



TUTAKA

STANDING IN SOLIDARITY एकता

The Quarterly Newsletter of the Citizens' Constitutional Forum Ltd - CCF

FORCING LEGITIMACY

Logic would have it that the electoral voter registration should come after the constitution which would set out to achieve the conditions for a representative Parliament.

Instead, here we have a situation where the whole scenario is that of a cart before the horse!

In fact Elections 2014 has already begun now that the electoral voter registration has reached the third round and while the nation awaits the final constitution, which is being penned by the state hand-picked legal team, electoral voter registration continues and has reached 530,000 citizens on the roll.

Now into July 2013, the country, beside the international community with their respective heads of foreign missions, still wait at tip toe to see the final result. But, serious questions remain on the transparency in the registration process which is now an international requirement setting the foundations for a truly free and fair election.

It's therefore pertinent that the distinctions between election observation, election monitoring and election supervision are clearly agreed by everyone involved including voters, political parties, government officials and international missions who have expressed willingness to be involved.

The mandate of election observers is to gather information and make an informed judgement without interfering in the process. The mandate of election monitors

is to observe the electoral process and to intervene if laws are being violated. The mandate of election supervisors is to certify the validity of the electoral process.

So far the process has been imperfect and the issue on everyone's plate is that of LEGITIMACY. Constitutional LEGITIMACY and the ELECTION INTEGRITY. Following the purported abrogation of the 1997 constitution in April 2009, the making of yet another constitution was always thought to be an uphill battle.

Following the ditching of the peoples draft constitution, authored by the Yash Ghai-led commission based on the over 7000 submissions received, there was widespread disappointment as a Government owned Draft Constitution (GDC) was announced and distributed in March 2013 followed by a month of rushed consultation headed by Attorney General.

CCF continues to stress the need for the appointment of independent persons and groups to establish and commence the monitoring and observation processes leading to the planned elections next year.

By: Rev Akuila Yabaki



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EDITOR'S NOTE

As the country looks forward to Elections now set for September 2014 there are serious questions asked about the way government is going about the preparation.

Although It is reported that 532,000 members of the public have registered themselves and everyone equipped with a Voter Identification Card is ready to join queue towards voting booths all over Fiji, the actual form and method of voting is still unclear and people are waiting to know just how their voting right is going to be utilized. What is much more an overriding concern is where government is at with its own government planned constitution superimposed over the People's Draft Constitution last November? All these are rather unhealthy signs of unstable leadership breeding lack of confidence amongst many members of the public.

Readers will note in this issue a CCF a letter to Frank Bainimarama in May 2013 urging the setting up of an independent Reference Group. This is in keeping with CCF 's option for critical engagement with the Bainimarama government in an effort to maintain involvement in the constitutional and electoral process abiding by the principles of people's participation an essential requirement in constitution making in the 21st century.

CCF Peoples Charter states, "our people wait for leaders with minds and hearts that are large enough for this urgent undertaking". Youth participation is not an additional extra but central to this undertaking.

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OPEN LETTER TO THE PRIME MINISTER



TOWARDS SUSTAINABLE CONSTITUTIONAL DEMOCRACY

Commodore Voreqe Bainimarama
Prime Minister of Fiji
Government Buildings
Suva.

May 24, 2013

Dear Prime Minister,

**REFERENCE GROUP ON GOVERNMENT DRAFT
CONSTITUTION (GDC) 2013**

I hereby submit a request that your government now set up a Reference Group to help restore integrity and constitutional drafting proficiency in the final phase of the constitution process.

The Citizens Constitutional Forum recommends that an Independent Reference Group of constitutional experts, academics, private sector and representatives from citizenry be appointed to look into the 1093 submissions received on the Government draft Constitution.

This group is solely to provide technical assistance and expertise in finalizing the document in view of addressing the detail of language, format and constitutional drafting insight and ensuring transparency in the process that will allow the government through the legal drafters to be held accountable to the people of Fiji. I sincerely submit this as helpful way forward in the current final phase of constitution making.

Yours sincerely,

Akuila Yabaki
CEO, CCF
cc AiyazKhayyum, Attorney General

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PRESS RELEASE

Restore Integrity in Final Phase

"Government must walk the talk on "transparency and accountability" in the final phase of the constitution-making process to garner citizens confidence.

