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From the Executive Chairperson

The review of laws relating to domestic violence by the Fiji Law Reform Commission was initially approved by Cabinet in 2003 and reaffirmed in February, 2004 and January 2005.

The review is borne out of the concern that with the increase in the incidence and severity of domestic violence cases, there are no appropriate legal mechanisms in place for the purpose of protecting victims of violence within the home and family environment.

The Fiji Law Reform Commission Family Law Report 1999 "Making a difference to families in Fiji" made pointing reference to the problem. The report states at page 90:- "The problem of violence in the family is a common and insidious one. It is antithetical to the notion of the family as the essential basic unit of society. Anecdotal evidence suggests an alarming increase in deaths resulting from this violence. The majority of those subjected to violence are women. In a family setting children are also inevitable victims of violence both directly and indirectly."

A study carried out by the Fiji Womens' Crisis Centre completed in 2001 confirmed the widely held perceptions of issues on domestic violence in Fiji. As part of the report's conclusion the report states :

"Domestic Violence is prevalent in Fiji. It is deeply rooted in gender-based power relations, sexuality, self-identity and social institutions. The practice of using physical violence in the home as a form of punishment and discipline is commonplace. As a result there is a general acceptance and tolerance level of violence that has often led to severe acts of violence inflicted on vulnerable groups like women and children for whom interventionist actions are often too late."

The review of domestic violence laws commenced on 26th July, 2004 and is undertaken in accordance with the Terms of Reference issued by the Attorney-General and Minister for



Above, The Minister for Women, Adi Asenaca Caucau opening the Domestic Violence Phase One mini-consultation workshop on 27 July 2004. On the right is Mr. Alipate Qetaki, FLRC Executive Chairperson.

Justice to the Commission. As to the outcomes, the TOR states:-

"The reference envisages that there must be reforms and changes in the substantive and procedural laws in order to render the law appropriately responsive to community needs, values and aspirations and to protect victims of Domestic Violence, whilst at the same time attaining acceptable standards of treatment of offenders, victims and others affected by Domestic Violence."

The Review objectives addresses the concerns articulated in the National Strategic Development Plan (2003-2005).

For any review, consultations with the community and stakeholders is crucial. The Commission is mindful that with this reference, there is a need to be sensitive and culturally appropriate to ensure that any proposal recommended will be effective (that is practical and workable) within the unique environment that is the Republic of the Fiji Islands.

The review will not be successful without the support of everyone including Government Ministries CEOs, Religious bodies, Provincial Councils, District Advisory Councils, Civil Society, and the community at large.

Commission looks forward to 2005 Work Program

The Commission looks forward to its 2005 Work Program, which was approved by Cabinet on 31 January 2005:

- Completion of the final phase two of the holistic review of the Prisons Act & subordinate legislation created under it;
- Completion of the final phase three of the Domestic Violence Reference;
- Commencement of the review of the Penal Code and Criminal Procedure Code; and
- Charitable Trusts Act Review;
- Gambling Act & Lotteries Regulations;
- Mental Treatment Act;
- Religious Bodies Registration Act;

- Trustee Act;
- The ongoing review of the Civil rules and procedures for our courts, and
- The undertaking of necessary follow up action to implement the FLRC's completed references

For the references now underway, funding has been secured: Prisons Act Reference (UNDP), Domestic Violence (NZ AID) & Penal Code /Criminal Procedure Code (NZ AID).

Funding can pose a challenge to the successful completion of the Commission Work Program.

It is anticipated that the Review of the Prisons Act will conclude in April 2005, and the Domestic Violence in June

2005, while the Penal Code & Criminal Procedure Code Reference will continue until 30th June 2006.

The Commission's financial and human resource constraints will need to be addressed to enable it to effectively undertake new references in 2005.

The Commission thanks its partner agencies, members of the public and community organisations who participated in the law reform process in 2004. We look forward to your continuing support and participation in 2005.

Vinaka Vakalevu, Dhaanyabaad & Thank you.

Bribery & Corruption Reference Final Report tabled in Parliament

The Commission's Final Report on Bribery and Corruption "*Building an Anti-Corruption Culture for Fiji*" was presented by the Attorney General & Minister for Justice Senator Q.B. Bale to Cabinet at its meeting on 5th October 2004. Senator Bale also presented the report of a delegation that was attached to the Malaysian Anti Corruption Agency in June 2004.

The Commission's Final Bribery & Corruption Reference Report authored by the three FLRC Commissioners, Chief Justice Daniel V Fatiaki, Vasantika Patel and Tomasi Vakatora was handed over to the Attorney General in June 2003.



Above: Clockwise: FLRC Chairman Mr. Qetaki, Commissioner Tomasi Vakatora, Chief Justice D. Fatiaki, Commissioner Vasantika Patel, Attorney General Senator Bale, DPP Josaia Naigulevu & Deputy DPP Peter Ridgeway at the handover of the FLRC Final Report on Bribery & Corruption in June 2003.

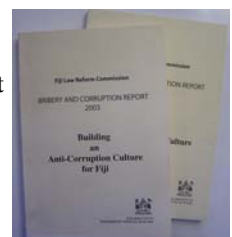
Cabinet noted both reports and endorsed measures aimed at combating corruption. This includes the enactment of a legislative framework that would enable the establishment of an anti-corruption agency.

Cabinet also mandated the establishment of a Committee to be

called the Advisory Committee on Anti-Corruption (ACAC) to be chaired by the Chairman of the Fiji Law Reform Commission. Membership of the ACAC include the Solicitor General, the Chief Executive Officers of the Prime Minister's Office, Public Service Commission, Finance and National Planning, Ministry of Justice, the Director of Public Prosecutions and the Commissioner of Police. The ACAC's secretariat is based at the Attorney General's Chambers. It is to prepare a legislative plan for the new legislation which is to be presented to Cabinet for approval once finalized.

On 11 November 2004, the Attorney General issued the Terms of Reference to the ACAC after consultation with the Prime Minister. The TOR requires the ACAC to consider (among other things) the structure, mechanisms, powers and functions of the Anti Corruption Agency, the resource and other implications of establishing such an Agency, the impact of such an Agency on the work of the Police, DPP, PSC and other agencies of Government and to advise the Attorney General on measures to be considered towards Fiji ratifying the UN Convention Against Corruption.

In a first for the Commission, its Final Report, "*Building an Anti-Corruption Culture for Fiji*" was tabled in Parliament (Parliamentary Paper No. 85 of 2004) by the Attorney General on 3 December 2004. Copies of this Final Report are available from the Fiji Government Printer at a cost of FJD \$10. The Commission anticipates the launch of its revamped website shortly and the report will also be available in digital format to the public once the revamped Commission website is online.



Penal Code & Criminal Procedure Code Review set to begin

The holistic review of the Penal Code (Cap. 17) and the Criminal Procedure Code (Cap. 21) was approved by Cabinet for inclusion in the Commission's Work Program for 2005. After initial approval was given in April 2003 and reaffirmed in February 2004, the Attorney General issued the Terms of Reference for the review to the FLRC in March 2004.

Previous references and amendments to the Penal Code & Criminal Procedure Code

This holistic review follows the previous FLRC Work Program on the review of criminal laws and procedure 1996—2000. This 2005 review will build on this previous work undertaken with the appointment of FLRC Commissioners Mr. Anthony Gates, Mr. Michael Scott & Ms. Mere Pulea. As well, there were references on Police Powers, Drink Driving & Sentencing (Professor Mark Findlay).

