

FIJI QUESTIONNAIRE

FIJI MEDIA COUNCIL

What is the level of freedom of the Press in Fiji?

Freedom of the press is enjoyed to a high degree in Fiji and this has been enshrined in the 1970, 1990 and 1997 constitutions.

Is the Media independent i.e. Is it free to publish news for the public information without political interference?

Yes but there are two distinct cases in which the government exercises its powers. Fiji Television Decree 1987 – this is when the Minister of Information restricts Fiji TV from publishing certain news item. This authority was put in place when Fiji TV was solely owned by government but now it is owned by other Shareholders (Yasana Holdings) and the decree should be re-examined as more players are intending to set up transmissions in Fiji. Similarly as owners of the Fiji Broadcasting Commission, (FBC) the government has time and again exercised its powers to restrain the station from broadcasting various news items

Is it bound by government's proclivity for secrecy?

No but as explained above the exceptions are for Fiji TV and FBC

Are there laws requiring the apprehension of journalists/reporters without relevant justification?

No

All rights of media personnel are enshrined in the constitution

Does the Media have a Code of Conduct/Ethics?

Yes

- The Fiji Media Council has a Code of Conduct which was established after wide consultation with public and private sector bodies
- The code of conduct acts as a self regulating mechanism and specifies all the regulations governing the activities of media organizations and personnel

Are there laws and constitutional provision that guarantee freedom of the press?

Yes

Are the conditions in which government can curtail the freedom of the press?

Yes

The conditions are also specified in the constitution

FIJI LAW SOCIETY

Are there laws governing the conduct of Legal Practitioners?

Yes legal practitioners are governed by

- Legal Practitioners Act 19, 1997
- Fiji Law Society Code of Ethics

Are there rules/laws existing for the Fiji Law Society to address issues, corrupt practices/unethical behaviour of its members based on complaints about its members from the public?

- Yes, all rules and regulations about corrupt practices/unethical behaviour of the society's membership are stipulated in the above Act and Code
- All complaints received by the society on the conduct of practitioners are referred to a committee, which is appointed by the Attorney General for a two-year term.

How many cases were reported in the past two years and what disciplinary action if any had been taken against them?

- In 1998 there were 62 cases reported and 79 disposed of. The higher number disposed comprises a number of cases that were carried forward from 1997
- In 1999 there were 139 cases reported out of which 115 were disposed
- Number of complaints average above fifty annually from a total membership of about 250

Are reports of the Fiji Law Society published annually and are these made available to public, if not, why not?

The report of the Fiji Law Society is published annually and is available to members only. However it also required to send a copy each to the University library and the Government Archives.

FII INSTITUTE OF ACCOUNTANTS

Are there rules/laws governing the conduct of Accountants in Fiji?

Yes.

- There is a written Code of Ethics that was effective from 1/7/2000.
- In addition the Fiji Institute of Accountants is governed by an Act, Cap 259, which specifies all the regulations binding the operations and practices of accountants in Fiji.

Are there procedures whereby the Fiji Institute of Accountants can address issues, corrupt practices/unethical behaviour of its members?

Yes

- FIA is charged with the responsibility of policing its members but only as far as investigating and disciplining any unethical behaviour of its members.

- There are two lines of action the FIA uses to handle complaints about accountants
- members – complaints received of members are dealt with by committees. Firstly by the Investigation Committee than it is referred to the Disciplinary Committee if warranted
- non-members – all complaints made of non members are referred to the police by the Institute for their necessary action. Out of the three cases reported in the last year only one has been appropriately addressed.
- The Institute is of the view that current disciplinary measures and penalties are not effective as a deterrent mechanism for unethical behaviour

How many cases of unethical conduct, bad behaviour were reported to the Institute in the last two years and what disciplinary action if any have been taken against them?

From the 1998 Annual Report it was noted that there were 6 complaints referred to the Disciplinary Committee and 2 had been outstanding from 1997. Out of these 8 - 1 was dismissed; 2 resulted in the censure of the member concerned, in one case with cost and; 5 were still ongoing at the end of the year. Five disciplinary measures that the FIA can apply, from the most severe to the least are – de-registration, suspension, fines of up to \$1000, censorship, imposition of cost. There has been no de-registration over the past two years.

Are annual reports of the Fiji Institute of Accountants published and are these made available to public, if not, why not?

Yes

- Although the report is intended for FIA membership only, a copy is also sent to the University library as well as the Archives hence it becomes a public document
- FIA also publishes a list of its membership in June each year

FIJI EMPLOYERS FEDERATION

Is Fiji Employers Federation aware of the existence of any corrupt practices within its membership?

No, FEF is not aware of any corrupt practices involving its members

Are there rules/code of conduct governing the conduct of the FEF members who may be engaged in corrupt (bribery) practices?

- Although there is no formal code of conduct for members, a mechanism exists to deal with members who have been reported for illegal conduct
- FEF does not condone the illegal practices of any member. If a report is made on one of its members, the board will demand an explanation. Action will then be taken by the board depending on the explanation given

If so how many cases were reported in the past two years and what actions were taken against them?