CCF recommends firstly that all submissions, petitions and Position papers received during this period be made public as required under the Fiji Constitution (Constitution Commission Decree) which required the commission to make the submissions received accessible to the public for scrutiny.

CCF also recommends that an Independent Reference Group of constitutional experts, academics, private sector and representatives from citizenry be appointed to look into the submissions received on the GDC and provide assistance in finalizing the document to ensure transparency in the process and that the legal drafters are held accountable to the people of Fiji.

It is also vital to make public the mechanisms, methodology, and or other processes which are being used to analyze the submissions, petitions and position papers received, particularly highlighting the major concerns received from the people of Fiji on the GDC.

With revelations by the Prime Minister that the final constitution is expected by mid June, CCF also calls on the Bainimarama government to permanently repeal section 8 of the Public Order Amendment Decree, which is expected to be re-instated once the constitution is finalized.

CCF believes that both the State and civil society must engage more constructively in dialogue and through the open forums and debates that will likely emerge over the next 14 months addressing issues of serious contentions.

CCF also calls on the Bainimarama government to adhere to universal best practices and set up an interim administration by April 2014, six months before the planned elections in September to provide the final phases of the ever changing democratization process some legitimacy.

Finally, CCF reiterates that given that the agenda for the democratization process has shifted many times, the State, members of the international community and the citizens must recognize that this final phase of drafting the constitution is critical as it will determine how we approach the elections initially but more importantly how it will shape the state of governance post September, 2014.



FREE AND FAIR ELECTIONS

The processes for Free and Fair elections are based on the universal values of democracy, respect for human rights, the rule of law, and the supremacy of the constitution in the political arrangements.

Elections can either advance democracy, development, human rights and security, or undermine them. For this reason, promoting and protecting the integrity of elections is critically important. Only through credible elections can they legitimize governments, as well as effectively safeguard citizens to exercise their political rights.

For Free and Fair Elections :

1. The constitution is the supreme law of the land. It sets the tone, the spirit and the framework from which all other laws and the form of government draws its LEGITIMACY.
2. The constitution must allow for all Fijian citizens to participate freely and equally in DEMOCRATIC ELECTIONS. All subsequent electoral laws are obliged to reflect this.
3. The Universal Declaration of Human Rights and the conventions that protect group rights and freedoms must prevail in any democratic elections. These FREEDOMS and responsibilities must be safeguarded in the constitution.

These fundamental rights include freedom of opinion and speech, assembly, association and movement and quite importantly our right and responsibility as citizens of Fiji to participate in government.
4. All laws and regulations made for running elections need to stick to the principles of good governance. The language should be worded as simply, accurately and focused on promoting PARTICIPATION AND COMPLIANCE.
5. ELECTORAL INTEGRITY is about Independence of the electoral institutions. Appointments of Electoral Office holders must be through an Independent appointing body that guarantees the separation of powers between the Executive, Legislature and the Judiciary.
6. For an INDEPENDENT process it is important to set up pre-election observations, election observation missions (EOMs) and special advisory missions at all phases of democratic elections.
7. Any Independent Electoral WATCHDOG ROLE must be guided by the 2012 UN "Declaration of the Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations and Code of Conduct for Non-Partisan Citizen Election observers and Monitors." (Non-Partisan means any entity or group that hold a neutral position)
8. Ongoing DIALOGUE AND CONSULTATION between the policy-making bodies, the electoral management body (EMB) and all political players can help build a transparent electoral administration and a framework that is acceptable to all in democratic elections.
9. Citizen-led and State-driven Public-friendly CIVIC EDUCATION programs informing all on electoral systems and processes must be encouraged as an important part of democratic elections.
10. Transparency, Accountability, Participatory and Inclusivity are the key GOOD GOVERNANCE guiding values for democratic elections.

Article 21 of the Universal Declaration of Human Rights States:
'Everyone has the Right to Democracy'

Everyone has the right to take part in the government of his or her country, directly or through freely chosen representatives.
Everyone has the right of equal access to public service in his or her country.

The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.



Law of Armed Conflict

There are laws to govern collateral damage but history has seen the increase in civilian casualty during armed conflict.