Commissioner Mr. Anthony Gates

Mr. Anthony Gates, (now puisne Judge) was appointed an FLRC Commissioner in 1996 to look at certain sections of the criminal law in urgent need of review. He produced the following various reports and draft legislation:

1. Swordselling Report,
2. Report on Cameras in the Courtroom,
3. Juveniles Amendment Act 1997 (pornography),
4. Final Report on Sexual Offences 2000 and
5. Penal Code Amendment Act 1999 (Sacrilege).

The above legislation and Reports will be again considered in the 2005 holistic review of the PC/CPC.

Commissioner Mr. Justice Michael Scott

As well, between 1996 - 2001 FLRC Commissioner Mr. Justice Michael Scott (now Resident Judge of Appeal, Fiji Court of Appeal) also comprehensively reviewed:

1. The Civil and Criminal law of Evidence,
2. Committal Proceedings,
3. Part VI and VII of the High Court Act.

This resulted in the enactment of:

1. The Court of Appeal Amendment Act 1998,
2. The High Court Act Amendment Act 1999,
3. the Civil Evidence Act 2002 and
4. the Criminal Procedure Code Amendment Act 2003 (abolishing committal proceedings).

Likewise, the 2005 PC/CPC reference will build on this previous work program.

Commissioner: Ms. Mere Pulea

Puisne Judge Ms. Mere Pulea was appointed an FLRC Commissioner in 1996 to look into laws relating to children including offences Against Children, the Juvenile Justice System and the Adoption of Infants Act. At that time, Ms. Pulea was then Director of the Institute of Justice and Applied Legal Studies at the University of the South Pacific. The following various working papers and final report were produced:

1. DP: Sexual Offences Against Children in Fiji
2. DP: Working Children in Fiji
3. DP: Children and Drugs
4. DP: Juvenile Justice in Fiji
5. Report for Children 2000:
 - A. Offences Against Children
 - B. Juvenile Justice System
 - C. Adoption Report

Terms of Reference

The new reference from the Attorney General to the FLRC for the holistic review of the Penal Code and Criminal Procedure Code warrants the updating of these archaic statutes in relation to offences; penalties/punishment; jurisdiction; defences and criminal procedure and matters incidental thereto which are reflective of and responsive to existing local and global conditions, circumstances, trends and practices.

In December 2003, expressions of interest were invited from Project Teams interested in leading the review and

advising the Commission according to the TOR. The Review is funded by a bilateral grant from the New Zealand Government through the NZ Agency for International Development (NZ Aid).

Appointment of Consultants

After a competitive bidding process, the AGMJ appointed in August 2004 a consortium comprising Gerard McCoy QC, Dr Neil Boister and Mr Raymond Pierce as the consultants. Gerard McCoy a Barrister brings a wealth of experience in the practice the criminal law in various jurisdictions, notably in Fiji in recent years and Hong Kong where he practices. Mr. McCoy is originally from Dunedin, New Zealand, where Dr. Boister and Mr. Pierce are based at the University of Canterbury.

Preparatory activities

The Commission is now in discussions with the appointed consultants regarding the work plan and other associated issues. We are hopeful that the arrangements and funding are finalised for the Review to commence in March 2005.

Consultation Process

Consultation will form a central component of the review process. Discussion Papers will be prepared to assist those who wish to participate in the review by making submissions. These will be distributed to the Law and Order agencies including Police, Courts, Legal Aid, Prisons, Law Society, Lawyers, Government Ministries and Departments; District Officers; Civil Society organisations and members of the public.

The Attorney General has asked that the Final Report and Draft Legislation to be submitted by June 30th 2006.

Prisons Act Review Phase 1 Report submitted to the Attorney General

A comprehensive review of the Prisons Act relating to the administration of prisons and the rights of prisoners was completed by the Fiji Law Reform Commission and handed over to the Attorney-General and Minister for Justice on Thursday, 30th September, 2004. This Review is being undertaken with the generous assistance of United Nations Development Programme and United Nations Development Fund for Women.

Two consultants were engaged to advise the Commission in line with the Terms of Reference – one a legislative drafting expert, and the other with extensive experience in all aspects of prisons administration and reform.

All relevant legislation applying in Fiji has been reviewed. There is general consensus that the Prisons Act (Cap. 86) and the Regulations and Orders made under it are out of date, inflexible and in need of modernization.

A comparative analysis of the relevant legislation applying in neighbouring countries including New Zealand and Australia was also undertaken, while recognizing that Final Report and Draft Legislation is to be tailored and suitable for the conditions in Fiji.

The Report concludes that Fiji must devise and implement a legislative framework which is shaped by the administrative, political, sociological and traditional priorities and considerations which apply in this country. A great many of its provisions reflect responses from interested agencies and personnel and representatives of possibly every interest group within Fiji. This was possible through engagement with interested agencies and members of the community during the consultation process and in roundtable discussions with stakeholders in the Project Advisory Committee.



Above: Attorney General Hon Senator Qoriniasi Bale, the Commissioner for Prisons Mr. Aisea Taoka and Mr. Graham Powell, Legislative Expert at the opening of the Workshop held June 2004.

Current legislation applying in Fiji accords no recognition to the international obligations and standards applying in this context. This is remedied in the draft Bill which makes numerous and appropriate references to the full range of applicable conventions and standards. Those which apply in relation to dealing with HIV/AIDS in the prisons context, and those with guarantee that full regard is had to the rights of women and children, have been specifically recognized and applied.



Above: Senior Prisons Officers at the June 2004 Workshop on the Draft Corrections Bill and Draft Phase One Report.

Broad consultations were undertaken throughout Fiji in March 2004 after four Issues Papers were published to assist those interested in making submissions. The Review Team visited nearly all of Fiji's prisons during the Consultations. The four Issues Papers are:

1. Issues Paper 1: Aspects of Prisons Administration

2. Issues Paper 2: Matters promoting a shift from containment to corrections
3. Issues Paper 3: Human Rights Considerations
4. Issues Paper 4: HIV/AIDS in the Prisons Context

Meetings have been held with stakeholders. More than 40 written submissions have been received, reviewed and reflected in the final Report. A three day workshop with all senior officers of the Prisons Service was held in June 2004. Nearly 20 changes to the draft Bill were made as a result of the views and observations expressed at this meeting.



Above: Major Bill Sorby, Chairman of the Disciplined Services Commission addressing the participants at the June 2004 Workshop.

A draft Bill has been prepared in accordance with the work plan applying to Phase 1 of this reform process. Phase 2 involved the formulation of Commissioner Orders and Regulations. The Commissioners Orders includes those which have general application in the administration of prisons and the management of prisoners throughout Fiji. As well this includes local operating procedures formulated to apply in each prison.

In accordance with the Terms of Reference, the Draft Prisons and Corrections Bill introduces major changes in the legislation applying to the administration of Fiji's prisons and the treatment of prisoners

in five main areas -

- *A shift of focus from containment to corrections*
- *The recognition and application of international standards*
- *The enforcement of human rights and the implementation of Fiji's Bill of Rights*
- *Dealing with HIV/AIDS in the prisons context*
- *Providing a more efficient delivery of services*

The Phase One Prisons Report of



the Commission is being considered by the Attorney-General and Minister for Justice, Honourable Qoriniasi B. Bale before it is submitted to Cabinet with his recommendations on the way

forward.

Left: L-R: Tony Kelly, Prisons Commissioner Aisea Taoka, Solicitor General Nainendra Nand and Graham Powell during a panel discussion at the June 2004 Workshop.

The Report for Phase Two of the Review along with draft Commissioner's Orders will be considered by the Project Advisory Committee in March 2005 before submission to the Attorney General.



