamphlets were used in the workshops and later distributed to the participants. Work under this programme involved:

- Consultations about design and development of the voter education materials with the office of the Supervisor of Elections, political parties and others
- Design and printing of voter education material
- Wide public distribution of voter education material, especially in areas outside of the capital, Suva
- Development and trial voter education voter education workshops
- Planning of voter education workshop
- Voter education workshop throughout the country
- Evaluation of voter education workshops and resource materials

The responses from the participants who attended the workshops were very good. Very positive responses were also received from political parties, especially new candidates.

While the workshops stopped after the elections, plans are underway to discuss the possibility of CCF working with Elections Office in holding voter education workshops during the years before the next general election and in by-elections that may arise. These plans also included refining the education materials and having a team of people across the country who are capable of conducting these workshops at short notice.

4.2 CODE OF CONDUCT FOR LEADERS

Following the election, fresh submission was made to the government on the Code of Conduct for Leaders. This submission was well received by the government and a new bill to give effect to this is being drafted presently.

4.3 FREEDOM OF INFORMATION

Following the elections CCF made a detailed submission on the Freedom of Information Bill. A new bill is presently drafted.

4.4 NGO COALITION ON HUMAN RIGHTS

The NGO Coalition on Human Rights carried on the work of raising public awareness on human rights issues. After the exhibition held at YWCA hall to mark the 50th Anniversary of the Declaration of Human Rights, another one day exhibition was held at Raiwaqa Park with the Women's Action for Change staging a play in the afternoon.

On June 5th, Rev. Akuila Yabaki was elected unopposed as the new chairperson of the Coalition, Mr Miles Young (Fiji Young Lawyer's Association) as the

secretary and Mr Aisake Casimira (Fiji Council of Churches) as the treasurer. The secretariat for the NGO Coalition was to be located at the CCF office. A new term of reference was made for the year and it was decided that plans for the next year was to be a continuation of human rights awareness work.

As part of this work, it was decided that one of the areas that the Coalition should really look at is the question of 'What is Human Rights?' in our social and cultural context. A group discussion was held on 13th August to discuss this issue with Professor Yash Ghai. A public seminar on this issue will be held in the year 2000.

As part of the Human Rights Day (10th December), the NGO Coalition organised a press conference at the Greenpeace Pacific office in Suva, a march from the Suva Flea Market to Sukuna Park, followed by a rally. The theme for this day was 'Human Rights for All'. Approximately 50 people braved the rain to attend the rally.

As the Chair of the NGO coalition, the CCF has to keep a watch on human rights questions and issues in the country and draw attention of communities and the Human Rights Commission to possible human rights breaches, as well as making observations about the enforcement difficulties. These will be summarized in a state of human rights in Fiji's report.

4.5 NEW EXECUTIVE DIRECTOR: REV. AKUILA YABAKI

Rev. Akuila Yabaki joined CCF in May 1999 as the new Executive Director and Coordinator for the Multiculturalism program. He is the first full time program coordinator. Since he joined, CCF has undertaken a number of projects.

4.6 ELECTIONS WATCH: A CITIZENS' REVIEW OF THE 1999 GENERAL ELECTIONS: CONFERENCE AND WORKSHOP

This workshop was organised by the CCF, the School of Social and Economic Development (USP) and by the Friedrich Ebert Stiftung (FES). It was held from the 17th- 18th of July at the Marine Studies, Lower Campus, and University of the South Pacific (USP).

The workshop was opened by the Deputy Prime Minister and Minister for Foreign Affairs, Hon. Prof. Tupeni Baba. Approximately 80 people turned up for the conference on 17th July and 30 people attended the workshop on 18th July. The purpose of this conference/ workshop was to evaluate the electoral voting system (Alternative vote) and the processes before and during the elections. Topics discussed were preferential voting, political party strategies, voter education, voter understandings, electoral constituencies – analyzing boundary issues and outcomes in communal and open seats; electoral administration, coalition building, candidate selection, party manifestos, the multi-party system, vote counting and the use of media. The first day was made up of five panels with an

average of 3 people per panel. Panelists came from various backgrounds such as political parties, party candidates, the Elections Office, and academics from USP and overseas.