It was a surprisingly thought provoking one-week training course at the Vatuwaqa officers training Academy facilitated by the International Committee of the Red Cross (ICRC) that saw the attendance of key military personnel and representatives from civil society organizations.

The legal arm of the Republic of the Fiji Military forces (RFMF) hosted this training course and extended a special invite to interest groups outside of the security forces. Therefore, the Citizens' Constitutional Forum, Fiji Women's Rights Movement and Fiji Red Cross attended with great enthusiasm to learn the thoughts of personnel being deployed overseas to armed conflict situations.

This was seen as a positive step from security forces and CSOs in terms of sensitizing each stakeholder about their roles and maximizing the feedback where uncertainty existed. This course allowed an understanding of how missions are being planned and implemented by the forces in combat.

The most interesting information session conveyed the importance of understanding legal instruments to guide operations during peacekeeping missions overseas. It was heard that universal declaration of human rights (UDHR) were equally important to apply, however, it was restricted only in terms of detainees and prisoner of war situations.

The criterium to differentiate between national and international armed conflict was essential to control what and how legal instruments were to be interpreted before, during and after mission objectives are to be enforced.

Extreme international incidents of armed conflict such as Afghanistan, Syria, Congo and Israel saw the application of The International Humanitarian Law (IHL) and additional protocol tools for during mitigation incidents. There are laws to govern collateral damage but history has seen the increase in civilian casualty during armed conflict.

There are obvious factors such as technology development and improved premeditated methods of engagement. The best chance of reducing innocent lives lost in combat is seen to be through vigorous training of deployed troops, about the rules of engagement and how to react during severe conflict. Vigorous training are defined as both physical scenario and theoretical instructions.

Organizations such as the ICRC are essential to communicate their roles clearly to civilians, combatants and national gatekeepers so that there is humanitarian support for victims of armed conflicts.

Following the one-week education it is clear that any planning schemes and implementation of missions are systematic and guided by the highest authorities. It is through a legal framework that will see any form of appeal in the mitigation process to be legitimate and used to be taken forward.

Regardless of being a civilian, combatant, national/international agency with various objectives – the legal framework of conflict should continue to guard and protect human life. The IHL and its protocols must not only be seen as practical on paper but should continue to be sensitized to all stakeholders – especially where Fijian soldiers are deployed to conflict situations.

By: Sina Mario



Youth



Leadership Challenges

“Being the Head Boy of a multicultural Muslim based school requires me to challenge myself daily to become a better, more understanding person in order to fulfill my duty as a young leader.”

Those are the sentiments of 19 year old Osea Banuve, Head Boy of Ahmadiyya Muslim College in Nasinu who was one of the 31 participants at the Citizens’ Constitutional Forum’s two day “Youth Leadership Forum” which was held at the John Wesley College in Raiwaqa in May.

Banuve says he jumped to the opportunity to attend such a forum with other school leaders from the Central/Eastern Division. He says the two days of intense discussions has enabled him to conjure up more courage to deal with issues head on, as the major problems facing young adults and the nation, is the lack of understanding and acceptance of other religions, cultures and beliefs. According to Banuve, if the young leaders do not take a strong and informed approach, the country would remain in chaos.

“It is through such training workshops that these differences would no longer be an issue and we as young leaders, through our personal efforts can take these difference out of our daily lives. We need to put an end to our problems with new kinds of thinking and its time we move on as a nation through better understanding and respect,” say Banuve.

17 year old Miriam Naco, Deputy Head Girl of Gospel High School shared similar sentiments. Miriam says previously she only had surface knowledge of issues such as Human

Rights, Good Governance and Multiculturalism but the workshop has really opened her eyes as a young leader who her peers look up to.

Miriam says “Race and religion still play a big role in why we all cannot live together without conflict. It is because people do not understand is why people don’t accept each other and often people mock others because they belong to a different race or religion, simply due to ignorance.”

“Such workshops help us to better understand why some people do not want to accept differences. We can collectively make a difference. It is about leading by example and that’s what I intend to do to help our country move forward towards

CCF’s School Leadership Forum aims to empower high school students with leadership capacities. The topics discussed ranged from Human rights, good governance, multiculturalism, citizenship, leadership and peace building. The students are also empowered with basic theater tools that they can use for advocacy purpose and each group performed their own creative piece on a leadership campaign. Similar workshops were undertaken in the West and in the Northern divisions.