Participants and facilitators at the Prisons workshop held 16—18th June 2004 at the Convention Centre, Lami.

Back row (L to R): T Koroitamana (O/C Labasa) L Tokoniono (Supervisor Western Division) S Raitamata (O/C Maximum), N Korosaya (O/C Taveuni), S Nawaqavou (FLRC), A Moceisuva (SHQ), M Koroi Commandant, L Tuberi (O/C Levuka) Kenneth Gortz (FLRC) S Sauliga (O/C Ba)

Centre (L - R): R. Tuivaga (FLRC), A Bulivono (Staff Officer CP), H Nath (O/C Natabua) I Lomani (Min of Justice), E Cataki (O/C Lakeba), J Caginadaveta (O/C Suva) W Satakala (O/C Medium), S Tikomaitoga (O/C Nasinu), S Bolakoro (O/C Women), K Vakalevulevuya (O/C Nukulau), M Ram (Staff Officer – Security), W Mataitini (Supervisor Southern Division)

Front (L - R): L Matakiloto (Director Education & Training) , S Gauna (Supervisor Northern Division), O Laladidi (Dep. Commissioner), A Kelly (Consultant), A Taoka (Commissioner of Prisons), G Powell (Consultant), V Raitamata (UNDP), P Salacakau (Assistant Commissioner), S Tamani (Supervisor Central Eastern Division)

Commission News

Dr. Guy Powles of Monash University visited in early October 2004 to interview the Commission particularly regarding its consultation process.

Dr. Powles is contributing to a publication by the Australian Law Reform Commission on law reform in the Pacific.

Right: L-R: Legal Officer Salakubou Raramasi , Acting Principal Legal Officer, Raijeli Tuivaga, with Dr. Guy Powles and FLRC Chairman Alipate Qetaki at the FLRC on 13 October 2004.



Public have their say on the Domestic Violence Laws

Members of the community came out in numbers and spoke to the Fiji Law Reform Commission Domestic Violence Review Team during the public and community hearings and discussions held around Fiji from 18-29 October 2004.

The clear message from the communities during the Commission's face to face consultations was the recognition that domestic violence was prevalent within our families and communities at large.

Calls were made to strengthen enforcement procedures under the law; for awareness raising measures and promotion of legal literacy, as well as alternative forms of dispute or conflict-resolution to foster attitudinal change.

Interested individuals, community organisations and members of the community, who were unable to talk to the community during these face to face consultations, were encouraged to send in their written submissions before 10 December 2004.



The Commission requested responses to the various issues and questions raised in the three Discussion Papers published and disseminated widely in September 2004:

- DP1—The Legal Response to Domestic Violence: Context & Approach
- DP2- The Legal Response to Domestic Violence: Criminal Justice System
- DP3- The Legal Response to Domestic Violence: Civil law and procedures

The three Discussion Papers were informed by a mini-consultation held in July 2004 with 24 stakeholder agencies where views were sought on the current law and surrounding services as well as expectations for

the DV review.

Consultations

Beginning on October 18 and finishing on 30th October, the Domestic Violence Review Team completed a gruelling program of consultations in a bid to gather the views of the community and its stakeholder agencies.



Above: L-R: Mr. Qetaki, Mr. Sakiusa Rabuka (CEO for Justice), Mr. David Balram (Chief Magistrate), Mr. Josaia Naigulevu (DPP) & Ms. Shamima Ali (Womens Crisis Centre Coordinator) having discussions during the initial mini-consultation held with 24 stakeholder agencies in July 2004.

The Consultation Team was led by Executive Chairperson Alipate Qetaki and Consultants Judy Harrison, Litia Roko, Maria Dimopolous, A/PLO Rajjeli Tuivaga & A/SLO Vukidonu Qionibaravi. The team completed the second week of public hearings in the North (Taveuni, Savusavu & Labasa) and in Kadavu island.

In the first week, the team was able to hear and record the responses of individuals and community organisations in Lautoka, Rakiraki, Korovou, Levuka and Suva.

Where there were private testimonies by victims and survivors, special arrangements were made to ensure the confidentiality of these testimonies.

The review team would like to commend those victims and survivors for their courage and honesty in coming forth and sharing their personal ex-

periences with the team.

The formal hearings began with the public submissions followed by the confidential testimonies. During the later part of the day the team went into selected communities holding sessions that were less formal in nature. Splitting into groups, separate sessions were held with men and women to facilitate more frank discussion.

This review is guided by the terms of reference issued to the Commission on 15 December 2003, by the Attorney-General Senator Qoriniasi Bale.

The aim of consultations, which usually take place in the middle of the law reform process is to engage and elicit the views of those affected by the review.

These will shape the report's recommendations and draft legislation, which the Commission is required to submit to the AG by July 31 2005.



Above: FLRC DV Consultant Judy Harrison & A/Senior Legal Officer Vukidonu Qionibaravi talking to women of Rakiraki Village on 20/10/2004 during the consultation process.

For each review, the Commission is required to come up with proposals that are not merely for the well endowed urban centres but to include practical options that will be workable in the rural areas as well.

These community consultations presented the opportunity to hear and see first hand the challenges faced by remote island and rural populations in accessing police, Court, health, social

Public have their say on the Domestic Violence Laws

welfare and legal aid services.

Each community visited clearly expressed their need for basic information on issues concerning the law.

In some places, the review team heard that violence is so ingrained in attitudes and part and parcel of everyday life that domestic violence is not viewed as a criminal offence.

Communities also expressed concern about the place of culture in relation to the Constitutional Bill of Rights, access to legal aid, information on rights and responsibilities, corporal punishment and alternative methods of discipline, to name a few.

While the Commission does not have an educative function to promote legal literacy and human rights awareness training, the process of law reform brings out these inter related issues. The Commission's Final Report may encourage partner agencies, tasked with this role to continue addressing this need.

At each hearing, the Consultation Team gave an overview of the current laws and procedures in place, and some difficulties which had arisen.

Options were posed to the community and views sought as to the workability of these options in light of that community's accessibility to the legal, health and welfare services. The review team heard varied responses to these questions which it will address and evaluate in its final report.

The review team, wishes to acknowledge the concerned members of the community who came forth to give their testimonies, experiences and views.

The review team were requested by the District Advisory Councils of Taveuni, Savusavu and Macuata whose meetings coincided with the hearings, to brief the councillors for later submissions. FLRC Chairper-

son also addressed the Tailevu DAC and Tailevu Provincial Council meetings as well as the National Advisory Council meeting held in November and updated them about the reference and the need for community participation.

The Commission has now recorded 70 oral submission and 40 written submissions from various groups and individuals from all over the country.



Above: Mr. Kamlesh Singh, Chairman of the Korovou District Advisory Council giving his views to the Review Team at the public hearing in Korovou on 21/10/04.

The Commission is grateful to the chiefs, leaders and people in the communities where discussions were held: Naviyago Village (Ba), Vatamai Settlement (Lovu), Rakiraki Village (Ra), Wailailai Settlement (Ovalau), Vatu-kalo Village (Ovalau), Namalata Village (Tavuki, Kadavu), Kasavu Settlement (Cakaudrove), Taganikula settlement (Macuata) and Nasekula Village (Labasa).