At the end of the workshop there was a consensus that the political situation had changed for the better due to the constitutional revision. This was credited to the democratic way in which the Constitution was revised and is reflected by the respect shown to it by all parties. The fact that a further extension of open seat voting was discussed as a serious option is a demonstration of how far the political situation has improved.

There remained some issues that still needed to be addressed before the next general election. These included issues such as the potentially dangerous disproportional results in terms of party representation, even for minority parties with substantial electoral support (e.g. no seats for the NFP) produced by the Alternative Vote. The Electoral Office was too understaffed and too under resourced to carry out its twin roles of raising public awareness of the electoral system and the general supervision of the election administration; and local electoral administrators not having sufficient training in order to count the votes efficiently and correctly.

Recommendations and observations were discussed in detail and a smaller workshop was held on the 18th of July. This workshop was resourced by Professor Nigel Roberts of Victoria University and Mr Paul Wilder of the Electoral Reform Society (UK).

A report was prepared and some of the specific concerns raised were further discussed at the annual seminar. Specific concerns requiring regulatory charges were submitted to the government.

4.7 MULTICULTURALISM

CCF held discussions with a cross-cultural and cultural diversity consultant and trainer who has offered to run workshops to train trainers in Cross-cultural facilitation. There were concerns of which target groups this workshop will be useful for and at what level.

The Multiculturalism booklet was delayed by the fact that all writers were busy at work (except for Sr. Bertha who has handed in her chapter on religion). Thus it was decided that a new set of writers would be asked to take over. Suggestions were also made that the writers work in collaboration with the Multicultural Network members who came from diverse backgrounds and experience in multiculturalism. This booklet is intended to become a key education text.

CCF has entered into conversation with South Pacific Recordings (SPR) Video in regards to a production of a 30 minute multicultural awareness programme for local consumption through Fiji TV and videos. The cost is excessively higher than this figure but it will be a project held in partnership with business firms and CCF

is presently seeking co-financing from them. Discussions and consultations on the actual nature of this programme were held.

CCF also assisted in the publication of a background paper by Professor Jagdish Gundara of London University on Multiculturalism through the School of Social and Economic Development (SSED) at the University of the South Pacific (USP). Auditing of its reports on previous multiculturalism workshops was completed. They will be printed as part of CCF's submission to the Education Commission set up by the Government of Fiji.

The CCF also commenced work on a major policy paper on ways in which multiculturalism can be strengthened through the education system. Jone Dakuvula was contracted under the NZODA funds to develop this work from November. The policy paper will become a part of CCF's submission to the Education Commission.

4.8 MINORITY RIGHTS AND DEVELOPMENT IN FIJI

This project was developed out of consultations at the Minority Rights and Development-Partners workshop held in Nepal (14-17th April, 1999). As a result of follow up consultations with the secretariat of the Citizens Constitutional Forum and further dialogue between the CCF and the Minority Rights Group (International) based in London.

The 1997 constitution adopts several inter-related provisions for dealing with minority rights questions and issues. These provisions open up possibilities for dealing with long standing minority group interests. However, these measures need to be translated into administrative policy and be backed by resources. A research group coordinated by Dr Satendra Prasad and supported by Jone Dakuvula conducted research on these issues for 11 months to contribute to the development of such an administrative policy to improve the position of minorities in Fiji.

4.9 COMMUNITIES AND DEVELOPMENT WORKSHOP

A minority issues workshop was held on 2nd December at the Sugar Cane Growers Council in Lautoka. This consultation included leaders from minority groups such as Rabi Islanders, Solomon Islanders, and also representatives from a number of Indians and Fijians groups. The objective of the workshop was to examine and understand how minority rights are secured constitutionally in Fiji by interpreting their policy implications; to understand how constitutional provisions can and should be applied to defining and responding to minority questions in Fiji; to develop a consensus among minority groups in Fiji about practical and sustainable interventions to redress social, economic and political disadvantages faced by them; to assess how different minority groups have been affected by the developmental process politically, culturally and economically and to understand the links between the protection and advancement of group rights and

developmental strategies. The Minister for Multi-Ethnic Affairs and Regional Development opened this workshop and a number of government representatives were present at this workshop. Recommendations arising from this workshop were incorporated into a report on minority rights issues drafted by Dr. Satendra Prasad, and in a memo on implementation of Social Justice provisions prepared for the Cabinet.