By: Roneel Lal





facebook FIJ

Social Media

Facebook helps you connect with the people in your life.



Opinion

By now about 200,000 people are on facebook in Fiji. That's a very narrow space of freedom of expression and opinion.

It is a virtual world where the good, the bad and the ugly lurk with the very flexible restraint of facebook policies and your friend's discretion to report/block should you cross their line.

A glance at the thriving facebook chat forums will note the following active fb discussion sites - Citizens' Constitutional Forum, Letters to the Editor Uncensored, Friends of Fiji Media, Fiji Economic Forum, Kacivaka na Dina, Fiji Womens Crisis Centre, Fiji Womens Rights Movement, Fiji Pre-election, and a string of others with closed and open privacy settings. Sitting on top of the pile is the Citizens' Constitutional Forum at 2,800 plus friends with LEU at second and the numbers increasing daily.

Everyone, friends and foe alike are on facebook, the Attorney General, the Prime Minister, Akuila Yabaki, Virisila Buadromo and even Rajendra Chaudhary share this very awkward but virtual space where friends and mutual friends exchange views, posts and opinions and pictures and videos where even in a Board meeting your android smart phone will post a message by one of your

1,000 friends who has just has sneezed or taken a picture of his/her lunch half way across the world or if your workmate just poked you from the next room.

The Yash Ghai led Constitution Commission even had their facebook page.

A glance at the discussions should strike fear with any media person in Fiji . The newspaper and TV deals with non-controversial news and leave many questions begging. These questions, of course, get asked and generate a whirlwind of e-conversations that are unbridled, uncensored, unrestrained and sometimes careless.

Reporters have been known to find news from the FB pages after some member has posted a story with pics and then you find a frenzy of red-faced reporters arriving at events late and embarrassed and very often unprepared. When the Burebasaga team led by Ro Teimumu Kepa made their submission to the Government draft constitution, facebook broke the news with pics. When a Sports commentator resigned facebook broke the story 3

"By giving people the power to share, we're making t

890,057 population (2012) - Country Area: 18,274 sq km
247,275 Internet users as of June 30, 2012,
Population over 15+ 501,000 Economically Active population 297,700
181,880 Facebook users on Sept 30/12, 15-35 years 300,000

Email



*Fiji. That means that about 1 in 5 Fijians have access to a
nion.*

days earlier. When the torture video came to view facebook again took the lead. Even when the buses burnt fb was first to out the fire. Sackings, resignations and appointments and even documents took flight on facebook before mainstream news caught up as reporters meandered away on human interest assignments on cannibalism, folklore and mythology.

I can imagine a reporters day would be "check facebook", look at my story list and trash that cause it won't fly.... and yes follow up on this cause the editor and the house lawyer will can it!" "Oh and back to facebook again....how can I report that termination/resignation?" "But I have to verify it with ... oh no minus it.....!" These are what a lawyer would call reasonable assumptions.

Facebook pages have no rating or warning firewalling any key words or pics and brutal and violent videos get posted freely which then make their way to mobile phones and tweets and tablets and before you know it the whole country knows what you did. People are known to have been questioned by the authorities for their posts and

some facing the full brunt of the law.

With the upcoming elections, political party dinosaurs who have resisted the facebook will change.

A quick glance at the stats will tell you that Fiji's facebook numbers have barely peaked and 12 months from now this will change, this and a lot of things will change. Newspapers will give way perhaps? I say they will, as have most newspapers around the world have found they will be relegated to irrelevance if the reporters choose to remain as reporters and never gravitate to Journalists. And I mean true blue journalists who understand and embrace their higher calling as the fourth estate, taking on the voices of truth and justice, holding the citizens and the State accountable.

As elections draw closer, mainstream media may be competing with social media and we all know who will be the clear winner. And then how do you regulate the beast?

By: Rodney Yee

making the world more transparent"...Mark Zuckerberg

Education

152 entries received from citizens from all around Fiji.



Active Citizenship

Participation of the people to democratic governance has been linked to the Rights of citizens as stated in the Universal Declaration of Human Rights, Article 21.