In addition, the Commission is also grateful to its partners in the consultation process, without whose assistance, the consultations would not have been possible:

The Minister for Women, Chief Executive Officer, the Director Women and the Divisional Ministry of Women Officers in Lautoka, Rakiraki, Korovou, Levuka, Labasa, Savusavu and Taveuni, Anare Vuniwai and Mere-walesi Vuli the Ministry for Fijian Affairs in particular the Roko Tui Ba, Roko Tui Ra, Roko Tui Macuata, Roko Tui Kadavu, Assistant Roko Tui

Kadavu, the Ministry for Regional Development, Commissioner Northern, DO Savusavu, DO Korovou, DO Ovalau, DO Rakiraki, DO Kadavu, Assistant District officer Kadavu, DO Labasa, the Fiji Police Force in particular, Assistant Commissioner of Police (Operations), Station Officer Kadavu and the Station Officer, Taveuni.

Likewise, our gratitude to the Fiji Women's Crisis Centre, Attorney General's Office in Labasa and Lautoka and the Office of the Ombudsman for their assistance in co-facilitating the consultations.

The Commission is also grateful to the media who assisted in informing the public about the review, particularly the Ministry of Information Film & Television Unit which aired three Dateline segments on the review in July, October and November 2004; the Fiji Television News Team who covered the consultations and to the Fiji Times which ran twenty full page articles from the Commission exploring the issues under review from August 2004 to February 2005.

Finally, the Review Team is grateful to the Accounts and Administration section in the Ministry of the Attorney General, as well as the support staff of the FLRC who were tireless in coordinating and facilitating the gruelling nine public hearings and ten community discussion held over the two weeks of consultations.

The Review Team is now drafting the final report after evaluating the various submissions received. It is anticipated that a workshop will be held with key stakeholders to discuss the draft recommendations and draft legislation in the final consultations to be held on 18-22 April 2005. The Report and Bill will then be finalised before they are submitted by the Commission to the Attorney General before July 31 2005.

Law Revision exercise gaining momentum



Above: Mr. Alipate Qetaki, the Law Revision Commissioner & Executive Chairperson, FLRC.

“Statute law revision is in essence a literary exercise. It deals with the excision of dead wood, the pruning off of superfluties and the rejection of clearly inconsistent enactments. It saves a great deal of time and assists in the accuracy and confidence of legal work” – Crabbe; V.C.R.A.C: “Legislative Drafting” (1993) at page 199.

The revision of the laws of Fiji is one of the top priorities of the Attorney-General and Minister for Justice (Minister) since he took office in September, 2001. This process commenced with the appointment of the Law Revision Commissioner, Mr. Alipate Qetaki with effect from 1st March, 2003. Mr. Qetaki performs this role concurrently with his responsibility as the Executive Chairperson of the Fiji Law Reform Commission. The role of the Law Revision Commissioner is to revise the laws of Fiji in accordance with the Revised Edition of the Laws Act (Cap. 6).

The last consolidation and revision of the laws of Fiji was in 1985. The published version of the law (1985 Edition) remains the authoritative version of the laws in Fiji. It is considerably out of date. It contains 14 black volumes and 9531 pages of laws of Fiji.

The five main objectives of revising the law are as follows:-

- The provision of an authoritative statement of the law;
- Consolidation of the law;

- Rectification and improvement of the laws by the exercise of statutory powers;
- Identification of problems in the law, and
- It is a tool for the overall review of the law.

It has been 20 years since the last revision of Fiji’s laws and there has been numerous Acts of Parliament passed, Decrees promulgated (during the 1987 and 2000 emergency periods) and regulations, rules etc. made over the years. It is not possible to estimate at this time the number of volumes and pages that will be produced at the end of the exercise.

The task of the Law Revision Commissioner is to consolidate, revise and update all these laws in accordance with the powers given under the Act. He is supported by a Project Team.

At the commencement of the exercise, the first task was to study the existing situation and to map out what is required to be done. A project document was then prepared which covers all aspects of the law revision work including the required budget, staff (professional, technical and support) and equipment (computers, scanners etc). The approval processes for allocation of resources by the Public Service Commission and Ministry of Finance has proven to be time consuming and a constraint.

Some specific tasks have been completed or ongoing as follows:-

- compilation of an Index of Fiji’s laws to date;
- scanning and transformation into electronic form;
- Proof-reading;
- setting up of a Law Revision Committee to monitor the law revision work;
- working out options on publication;
- proposal for the amendment of the relevant Act.

A variety of problems is being faced

in those areas.

The legal input, that is, the revision, consolidation and amending of laws has not taken place. There are sequential tasks which need to be completed first before legal inputting.

The law revision project team is encouraged by the recent arrival of Mr. Abullahid D. Zuru, a citizen of Nigeria who is the Adviser and Consultant to the Law Revision project. He is sponsored by the Commonwealth Fund for International Co-operation for a period of 2 years and has commenced work on Monday 7th February, 2005.

The task of revising Fiji’s laws after 20 years is a mammoth task; and by its nature and complexity, it should not be rushed. It requires that all stages be carried out effectively as well as proper planning and focus, patience and careful attention to detail. It will take time and it is a costly exercise.

Another aspect to be attended to is to amend the Revised Edition of the Laws Act (Cap. 6) to update it, ensure best practice, and recognize the role of Information Technology in the law revision process.

The project is a 3 year project from October 2003 subject to review depending on constraints and circumstances.

In terms of outputs there are options. It is desired that the new Revised Edition of the laws are to be completed and published fully by early 2006; however, other options include the part publication of the Revised Edition, possibly in 3 phases. That is to revise and aim to publish the laws which are in most demand first so that the most important revised laws can be made use of earlier; or producing in advance some of the laws as separate booklets.

It is expected that there will be much progress achieved in 2005.

The Law Revision exercise is a stand alone project which is based at Level 6 Suvavou House. The Law Revision Commissioner is also the Executive Chairperson of the FLRC.

फीजी लो रीफोम कमीशन क्या है और क्या काम करता है ।

स्थापना

जब सनसद ने 1978 में Fiji Law Reform Commission Act, Chapter 26, को पास किया, तब सरकार ने Fiji Law Reform Commission. का इस्थापना किया । इस कमीशन का काम है की फीजी के कानून को नया करना और उसे साधारण बनाना ।

इतीहास

फीजी एक बहुजाति देश है और इसका इतीहास हमारे पूरवाजों के जमाने से तालुक रकता है और जो हमारे संस्कृति और सभ्यता का आइना हैं । हमारा कानून जो उन्नीस्वीसदी उन्नीस सौ पचास में स्थापित था वो अब नहीं चलेगा, क्योंकि वो अब काफी पुराना हो गया है । इस कमीशन की स्थापना इसलिए की गई ताकी इस विषय में लोगों की राय ली जा सके और फिर अभी के कानून का मीलान अन्य देशों के कानून से किया जा सके । जिसके बाद इस प्रस्ताव को Attorney General के पास और सरल तथा आधुनिक बनाने के लिए भेजा जाता है ।

हमारा कमीशन कैसे काम करता है ।

हमारे कमीशन के हीसाब से कीसी भी प्रकार के कानून को काम में लाने से पहले हमें Attorney General के अनुशासन का पालन करना पड़ता है । जैसे की फीजी के पास बहुत कम साधन है वैसे कमीशन का भी हालत है । इसका मतलब है की कमीशन सब प्रकार के कानून की व्यवस्था नहीं कर सकता । सिर्फ वही कानून जिसकी सरकार को अधिक जरूरत है, को परिवर्तित करने के लिए सिर्फ वही प्रस्ताव को Attorney General के सामने रखा जाता है ।

अन्य संसद सदस्यों तथा सामाजिक संस्थाओं से भी सलह लेते हैं । कमीशन को Attorney General से आदेश प्राप्त करने पर Attorney General कमीशन का खास कार्यक्रम सरकार पर निर्भर है । इसके अलावा Attorney General