4.10 NEWSLETTER

Helen Tavola and Samantha Magick produced the first CCF newsletter called Tutaka (Loosely translated in Fijian means to stand up and be counted with conviction). This was distributed at CCF conferences and posted to overseas and local supporters of CCF.

The second newsletter was published in November before the Minority Rights workshop. This has now become a regular CCF publication.

4.11 FIJI EAST TIMOR ACTION GROUP

When reports on the atrocities in East Timor began to filter in, concerned organisations decided to form a group in support of East Timor. CCF is one of the core group members. The group has done a number of things. At the start of the campaign, a press conference was held where Shamima Ali (FWCC), Rev. Akuila Yabaki (CCF) and Lopeti Senituli (PCRC) released individual organisations pledges of support. Petitions were given out and over 300 signatures collected that were later sent to the South Pacific Forum meeting in Palau in October. An exhibition and rally was held in Sukuna Park to kick off the East Timor Appeal campaign. As of yet, approximately, \$1500.00 has been collected which will be sent to East Timor. The fundraising continued with public education materials such as pamphlets still being handed out, selling of Support East Timor T-shirts, and East Timor Appeal boxes placed around major public places. A film night was held on 7th December and T-shirts were sold by different organisations in the Downtown Boulevard in Suva. The fundraising ended on 10th December with a statement of the amount of money raised and that this money would go in a fund for the children of East Timor.

4.12 SECOND INAUGURAL CONSTITUTION MATTERS SEMINAR

The second inaugural Constitution Matters Seminar was held at the University of the South Pacific. Following the concept of this annual seminar that convened in 1998, this one focused on an aspect of the Constitution also, the Voting System. The main paper presented was titled 'Towards a More Representative Electoral System' by Fr David Arms. His paper demonstrated how the present Alternative Vote system has yielded results that were highly disproportional to the true levels of support of Fiji's various political parties. In response, Mr Tomasi Vakatora, member of the Reeves Commission, felt that the Alternative vote system had done well enough and that despite its shortcomings, when compared to the rest of the voting systems, it was the best for the Fiji in its present situation. The other

respondent, Dr Satendra Prasad, agreed with Fr Arms assessment and felt in the long run, it was important to move towards increasing the number of open seats. The seminar was attended by approximately 30 people.

4.13 CONFERENCE ON CONSTITUTIONAL LITIGATION AND BILL OF RIGHTS (15th – 16th October, 1999)

The Institute of Justice and Applied Legal Studies (IJALS) of the USP and the Citizens' Constitutional Forum organised this meeting to enhance public understanding of the Constitution and to recommend steps towards implementation. The conference on constitutional litigation and the Bill of Rights explored the role of courts in the enforcement of the Constitution, in particular provisions that establish and protect human rights.

The Chief Justice of Fiji Islands, Sir Timoci Tuivaga, opened the conference and emphasized the importance of judicial independence. The keynote address was given by the Minister of Justice, Mr Anand Singh, who examined approaches to the interpretation of the Constitution. Sir John Muria, the Chief Justice of Solomon Islands, discussed the difficult task that judges face when confronted with controversial political disputes, drawing his illustrations from his own country and Vanuatu. He said that judges could not avoid this task if the rule of law was to be maintained. The conference examined various rights and freedoms guaranteed in the Bill of Rights, from both Fiji and regional perspectives, and those of international instruments.

Various proposals were made to strengthen the legal enforcement of the constitution and the protection of rights. These included adequate funding and resources for all arms of the judicial system including the DPP's office, further training for the judiciary, state officials and the legal profession, the ratification by Fiji of key international human rights treaties, establishment of a documentation centre, and a review by the Human Rights Commission or the Law Reform Commission of all laws which are inconsistent with the Constitution.