Linking citizen participation to the state at this level raises fundamental questions about the nature of democracy and about the skills and strategies for achieving it.

In efforts to encourage participation in the democratization process and elections, CCF chose the theme "The Importance of Participation in a Democratic Election process to Choose Good Leaders" for its annual essay competition.

The aim of the essay competition is to allow students and the open level category to express themselves through writing and aims to develop a sense of awareness on their role as citizens of Fiji.

It is vital that ordinary citizens understand the importance of knowing that the participation of all in society – no matter what age, gender, ethnicity, religion, sexual orientation, disability, occupation or anything else will shape the future of our country.

For the second year, CCF launched the annual essay competition in three categories; the open category, Senior and Junior level. Since the launch of the competition, CCF received 152 entries from all around Fiji.

The overarching aim of the essay competition is to influence people to become "Responsible and Active Citizens" and enhance their level of understanding on the current national issues that will have a huge impact on their lives.

Independent markers will be hired to vet and mark the essays before the winners in the three categories are announced in mid July, 2013.

Since the launch of the essay competition in 2009, CCF has received over 400 entries and this has been possible through the support of the Principals of the 173 secondary schools around the country who encourage students to take interest in national affairs and participate in such essay writing competitions as part of their learning experience.

By: Viniana Cakau

Fiji's Electoral History

1970 - 1987	1992-1994	1997-2006	2012 Draft	2013 Draft
FPTP 1970 Constitu-	FPTP 1990 Constitu-	AV 1997 Constitu-	PR – Closed	PR - Open
52 Member Lower house	70 Member Lower House	71 member Lower house	71 member Lower house	45 member Parliament
22 Fijian 22 Indian 8 Others	37 Fijian 27 Indian 1 Rotuman 5 Others	23 Fijian 19 Indian 1 Rotuman 3 Others 25Open	Non Communal allocation	Non Communal Allocation
22 members	34 member Senate	32 member Senate	National People's Assembly	No Senate
Governor General	President	President	President	President

FPTP: First Past The Post

AV: Alternative Voting

PR: Proportional Representation

Why Elections Matter?

In early May, the Citizens' Constitutional Forum featured as Guest Lecturer at the University of the South Pacific "Introduction to Politics" class and presented on Electoral systems.

CCF staff members Mereoni Chung and Sina Mario, having several research materials from constitutional and electoral experts, spoke on What are Elections?; Why have them?; The Various Electoral Systems; Fiji's Experience; The Actors; and the fundamental principles for Free & Fair Elections.

"Commonly known as GENERAL Elections; when we talk about voting systems, we are talking about a PROCESS that translates people's choices of Leaders into SEATS in parliament – where interests are represented" says Chung.

The presentation highlighted that it is important for people to understand what elections really are, why it is important for a nation, and how Electoral Integrity makes it worthwhile.

Whilst there is no "one size fits all" solution when it comes to electoral systems, choosing the best-fit system for one's country matters because ELECTIONS have the power to influence Government effectiveness – how the Government runs itself & where its' mandate derives from; Political Party systems – how they structure themselves; Public policy outcomes – how policies are determined and adopted at legislature; Behaviour and incentives of Political actors; Accountability; and the ease or worsening of Conflict through elections.

Fiji's proposed Proportional Representation or PR system of voting can be defined as a relationship between Voter choices and Elected representatives by ensuring the Votes translate to Parliament Seats in a proportional manner.

However, no System can work without VOTERS ... if there are no voters, there are no elections. VOTER TURNOUT is the percentage of eligible voters that actually cast a vote, and is imperative to the success of an election. Taking the first year students through Fiji's electoral history, it was highlighted that Fiji has experienced great voter turnout, meaning that Fijians like to Vote.

"However, how these votes are cast, are they valid, why and who are they voting for are questions that need to be addressed when reviewing Fiji's election experiences and a way forward," says Chung.

She also stressed that Fiji's 2014 Elections-Preliminary statistics have shown that at least 47% of Fiji voters will be below the age of 35, of which 75% are first time voters. "Youth participation is extremely important in Fiji's 2014 Elections as a bulk of Fiji's active, educated, and working population will be for the first time participating in Fiji's way forward."

Concluding the presentation, the CCF team explored the values of Election Integrity. If Fiji can get it right, elections with integrity has the ability to truly express the Will of the People.