द्वारा एक कमीशनर की नियुक्ती की जाती है ।

जसकी देख रेख में इस कमीशन को पुनः परिवर्तित किया जाता है ।

आगे की कारवाई

इस कमीशन को परिवर्तित करते वक्त एक खास बात पर ध्यान दिया जाता है और वह यह है कि उन लोगों के विचारों पर भी ध्यान दिया जाता है जिन पर इस कानून का सीधा असर पड़ेगा और वे हैं - साधारण जनता ।

हम रीडियो और अखबारों में इशतीहार देते हैं ताकी जनता के विचारों का हमें पता चले जो कानून को परिवर्तित करने में हमारे लिए सहायक हो । हम सभी जनता और गैर सरकारी संस्थाओं का विचार लिखित में भी स्वीकार करते हैं । विचारों को प्राप्त करने के बाद ज्यादातर हम अपने देश के कानून का मिलान राष्ट्रमण्डल देशों से करते हैं क्योंकि राष्ट्रमण्डल देशों के कानून हमारे देश के कानून के ही समान हैं । इस के बाद , हम जनता के

विचारों को मध्यनजर रखते हुए Attorney General से कानून में परिवर्तन लाने के लिए सलह देते हैं । इस के बाद Attorney General और संसद इस प्रस्ताव में परिवर्तण पर विचार करते हैं । इस के बाद ये

Attorney General पर निर्भर है की वे इस प्रस्ताव को स्वीकारे या नहीं । प्रस्ताव को स्वीकारने के बाद Attorney General हमारे रिपोर्ट को संसद के सामने रखते हैं । संसद द्वारा हमारे रिपोर्ट को पास करने पर हमारे बिल को संसद के समक्ष पेश करते हैं ।

फीजी लो रीफोम रिपोर्ट

इस कमीशन ने बहुत सारे रिपोर्ट को बनाया जिस में फीजी के कानून को बदलने का प्रस्ताव रखा गया । अभी के रिपोर्ट नीचे दिए गए हैं :-

- FLRC Insurance Law Report – Insurance Law Reform Act 1996
- FLRC Copyright Report – Copyright Act 1999
- FLRC Drink Driving Report – Land Transport Act 1998
- FLRC Criminal Justice Report – Amendments to the Penal

Code and Juveniles Act

- FLRC Bail Report – Bail Act 2003
- FLRC Commercial Law Report – Consumer Credit Act 1999
- FLRC Evidence Law Report – Civil Evidence Act 2002
- FLRC Family Law Report – Family Law Act 2003
- FLRC Pre-trial Procedures and Committal Proceedings Report – Criminal Procedure Code Amendment Bill 2003

अभी हाल ही में कमीशन द्वारा अपना आखरी रिपोर्ट और प्रस्ताव जो शराब से सम्बंधित कानून और भ्रष्टाचार और घूसखोरी है को Attorney General के समक्ष पेश किया गया ।

सन 2004 और 2005 का जो हमारा कार्य जो जना को संसद ने स्वीकृती दी है वो निचे दिए गए हैं :-

- Prisons Review of Laws, Regulations & Standing Orders
- Penal Code & Criminal Procedure Code
- Mental Treatment Act
- Domestic Violence
- Religious Bodies Registration Act
- Gambling Act & Lotteries Regulations
- Charitable Trusts Act; & the
- Trustee Act

कमीशन का आकार

इस कमीशन की अगवाई एक सभापति द्वारा की जाती है । इस में अन्य सदस्य हैं - एक अध्यक्ष, कुछ वकील तथा सहायक कर्मचारी । वर्तमान में हमारे सभापति हैं श्रीमान Alipate Qetaki

Law Reform Roundup

This column was introduced in Issue 10 of the [QD](#). It is intended to outline briefly other law reform initiatives undertaken by other Government Departments. It will also outline legislation recently enacted in Parliament and those Bills recently gazetted for consideration by Parliament.

Cabinet approved the following since Issue 10 of the [QD](#):

- i. Prescription of Salaries [Schedule Amendment] Order [08/09/04]
- ii. Income Tax (Film Tax Rebate) Rules 2004 [29/06/04]
- iii. Income (Dividend) Regulations 2004 [29/06/04]
- iv. Foreign Investment Regulations 2004 [29/06/04]
- v. Drafting of the proposed Broadcasting Bill [16/06/04]
- vi. Review of legal costs in non-contentious matters by the Costs Review Committee [18/05/04]
- vii. The Anti – Litter Bill to be drafted (consolidation of the Litter Decree 1991, Litter Amendment Act 1996, Litter Amendment Act 1999, and a few amendments) [08/09/04]
- viii. Customary Fisheries Bill [27/07/04]
- ix. Constitution Amendment Bill to be tabled in Parliament [27/07/04]
- x. Consumer Credit Act to be reviewed [05/10/04]

More information on Cabinet decisions can be accessed on www.fiji.gov.fj

2004 Bills

Since Issue 10 of the [QD](#), another 11 Bills were gazetted in 2004:

- i. Bill No. 16 of 2004: A Bill for an Act to appropriate a further sum of \$8,178,809.
- ii. Bill No. 18 of 2004: A Bill for

an Act to regulate the financial Management System of the State and for related matters

- iii. Bill No. 19 of 2004: A Bill for an Act for the Protection of the Natural Resources and for the control and management and Pollution Control and for the establishment of a National environment Council and for related matters
- iv. Bill No. 20 of 2004: A Bill for an Act to impose, regulate and control certain obligations of financial institutions, to establish the financial intelligence unit and provide for its functions and to establish the National Anti- Money Laundering Council, and for related matters
- v. Bill No. 21 of 2004: A Bill for an Act to establish a Trust Fund for Fijians and Rotumans, to provide financial autonomy to the Bose Levu Vakaturaga, to earn income for the purposes of the Fund and for related matters
- vi. Bill No. 22 of 2004: A Bill to further appropriate \$39,52,517.
- vii. Bill No. 24 of 2004: A Bill for an act to amend the Excise Act
- viii. Bill No.25 of 2004: A Bill for an act to appropriate a sum of \$1, 258,601,100.
- ix. Bill No. 27 of 2004: A Bill for an act to amend the Mutual Assistance in Criminal Matters Acts.
- x. Bill No.28 of 2004: A Bill for an act to amend the Proceeds of Crime Act
- xi. Bill No.29 of 2004: A Bill for an act to amend the Medical and Dental Practitioners Acts.

These Bills are now available from the Government Printer and may be accessed on <http://www.parliament.gov.fj>.

Legislation enacted 2004:

- i. Fiji Islands Visitors Bureau Act. No. 1 [9th March, 2004]
- ii. Agricultural Marketing Authority Act. No. 2 [9th March, 2004]
- iii. Value Added Tax Decree Amendment Act. No. 3 [9th

March, 2004]

- iv. Income Tax Amendment Act. Act No. 4 Of 2004 [9th March, 2004]
- v. Gambling Turnover Tax Decree Amendment Act. No. 5 [9th March, 2004]
- vi. Income Tax (Audio Visual Incentives) Act No. 6 [9th March, 2004]
- vii. Appropriation Act. No. 7 [18th May, 2004]
- viii. Foreign Investment Act No. 8 [18th May, 2004]
- ix. Wills Act. No. 10 [7th July, 2004]
- x. Succession, Probate and Administration Act. Act No. 11 [7th July, 2004]
- xi. Testamentary Dispositions Act. No. 12 [7th July, 2004]
- xii. 2003 Appropriation (Supplementary) Act. No. 13 [7th July, 2004]
- xiii. Income Tax Amendment Act. No. 14 [7th September, 2004].
- xiv. Fijians Trust Fund Act No. 15 of 2004 [22nd October 2004]
- xv. 2003 Appropriation (Supplementary) Act. No. 19 of 2004 [8th December 2004]
- xvi. Excise Amendment Act No. 20 of 2004 [December 2004]
- xvii. Financial Transactions Reporting Act No. 22 of 2004 [15th December 2004]