4.14 WORKSHOP ON SOCIAL JUSTICE (9th August, 1999)

The Prime Minister, Hon. Mr Mahendra Chaudhry, opened the workshop on Social Justice to discuss the social justice provisions of the constitution and the methods of implementation of programmes authorized by Section 38 of the Constitution. This was a follow up of the Social Justice workshop held on 9th August, at the FTU Hall. This workshop agreed to a plan of action to see the implementation of the legislation and programmes identified.

Social justice provisions require that affirmative action be taken to assist disadvantaged groups so that they have access to basic human needs, in the areas of land, housing and education. They also require that all communities be fairly represented in state services and in the commerce sector. Unlike previous

systems of affirmative action, the system under the Constitution must be transparent, clearly targeted towards communities or groups most in need of services, with mechanisms for monitoring and reviewing the success of the objectives of the Constitution. The workshop made a number of proposals to the government on the implementation of social justice, including a process for wide consultation with the public and with all political parties. The proper implementation of social justice, which was fair to all communities and groups, is fundamental to the success of the Constitution and its goals of political stability and ethnic harmony. The workshop discussed issues relating to land, commerce, education and state services that need to be addressed at the national level. The government was urged to begin the process soon, since the Constitution requires legislation for social justice to be in place by July next year.

The participants included members of the judiciary, government officials, members of the legal profession; the Ombudsman's Office, the Human Rights Commission and non-governmental organisations. The conference and the workshop were greatly assisted in their deliberations by resource persons from the region and overseas. There were several participants from the region, including Vanuatu, Solomon Islands, Samoa and Tahiti. This participation reflects the growing regional dimension of the activities of the CCF. There was a particular interest in the experiences of South Africa, especially as some provisions of the Fiji Constitution were inspired by the South African constitution. Overseas resource persons included Professor Karthy Govender from South Africa, Dr Rajeev Dhavan from India, Dr. Patricia Hyndman and Mr Murray Hunt from the UK, Mr Tasi Malifa from the USP Law School in Port Vila, and Ms Jill Cottrell and Professor Yash Ghai from Hong Kong.

The workshop was co-financed by the UK Department for International Development (DFID), the British Embassy as well as Interchurch Organisation for Development Cooperation (ICCO) and Council for World Mission (CWM).

Following the workshops, the following actions were taken:

- i.) Dr Satendra Prasad and Professor Yash Ghai prepared a detailed brief for the Government on Social Justice legislation.
- ii.) The Government set up a high powered team to develop legislation and programmes on it. CCF is represented on this team through its Executive Director.
- iii.) Professor Yash Ghai was contacted by the Government to provide more detailed input for programme development.
- iv.) Dr Prasad made further reports via the Public Service Commission for development of programmes in state services, employment and training.

4.15 CCF / AMNESTY INTERNATIONAL MISSION TO SOLOMON ISLANDS

Rev Akuila Yabaki was part of a two member Amnesty International mission to the Solomon Islands following civil unrest. His work on this mission included making contacts with leaders of all groups involved in the conflict, documenting human rights violations and promoting consensus building. On return to Fiji, Rev Yabaki briefed the Foreign Affairs Ministry and the Police Department of Fiji. CCF continues to monitor the peace building process in the Solomon Islands.

4.16 OTHER

CCF continued to make progress through informal means. These have included informal discussions with leaders, parliamentarians, government officials and NGOs. CCF members are involved in a number of other agencies. Claire Slatter has been appointed to the National Womens' Advisory Team Committee to advice the government on a whole range of gender issues. Dr Satendra Prasad and Jane Ricketts were appointed to the Public Service Commission through which they continue to make further input into good governance issues. Rev Yabaki is closely involved with the Methodist Church nationally and has continued to contribute to state and religion questions via that. Dr Naidu is the member of the Electoral Commission and during the year made considerable input to ensure that the elections were fairly and properly held. Professor Subramani was appointed to the Education Commission. Those exemplify the many ways in which CCF is able to contribute to good governance and sustainable democratization in Fiji.