We need to ensure and demand, from our political actors, a Vibrant Process, a Credible Process, Democratic Principles, Ethical Conduct, Accuracy, Institutional protections, Transparency, etc. Such qualities determined in the Constitution; the document that gives authority to all these principles.

By: Roneel Lal

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Youth



Northern Youths

CCF conducted a two-days workshop with 20 youth in Labasa at the Friendly North Inn then we travelled to Savusavu and conducted a two day workshop with another 20 youth at Yaroi village community hall.

While in Labasa we had 20 participants coming from diverse youth groups. The feedback from the participants was positive. Miss Shivangani (a student at the University of the South Pacific) mentioned she had not attended a workshop like this one before and she was eager to share the information with her friends and practice the skills she learnt in the two days.

Mr. Sarvesh (representing the FNCDP) expressed his joy for being given the opportunity to participate in the workshop as many times people with disabilities were not given opportunities to participate.

In Savusavu we conducted a two day workshop at the Yaroi community hall with another 20 youth coming from around Savusavu and Taveuni. They represented community youth groups and the National Youth Council. The same participants also attended an additional day of workshop on theater for advocacy held at the provincial Office.

It was very impressive to see the support of the community elders to ensure the youth were able to attend the workshop for the two days. When we asked Miss Filo Qilatabu what she thought about the workshop she replied: "the topics of human rights, leadership and theater were very interesting to me and I think there is a need for more emphasis on the topic of Human Rights in the community."

Mr. Isikeli Ligairi said: "such workshops are very effective and when we come from different societies we bring different experience and share these with other participants." Mr. Ligairi also mentioned that when youth attend such workshops they can become the eyes and ears of the organization on the ground. They can, and they should help the organizers outreach to more people.

There were many participants who had never attended a workshop before and they commented that this first workshop was a great one for them.

On our final day in Savusavu we conducted a day long workshop on theater for Advocacy with 20 youth. The topics discussed included; theater for advocacy, human rights, multiculturalism, active citizenship, good governance and leadership.

The theater team performed skits on Human rights, multiculturalism and leadership. Participants were engaged in discussions following the skits and this was very interactive and it gave the participants to analyze the topics in situational context. Part of the activity was for the groups to perform a skit of their own on the session topic.

The youth team had a great experience in the North and they surely have built on their networks. It is great to note that the participants enjoyed the workshop and learnt a great deal from it.

By: Alzima Bano

Analysis

As the citizens of Fiji eagerly await the new government constitution, it is important to note fundamental human rights which must be entrenched in the document to protect and safeguard the liberties of all citizens. However, as Constitutional experts point out in the Citizens' Constitutional Forum's Analysis of the Government Draft Constitution, there are several inconsistencies in the proposed document which are not aligned to international standards.

THE BILL OF RIGHTS!

The Bill of Rights in the GOVERNMENT DRAFT CONSTITUTION (GDC) includes many of the same rights as in 1997 and the 2012 draft, as well as several new socio-economic rights. The GDC improves on formulations in earlier constitutions (including the 2012 draft)—for example the rights are extended to bind all public office holders (s.6). In general, however, rights under the GDC are more severely limited and restricted than in 1997 and 2012.

The GDC sets out the specific purposes for which a particular right or freedom may be limited [as in 1997]. Most worrying is the removal of the requirement that any limitation for a right be 'reasonably justifiable in a free and democratic society'. Under such a provision [as in 2012], the State must justify to a court any law limiting most civil and political rights on this basis (civil and political rights including freedoms of expression, assembly, association, movement and rights to unrestricted labour relations). The approach means that in the end the independent judiciary can act as a check on action by Parliament to pass laws to restrict rights. The GDC approach is at odds with most modern constitutional human rights instruments, which include few (if any) specific limitation provisions and instead rely on general provisions setting out the grounds upon which all rights and freedoms may be limited [like 2012].