2005 Bills Gazetted

- i. Bill No. 1 of 2005: Sea Ports Management Bill A Bill for an Act to repeal the Maritime and Ports Authority of the Fiji Islands Act and to make provisions for the administration of sea ports, and for related matters.
- ii. Bill No. 2 of 2005: A Bill for an Act to amend the Marine Act 1986 to give effect to the reorganisation of Fiji's sea ports, and for related matters
- iii. Bill No. 3 of 2005: A Bill for an Act to amend the Income Tax Act
- iv. Bill No. 4 of 2005: A Bill for an Act to amend the Value Added Tax Decree
- v. Bill No. 5 of 2005: A Bill for an Act to amend the Gambling Turnover Tax Decree

Review of the Public Enterprise Act by the Ministry

Policy Background of the Public Enterprises Act

The Public Enterprise Reform Programme was developed and approved by Cabinet in October 1993. The Programme is split into three stages.

The first stage involves measures to re-organize, commercialise and corporatise public enterprises and to improve accountability to Government as their shareholders. The second stage involves the enhancement of competition in the market in which public enterprises operate. The third and final stage is privatization. The Public Enterprises Act 1996 is the embodiment of the above policies.

Public Enterprises Act No. 35 of 1996

The two main objectives of the Act are:

- a. to make nominated and declared Commercial Statutory Authorities more commercially oriented; and
- b. to make Government entities conform to an agreed plan and be more accountable.

To achieve these two objectives, the Act is divided into three. Part 1 & 2 of the Act deal with the re-organization process by providing for the corporatisation of Government entities. This process involves the re-structure of the enterprise and giving it a suitable legal form e.g. in the form of a company.

Part 3 & 4 of that the Act deal with accountability and the planning documents of Government Commercial Companies and Commercial Statutory Authorities. Parts 3 & 4 require the entities to draw up planning documents to make the entities accountable to their shareholders & Government.

The third aspect of the Act is covered in Part 5 of the Act is the accountability regime, which applies to Government Commercial Companies and Commercial Statutory Authorities. They are required to submit reports, plans and to be subject to audits.

Purpose of the review

The review of the Public Enterprises Act is an area of the Ministry of Public Enterprises' key strategic focuses. Strengthening the Act would facilitate the effective and efficient discharge of the Ministry's role and responsibilities. The review will examine some of the issues that have emerged from the Ministry's experience in the last ten years. The review process will also chart the Ministry's role in the future.

Further, the harmonisation of the PE Act with the Financial Management Act and Public Service Act will be pursued. It is intended that the review would be limited to the provisions of the Act and its policies. On the 16th September 2004, the Ministry conducted its first meeting with key stakeholders. The purpose of the meeting was to brief the stakeholders on the issues that the Ministry would like to raise and also to highlight the process of the review. The Ministry intends to call for written and oral submissions in March 2005. It is hoped that draft amendment legislation be presented to Cabinet in November, 2005.

This update on the review of the Public Enterprises Act by the Ministry of Public Enterprises is contributed by Mr. Ropate Lomavata, Senior Legal Officer at the Ministry for Public Enterprises.

Staff News

The Commission bid farewell in 2004 to three colleagues:

- AusAid Law Libraries Advisor under the Australian Government AusAid Law and Justice Sector Strengthening Program, Mrs. Lorraine Weinmann who was based here at the Commission for three months in 2004. She conducted training with Fiji Law Librarians and advised on methods to strengthen the law libraries. She returns to Fiji in March 2005 for another round of training while based at the FLRC;

- Clerical Officer Kenneth Gortz who joined the Commission in 1996 resigned for greener pastures

with the Ba Provincial Holdings Limited. Kenneth's loss will be sorely felt, however we wish him all the best with his new position;

- Graduate Trainee Attachee – Ms. Jolene Akolo left to pursue further studies, after three months with the Commission. We are grateful to Ms. Akolo for her outstanding assistance and contribution during the preparatory phases of the Domestic Violence reference.

The Commission welcomed a new Legal Officer, Mr. Salakubou Raramasi. Mr. Raramasi is a LLB graduate from the University of the South Pacific. He brings a wealth of 26 years of experience from the Police

Force.

Congratulations to Typist, Mrs. Salanieta Nawaqavou, now promoted Secretary to Director and Navinesh Kumar, appointed the Library Assistant posted to the FLRC Library.

The Commission welcomes graduate trainee attachee Ms. Leena Mudaliar, a USP graduate in Accounting, Financial Management and Public Administration double major. Leena is an asset to our administration and accounts section and we hope Leena is able to gain valuable practical experience during her stint with us.

Library Corner - Setup of the Fiji Law Librarian Group yields results

The formation of the *Fiji Law Librarians Interest Group (FLLIG)* was a significant outcome of the Fiji law librarians training. This was facilitated by the AUSAID Law and Justice Sector program through Ms. Lorraine Wineham previously the Head Librarian at the Library of the Australian Federal Attorney General's Office.

The FLLIG is modelled along the lines of the Australian Law Librarians Group (ALLG) and the New Zealand Librarians Group.

The main objective of the FLLIG is to form a combined voice amongst Law Librarians in Fiji. The Interest Group will look after the members' professional and services development. This is anticipated to be realized through cooperative sharing of resources and skills to ensure the efficient and fast delivery of information to library users.

It is hoped that the FLLIG will enable librarians to clearly articulate to management and decision makers proposals for professional development and to support the improvement of library services whether they be in terms of collection development, equipment selection or service enhancements.

The members have identified the following initiatives to be achieved

progressively:

- Assisting the AG's Chambers Library in the "Compilation of Unreported judgements of the High Court of Fiji";
- Assisting the Police Academy Library in the installation and maintenance of its Library systems;
- Distribution of High Court judgements in CD format to users;
- Identification of Library collections to facilitate inter-library borrowing, avoiding the duplication of collections;
- Helping each to index and process collections;
- Sharing IT skills for smarter and faster services.

Law Librarians are commonly termed the "*engine room*" of the justice agencies. This cooperative spirit among the "engineers" will greatly assist law and justice agencies to access information more accurately, quickly and comprehensively.

The Chairmanship of FLLIG will be rotated annually between the members of the FLLIG. At present our Chairperson is Ms. Vere Bavadra, Information Research Officer at the Fiji Human Rights Commission.

The workshops highlighted the fact that legal librarianship is a demanding field of specialty that required consistent training and dedication to do justice to the high expectation of

the level of clients we serve.

In general, Mrs. Weinmann concluded that Fiji Law Libraries are reasonably well equipped, and their librarians are dedicated and very eager to make improvements for their users. The single outstanding difference between Law Librarians in Fiji and the rest of the Pacific is almost all of them have a computer in the Library. This access to email and the Internet sets them immediately at an advantage over their colleagues in the other Pacific states. However, the comparison must be with the higher level of attainment, not lower. In an international context, Fiji Law Libraries still have a long way to go. Senior barristers and QCs are still being brought out from overseas to appear in important cases in Fiji. Until Fiji Law Libraries become as adept at searching out references for their counterparts, and until they are better resourced, this gap will remain and lawyers in Fiji will remain at a disadvantage.

The FILLIG anticipates the return of Mrs. Weinmann in March 2005 for follow up and more training, thanks to the AUSAID Law & Justice Sector Program.