5.0 EVALUATION

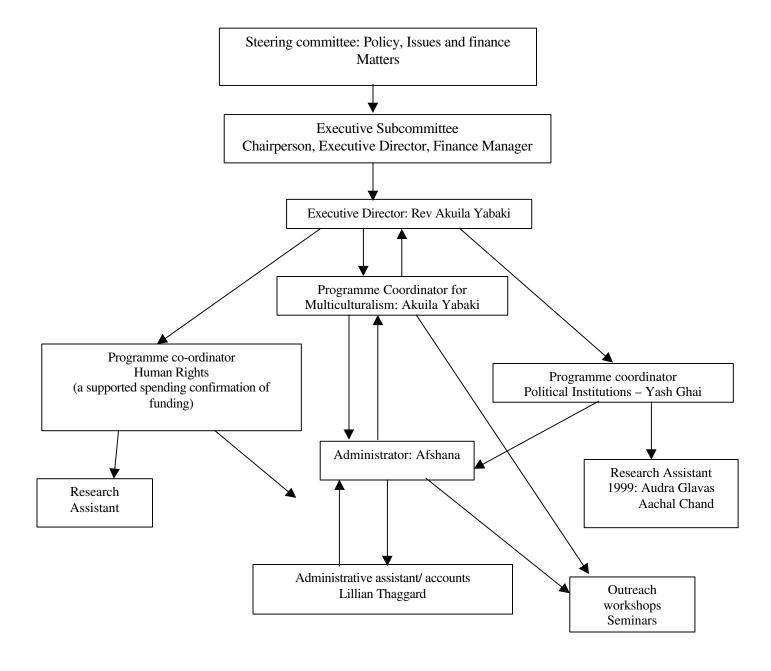
Andy Carl, Co-Director and Founder of Conciliation Resources, came to Fiji for a week in June. Andy and Lillian revamped the accounts and a half-day workshop by the CCF secretariat was held to discuss the future activities of CCF. Arising form these consultations the CCF proposed to:

- meet with the new Government politicians and key govt officials whose positions in Govt have a bearing on our CCF work.
- For a regular newsletter to be sent out to CCF members, funding donors and friends with voluntary contribution to the cost. Helen Tavola and Samantha Magick offered to do this.
- producing a report on CCF programmes to date. Margaret Chung, a consultant to UNDP was requested to develop this.
- A CCF be developed. The site address for this is: http://www.hku/law/ccf
- It was decided that CCF expand its work to cover the region
- The CCF has held discussions with NGOs involved in democratic capacity building in Bourganville Tonga and Samoa.

The role of Conciliation Resources (CR) was also clarified. CR would work with CCF in the capacity of:

- a day to day `on call ' basis through Email
- support for on-site training and help
- the partnership goes beyond funding assistance as its about international partnership in thinking about issues of common concerns
- EU proposal to be completed
- Report to donors to be completed

A new structure for CCF was decided on which is shown graphically below.



6.0 DONORS

A number of donors helped CCF in their work this year. The CCF is grateful to:

- EMW
- CWM
- MRDF
- ICCO
- DFID
- British High Commission
- Australian High Commission
- FES
- Canada Fund
- NZODA

7.0 FINANCIAL STATEMENTS

(Please see attached documents)

8.0 ABOUT CCF STAFF

Rev Akuila Yabaki - Executive Director

Akuila joined the CCF in May, 1999. He has been part of CCF since its inception but has been based in Methodist Church, London, for the last eight years as its World Secretary for Asia and the Pacific. He was the past Director of the Citizenship and Social Services in Methodist Church in Fiji. He was also the Communications Secretary, and the Editor of Bilingual *NaDomudra*. Between 1980 and 1990 he was the Secretary for Justice and Peace at the Pacific Conference of Churches in Fiji. In the UK he has been the focal person of the *Pacific Forum* of the Council of Churches in Britain and Ireland, the President of the Pacific Island Society of UK and Ireland. He has been closely involved in human rights work in the Asia-Pacific Region particularly with reference to the Church.

Professor Vijay Naidu - Chair

Dr Naidu is a founding member of the CCF and Professor of Development Studies at the University of the South Pacific (USP).

Lillian Thaggard

Lillian is the finance officer on a part time basis.

Afshana Ali

Afshana is the Administrator of the CCF. She holds a MA in Development Studies from the University of the South Pacific and has been a full time staff at CCF since 1998.