- 1 case was reported over the last year and this involved a member that was alleged to have provided logistic support for the rebel group that staged the coup and held parliamentarians hostage

- The member was pardoned because explanation provided was satisfactory i.e. logistic support was given to assist the release of the release of hostages.

Does FEF facilitate and promote anti-corruption management codes to its members?

FEF is not actively engaged in promoting anti-corruption management to its members.

How does FEF view facilitation payments to public officials?

- FEF does not condone any bribery on the part of its members or public officials
- As Fiji is a country that is characterized by a strong culture, what really matters is establishing a reasonable code of business practice that upholds both the values of normal business transaction and cultural ethics.

How does FEF view the level of corruption in the country?

The Fiji Employers Federation views the level of corruption in the country with grave concern.

ANTICORRUPTION BUREAU

Are there special investigative or watchdog agencies?

No

- A committee was however appointed in 1999 by the Attorney General comprising of three members – a High Court Judge as chairman, an Accountant and a Senior Citizen to look into the possibility of setting up an Anti-Corruption Bureau.
- The committee is currently looking into the penal code provisions on corruption with the view to establishing a guideline or framework on which the anticorruption commission is to operate

Are they independent? i.e.

Are appointments required to be based on merit?

Are appointments generally based on merit?

Are appointees protected from removal without relevant justification?

Are their reports published (other than when criminal charges are pending)?

Answers to the above questions will be in the affirmative or desirably in the affirmative once an anti corruption commission/agency has been established

Do they report publicly to the legislature on the general scope of their work?

Again this will be decided once the framework for the operations of the anti corruption agency is finalized

Can people complain to the agency without fear of recrimination?

The country does not have any formal whistle blowing legislation or mechanism in place. It was mentioned by both, the Police and the Judiciary that such a mechanism will not work in Fiji.

Some of the reasons given why this will not work are as listed below

- anonymity does not exist because society is so closely knit culturally. People are therefore not bold enough to report knowing that they will be discovered later
- The perception that a win-win situation for both parties engaged in illegal practice is more rewarding i.e. why worry about the cost to society when we can also do what others have done. This is why a wide range and large volume of petty corruption activities occur in all sectors of society.
- The fear on the part of civil society knowing that there is no guarantee of government protection if members report on any illegal activity.

FIJI CHAMBER OF COMMERCE

Is the Fiji Chamber of Commerce aware of the existence of any corrupt practices within its membership?

Are there rules/laws governing the conduct of members who are engaged in corrupt (bribery) practices?

If so, how many cases were reported in the past two years and what actions were taken against them?

Does the Fiji Chamber of Commerce facilitate and promote anti corruption management codes to its members?

How does FCC view facilitation payments to public officials?

Despite assurances for an interview and repeated phone calls there was no response from the Chamber nor were written response made.

FIJI TRADE UNION CONGRESS

Is the Congress aware of any corrupt practices that occur within the FTUC or its membership?

No

- Any corrupt practices of affiliate members are normally dealt with at individual membership level. All remedial action are specified in the Trade Union Act
- The Congress does not investigate into the activities of its affiliate members since all regulations governing the activities of Trade Unions are spelt out in the Trade Union Act
- FTUC also advised that there is no incidence of corruption within the congress

Are there rules/laws within the FTUC to reprimand members who may be involved in such practices?

No

- The FTUC does not have rules within the congress to reprimand affiliate members that may be involved mal-practices
- This is so because they are bound by the regulations of the Trade Union Act where procedures for reprimanding members are specified
- As for employees who may be involved in corruption the congress leaves the discretion to individual unions to handle. The stance is that the employee has to be proven beyond

reasonable doubt that he/she is guilty of the act. The Trade Union Act and individual Collective Agreements specify procedures that can be activated when dealing with cases

If so, how many cases have been dealt with in the past two years?

- There was a case of the Fiji Public Employees Union where the Registrar of Trade Unions appointed a receiver for the union because it was not able to handle its financial affairs competently
- Another case was mentioned which the congress could not clearly recollect

What is the Congress's view on the level of corruption in Fiji?

- The FTUC is as concerned as most other civil society organizations on the level of corruption in Fiji and have been vocal in bringing any corrupt practices to the attention of the general public
- The congress plays a 'wait until informed' approach. This is why it is not able to effectively play its part as a civil society watch dog to combat corruption. It is caught between the goals of protecting its members rights as well as fulfilling the role of a social watch dog
- The FTUC does not condone corruption but is quite ineffective as an organization to take a proactive approach to it.

FIJI COUNCIL OF SOCIAL SERVICES

What is the Council's view of the level of corruption in the country?

Shamefully high and in most depth

Has the Council powers to combat corruption that may exist and what action it could possibly take to avoid occurrence of corrupt practices?

No powers

If there has been incidences of corruption then what has the Council done in the past two years in this respect?