Above: Fiji Law Librarians at their two workshops that were held in 2004 and facilitated by Mrs. Weinmann resulting in the formation of the Fiji Law Librarians Interest Group (FILLIG). On the left- at the AG's Conference Room and on the right morning tea on the FLRC balcony overlooking Suva harbour.

2004 Legal Workshops on the Charitable Trusts Act

The review of the Charitable Trusts Act was placed on the Commission's Work Plan for 2004—2005 by Cabinet at its meeting in February 2004.

In order to achieve legal status most non-government and civil society organisations have been incorporated under the **Charitable Trusts Act (Cap 67)** which is substantially derived from the English **Charitable Trusts Acts**. It became part of Fiji's law in 1945.

Over the years the law has remained '*stagnant*' while the demands of civil society has increased and become more complex. Civil society is the composite term used to describe **all** those organisations and groupings outside the formal State apparatus. It includes organisations that are traditionally labelled "*interest or pressure groups*," not just non government organisations (NGOs), but also labour

unions, professional associations, chambers of commerce, religious organisations, student groups, cultural societies, sports clubs and informal community groups.

With the rise in social problems, increased cost of living, unemployment and diminishing Government resources, there is clearly a need to encourage charitable organisations by providing them with the necessary legal framework within which to operate. There is also a need for stringent regulatory measures to prevent people from misusing such organisations for personal or political gain.

In June 2004, A/SLO Vukidonu Qionibaravi attended the National NGO Summit and presented a paper on the CTA and the FLRC's law reform process.

A/PLO Rajjeli Tuivaga attended the Legal Workshop on the Act held in August 2004. It was organised by the Pacific Centre for Public Integrity with Ecumenical Centre for Research Education & Advocacy (ECEA) and the Pacific Regional Rights Resource Team (RRRT). The Attorney General & Ministry for Justice Senator Q.B. Bale opened the workshop. Also present as resource-person was the International Centre for Non-Profit Law (ICNL) CEO Stephen Kleinghofer.

Both of these meetings were the initiative of Fiji's Civil Society Organisations and the Commission attended to outline its procedure and consultation process.

The Commission is hopeful of commencing the Review in 2005 once funding is secured.

Commonwealth Working Group on Asset Repatriation

A Commonwealth Working Group on Asset Repatriation was established by the Commonwealth Secretariat, following the Commonwealth Heads of Government Meeting (CHOGM) in Abuja in December, 2003 where the Leaders (amongst other issues) considered the issue of corruption and the important question of the repatriation of assets of illicit gain.

Fiji was invited by the Commonwealth Secretary-General, Rt. Honourable Donald McKinnon to participate in the Working Group.

The Attorney-General and Minister for Justice had designated Mr. Alipate Qetaki, Executive Chairperson of the Commission to be a member of the Working Group.

The Group is addressing a number of technical issues relating to asset forfeiture and international Co-operation. At its first meeting, held from 14-16 June, 2004 the Group focused on identifying problems, issues and obstacles associated with the following :-

- *Misappropriation of assets;*
- *Movement of assets;*
- *Tracing, tracking of assets;*
- *Use of Mutual Assistance to gather evidence;*
- *Use of Mutual Assistance to obtain cross-border restraint and confiscation of assets;*
- *Restrain and confiscation of assets; and*
- *Return of assets.*

Bahamas, Canada, Malaysia, Nigeria, Singapore, South Africa, Trinidad and Tobago and the United Kingdom. The UN Office on Drugs and Prevention of Crime, the World Bank, Transparency International and the Commonwealth Secretariat are also represented in the Working Group.

It is expected that the Group will meet four times between June, 2004 and June 2005.

At its second meeting held from 15—17 November 2004, the group focused on the following topics:-

- *Regimes for asset forfeiture (conviction base/non-conviction based)*
- *Mutual assistance in restraint and confiscation*
- *Mechanisms for asset repatriation (including consideration of cost)*
- *Politically exposed persons*
- *Immunities and Cabinet secrecy*
- *Training, Tracking, Investigation*
- *Prevention and Criminal Offences*

The Group is to prepare a report with specific recommendations in the areas referred to it. The Draft Final Report will be submitted to Finance, Law and Foreign Ministers at their respective meetings. The Final Report of the Group will be submitted to the Malta CHOGM in 2005 through the Commonwealth Secretariat.

Other countries represented in the Working Group are:

Tribute to Mr. Anthony Kelly, FLRC Prisons Reference Consultant



Above: Tony Kelly at the Prisons Reference Workshop held in June 2004.

The Fiji Law Reform Commission records with sadness the passing away of Mr. Anthony Kelly the Corrections Expert engaged in the Review of the Prisons Act and related subordinate legislations.

Tony was passionate about his work and had submitted his final Report on Phase 2 of the Review on 26th November, 2004, a month before he lost his fight with cancer on Boxing Day 2004.

In expressing the Government and the Commission's condolences to his wife Melanie, Mr. Qetaki the Executive Chairman said that Mr. Kelly's contribution to the reform of the Prisons legislations will be long remembered and part of the permanent record of the Fiji Law Reform Commission for the years ahead.

May his soul rest in peace.

Tribute to Mr. Jagdish Chandra, Principal Accounts Officer, Attorney General's Chambers

The Fiji Law Reform Commission Chairman & staff, recently joined the rest of the Ministry of the Attorney General to pay their last respects to Mr. Jagdish Chandra, Principal Accountant in the Attorney General's Chambers who passed away on Monday 14th February 2005. Jag as he was fondly known had been with the Chambers since 1995, the last posting of his long career in the civil service spanning over thirty years. Jag received the Presidents Long Service Medal during the 2003 Fiji Day Honours.

Mr. Chandra was a tireless and friendly gentleman who looked after the Commission's finances, both Government as well as donor funding, including the Trust Accounts for the UNDP grant for the review of the Prisons Act and NZAID grant for the review of Domestic Violence Laws.

In expressing the Commission's condolences Mr. Qetaki, the Commission's Chairman commended Mr. Chandra's commitment to the proper management and control of the Commission and Chambers financial resources. Mr. Chandra distinguished himself by his firm but friendly approach to financial matters which will be long remembered by staff.

May his soul rest in peace.



Above: Jagdish Chandra at the Commission's Strategic Planning Workshop held in December 2003.