Most rights in the GDC include a subsection limiting the right described for certain legitimate aims. This grants future governments broad grounds on which to limit these rights. For example, the right to environment may be limited by any law (s.37). This means that any ordinary Act of Parliament to limit environmental rights as far as they wish without needing to justify the limitation. The civil and political rights under the GDC are similar to 1997, but in a number of instances the list of possible limitations is longer, and in most instances the absence of any 'must be justified in a democratic society' provision takes away much of what has been recognised as a right. The State is given the right to do most of what it might want to do, without the courts being able to say this was unnecessary or excessive. Unlike earlier constitutions (and to some extent 2012) there is little recognition that sometimes the protection of culture and community might justify limits in individual rights (like rules about participating in village clean-ups, or laws restricting movement in some areas to protect culture).



As an extreme (and disturbing) example, the right to life (s.8) is limited because the right is not protected in any case of deaths 'from the use of force which is no more than is absolutely necessary' in three sets of circumstances:

- in defence of any person from unlawful violence;
- in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
- in action lawfully taken for the purpose of quelling a riot or insurrection'.

This section is taken from article 2 of the European Charter of Human Rights, but very few democratic constitutions permit deprivation of life in their own bill of rights.

Labour rights in particular are severely restricted in the GDC. The government may limit the right to freedom of association to regulate:

- the registration of trade unions and similar bodies,
- collective bargaining processes, and
- essential services and industries (s.19(2)).

The Bill of Rights allows extra grounds for limitations in the case of elections and states of emergency. To ensure the 'orderly conduct of elections,' the GDC also permits limitations on labour relations and the freedoms of association, movement and expression. This unrestricted authority to limit specific rights may allow a future government to restrict political parties and citizens for reasons other than those 'reasonably justifiable in a free and democratic society.' It is difficult to see how this is consistent with a commitment elsewhere in the GDC to 'free and fair elections' (ss.49 & 74(2)) or to the creation of a 'true democracy'.

In a state of emergency, all rights (other than a few prescribed ones) may be limited to the extent 'strictly required by the emergency' (s.40). This places some checks on the government's authority to limit rights, but this is not as strong as a requirement that the limitation be reasonable and justifiable in an open and democratic society. There is potential for greater abuse of rights during a state of emergency.

As a final point, the Bill of Rights does not mention:

- the rights of women, or
- cultural, linguistic or religious rights, or
- Customary rights.

THE FULL ANALYSIS OF THE GOVERNMENT DRAFT CAN
BE VIEWED ON THE CCF
WEBSITE: www.ccf.org.fj

By: Marly Batenburg



Staff Movements

In my first week at CCF, my colleague Ana asked me 'why have I left my family, a good job and my home in Australia to volunteer in Fiji?' My response was I felt it is a social responsibility that I offer my education and skills to the international community.

My parents immigrated to Australia from The Netherlands and I was raised in Perth, Western Australia. I was never hungry, had excellent education opportunities and was always encouraged to achieve my personal goals. From a young age my mother took me through countries such as India and Indonesia and never let me forget the privileged life that I had in Australia. As an adult I traveled extensively and I witnessed suffering from violations of human rights and many levels of poverty, this spurred my drive and determination to have a career that promoted social justice and equality.

After University I worked as a Social Studies High School teacher in the Australian public education system and developed myself as a teacher and a learner.

I worked in the Philippines in 2012 as a Community Education Officer and trained volunteers to develop teaching skills to support Out-of-School Youth. My work here at CCF is to support the Civic Education Program to empower the people of Fiji for a greater understanding in human rights, good governance and citizenship.

I hope that my skills are useful to the team here at CCF and that we can work together to support the people of Fiji to promote equality, justice and peace in the community.

Sunayna Nandni joined CCF in July, 2009 and spent 4 years as the Communications Assistant.



"I have learnt so much at CCF and it was a very exciting journey in my life, especially working under the current political situation and facing self censorship at the hands of the media," says Sunayna.

"The opportunity to work with a team of dynamic passionate people to bring about change has been inspirational," she added. Ms Nandni has moved to be the Communications officer at Fiji Community Development Program.

Losana Tuiraviravi joined CCF in June 2009 as the Youth Liaison Officer.



"It has been such a wonderful place to work in. CCF has really contributed so much in my personal growth and has made me an independent thinker and the person I am today," says Losana. "I could recall my first day at work greeted by an amazing team who genuinely believed that new staff members can make positive contributions to the organization and gave me the courage." Losana has now taken up the position as Womens Forum Co-ordinator with the Fiji Womens Rights Movement.