The Commission's Research Papers, Bills and Final Reports

- 1981 Final Report of the Royal Commission on the Treatment of Offenders Part I.
- 1983 Final Report & Bill: Unit Titles.
- 1983 DP: On The Problems of Child Abuse.
- 1983 DP: Alternatives to Imprisonment.
- 1983 Annual Report
- 1983 DP: The Duty Solicitor Scheme.
- 1983 Annual Report
- 1984 DP: Review of the Prisons Act and subsidiary legislation.
- 1984 DP: The revision of laws relating to copyright in Fiji.
- 1984 Annual Report 1983
- 1984 Issues Paper: Imprisonment and Community based alternatives to imprisonment.
- 1986 Final Report: An examination of the laws and practices relating to Penal Policy in Fiji.
- 1986 Annual Report 1985
- 1986 Final Report: A review of the laws and practice of copyright and neighbouring rights in Fiji.
- 1993 Position Paper: Abortion law in Fiji and Proposals for Change
- 1995 Final Report: Insurance Law Reform.
- 1996 Final Report: Legal Aid
- 1996 DP: Rehabilitation and the problem of old convictions
- 1996 Final Report: Solicitors Trust Accounts and Legal Practitioners Fidelity Fund Report.
- 1996 Working Paper: Family Law Working Group
- 1996 Position Paper: Abortion law in Fiji and Proposals for Change
- 1996 Annual Report 1994 - 1996
- 1996 Final Report: Legal Practitioners Act Law Reform.
- 1997 DP: Family Law: Divorce
- 1997 DP: Family Law: Affiliation
- 1997 DP: Family Law: De Facto Relationships
- 1997 DP: Family Law: Maintenance and Enforcement of Maintenance Orders
- 1997 DP: Family Law: Marriage and Separation
- 1997 DP: Family Law: Financial Support
- 1997 DP: Family Law: Custody and Access
- 1997 DP: Family Law: Structure of the Family/Domestic Court
- 1997 Final Report: Drink Driving Report.
- 1997 Draft Bill: Juveniles Act Amendment Bill 1997
- 1997 DP: Evidence law: Recent Complaint
- 1997 DP: Evidence law: Corroboration
- 1997 DP: Evidence law: Confessions
- 1997 DP: Evidence law: Competence and Compellability
- 1997 DP: Evidence law: Unsworn Evidence
- 1997 DP: Evidence law: Right to Silence
- 1997 DP: Evidence law : Expert Opinion Evidence
- 1998 Final Report & Bill: Bail Law Reform Report.
- 1998 Issues Paper: Police Powers in Fiji
- 1998 DP: Police Powers: Sources of Police Powers in Fiji
- 1998 DP: Police Powers: Arrest and Detention
- 1998 DP: Police Powers: Search and Seizure
- 1998 DP: Police Powers: Investigation Procedures
- 1998 Final Report: Police Powers in Fiji
- 1998 Final Report & Bill: Intellectual Property and Copyright Law
- 1998 Final Report & Bill: Consumer Credit, Hire Purchase; Bills of Sale Act & Sale of Goods Act.
- 1998 Final Report: Bankruptcy of Persons and Insolvency of Companies.
- 1998 Draft Bill: Criminal Procedure Code Amendment Bill 1998
- 1998 Draft Bill: Court of Appeal Act Amendment Bill 1998 (Bail)
- 1998 Final Report: Swordsellers
- 1998 DP: Cameras in the courtroom
- 1998 DP: Revision of the Part VI and VII High Court Act
- 1998 Final Report & Bill: Revision of the Part VI and VII High Court Act.
- 1999 Draft Bill: High Court Act Amendment Bill 1999
- 1999 Draft Bill: Penal Code Amendment Bill (Sacredledge)
- 1999 DP: Sexual Offences Against Children in Fiji
- 1999 DP: Working Children in Fiji
- 1999 DP: Children and Drugs
- 1999 DP: Juvenile Justice in Fiji
- 1999 Bulletin 1: Sentencing in Fiji
- 1999 Bulletin 2: Sentencing in Fiji
- 2000 Issues Paper: Sentencing law reform in Fiji
- 2000 Final Report: Sexual Offences.
- 2000 DP: Wills and Succession law reform in Fiji
- 2000 Final Report: FLRC Report for Children 2000.
- 2001 Final Report: Wills and Succession Law in Fiji.
- 2002 Final Report: Committal Proceedings in Fiji.
- 2002 Annual Report 1997 - 2001
- 2002 Issues Paper: Liquor Laws in Fiji
- 2003 Final Report: Bribery and Corruption. "Building an Anti-Corruption Culture for Fiji" Parliamentary Paper no.85 of 2004
- 2003 Final Report: Review of Liquor Laws in Fiji
- 2004 Prisons: Issues Paper 1: Aspects of Prisons Administration
- 2004 Prisons: Issues Paper 2: Matters promoting a shift from containment to corrections
- 2004 Prisons: Issues Paper 3: Human Rights Considerations
- 2004 Prisons: Issues Paper 4: HIV/AIDs in the Prisons Context
- 2004 Annual Report 2002 & 2003
- 2004 Domestic Violence DP1: Context & Approach
- 2004 Domestic Violence DP2: Criminal Justice System
- 2004 Domestic Violence DP3: Civil Law & Procedures

LEGISLATION resulting from FLRC references

1. Unit Titles Act Cap.274 (No.13 of 1985)
2. Insurance Law Reform Act 1998;
3. Insurance Act 1998
4. Legal Aid Act 1996
5. Rehabilitation of Offenders Act 1997 (Irrelevant Convictions)
6. Trust Accounts Act 1996
7. Legal Practitioners Act 1997
8. Land Transport Act 1997 – breathalyser regulations
9. Juveniles Act Amendment Act 29/1997 (Child Pornography)
10. Copyright Act 1999
11. Consumer Credit Act 1999
12. Criminal Procedure Code Amendment Act 37/1998
13. Court of Appeal Amendment Act 38/1998
14. High Court Amendment Act 27/1998
15. High Court Amendment Act 37/1999
16. Penal Code Amendment Act 42/99
17. Civil Evidence Act 2002
18. Bail Act 26/2002
19. Penal Code Amendment Act 2003
20. Criminal Procedure Code Amendment Act 2003
21. Family Law Act 2003
22. Wills Act. No. 10/2004
23. Succession, Probate and Administration Act. 11/2004
24. Testamentary Dispositions Act. No. 12/ 2004

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Issue 11

February 2005

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Printed and Published by the Fiji Law Reform Commission

Editing & Layout: Vukidonu Qionibaravi

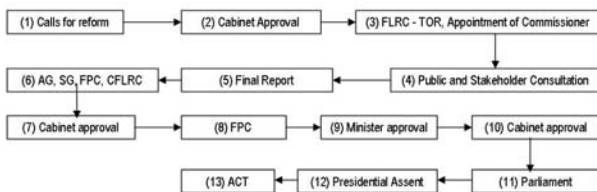
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FLRC Review Processes and Procedures

FLRC REVIEW PROCEDURES AND PROCESS

The Commission's work involves a lot of consultation, both within the government and with important stakeholders and members of the public. This process is to ensure that proposals and recommendations for reforms in the law are in line with actual needs and circumstances.

The Commission's review process and procedures can be best described in the following diagrams.



Notes

1. A call for review maybe made by Parliamentarians, civil societies, relevant stakeholders, Ministries, or any reputable organizations.
2. The Attorney General obtains Cabinet approval for the review to take place.
3. The Terms of Reference (TOR) is given to the FLRC by the Attorney General stating the area of the law to be reviewed, the scope of the review, and the duration of the review. The Consultant is appointed from individuals well versed in the area of the law under review.
4. The Consultation process involves drafting and distribution of Discussion Paper, public hearings, and consideration of the laws and report of other jurisdictions.
5. The Reports contains the recommendations for reform as well as draft legislation, if the recommendations for reform require legislative implementation.
6. The Consultant submits the Report to the Chairperson and Commissioners. The Commission then forwards a copy of the Report to the Attorney General, the Solicitor General, and the First Parliamentary Counsel. The Consultant and Commissioners formally present the Report to the Attorney General as well as the SG, FPC and the client Ministry.
7. The Attorney General prepares a Cabinet Paper based on the recommendations of the Report and submits it to Cabinet for discussion and approval.
8. The Report and Bill are given to the First Parliamentary Counsel to re-draft the necessary Bills incorporating the recommendations of the Report or those approved by Cabinet.
9. The Attorney General must approve of the Bill.
10. The Bill is approved by Cabinet, after vetting by the Cabinet Subcommittee on Legislation.
11. The Bill is tabled in Parliament and debated upon by both Houses.
12. The President must assent to the Bill before it becomes law.
13. The Bill becomes law and effectively amends existing laws or creates a new one.

Fiji's Legislative Processes – three ways in which a change to the law make be initiated and achieved