The Council has done nothing over the past two years. It admits being too scared to take any action because of backlash and victimization.

CITIZEN'S CONSTITUTIONAL FORUM

What is the Forum's view of the level of corruption in the country?

- CCF discussed a report that was prepared on a Banaban Council Trust Fund. The report was also tabled in parliament.
- CCF also raised cases that have captured national attention in Fiji. These were the National Bank scandal and recently the operations of a public company mal-practices of which have been 'legalized' under the guise of affirmative action according to the CCF.

- Reference was also made about the church accounts. Particular mention about the Methodist Church accounts which were not audited during the period 1987 – 1996

Is the forum aware of any corrupt practices that it has engaged in or subjected to?

The forum acts as a watchdog, creating an environment of awareness of the activities of government and the private sector. It also plays an active role in the education of the general public on human rights issues and the upholding of democratic principles.

Has the Forum powers to combat corruption and what action it could possibly take to avoid occurrence of corrupt practices?

The Forum is a civil society organization and is not governed by legislation. As a body representing the voice of the people it exercises its powers to investigate matters brought to its attention and also prepare reports on such research and investigation.

If the answer to question 3 is yes, what action has it taken in the past two years to address corruption in the public and private sector?

One such investigation was report on Trust Fund. This is due to be finalised and circulated internationally.

AUDITOR GENERAL

Is the office of the Auditor General independent? i.e. Is the appointment of the Auditor General based on professional criterion and merit? Is the appointee protected from removal without relevant justification?

- The Auditor General is appointed by the Constitutional Offices Commission, which ensures that the appointment fulfills merit and professional criterion. It is independent in this regard.
- The appointee is also protected from removal without relevant justification. Any removal has to be in line with the requirement of relevant sections of the constitution.
- Concern was however raised about the independence of the office by the Auditor General in making appointments of subordinates. Currently the office holds the power to appoint officers up to principal auditor levels only and these appointments can be contested at the Appeals Board of the PSC
- The Auditor General does not hold any power to appoint officers above the Principal Auditor levels in the department as these are made by the PSC (Senior Executive Unit), which appointments are not subject to appeal.
- The Auditor General's independence is also restricted in the sense that department's budget is controlled by the Ministry of Finance

Are all public expenditures audited annually?

Yes

Is reporting up to date?

No. Reasons why reporting has not been up to date include:

- lack of resources and quality staffing
- national crisis like recent political turmoil
- Some accounts have been delayed for ten years. This include Provincial Council, Town Council, Statutory Authority and Government controlled companies

Are reports submitted to a Public Accounts Committee and debated by the legislature?

Yes reports are first submitted to the Parliament and after being debated are referred to the Public Accounts Committee for scrutiny.

Are all public expenditure declared in the official budget?

Yes

Additional comments on what actually happens:

- Reports by the Auditor-General highlighting irregularities and weaknesses are debated and discussed both in Parliament and at public accounts committee sittings, but actions taken to address the problems are not publicised. Hence, the public is not informed of what remedial actions taken by government to address issues highlighted in the Auditor General's report.
- There is no way of knowing whether action has been taken to tackle problems mentioned in the report and with no transparency in that regard there is a tendency for continuous abuse by public officials. Areas where abuse is most prevalent are in the use of government vehicles, departmental budgets and other government utilities such as housing.
- The Auditor General's effectiveness is minimised because his role of reporting is not complimented with government's strong commitment to follow through by implementing necessary remedial action. He has no enforcement powers and many of the problems highlighted often fall subject to political interests or general complacency.
- As mentioned in the answer to question 1 above, the AG's independence will continuously face a compromising situation because of his reliance on the Ministry of Finance for funding approval.

CIVIL SERVICE

Are there laws establishing criminal and administrative sanctions for bribery?

Yes, under the penal code. In addition to this the Public Service Commission issues circulars to ministries and departments on how soliciting for services are to be dealt with.

Are there rules requiring political independence of the civil service?

Yes (refer Public Service Act 1999, Public Service Regulation 1999 and General Orders 1993)

Are recruitment and career development rules based on merit?

- Yes, the Public Service Commission endeavors to abide by the requirements of the PSC Regulations when dealing with recruitment and career development.
- There is an Appeals Board that civil servants could raise their grievances in when they feel they have been unfairly treated.

Are there specific rules to prevent nepotism? Cronyism? (note: rules discriminating positively in favor of marginalised or minority groups are not included in this description)

Yes

- The PSC Act 1999 and PSC Regulation 1999 specify conditions for appointments.
- Currently appointments of all officers below principal level are done by the various ministries and departments. Similarly succession planning of these officers are handled by the separate departments.
- All appointments and succession planning of officers of principal level and above are handled by the PSC (Senior Executive Services Unit). This in a way partly addresses nepotism and cronyism that may be existing at departmental or ministerial level

Are there rules (including registries) concerning acceptance of gifts and hospitality? If so, are these registers kept up to date? By whom?

Have they legal powers to enforce disclosure?

Have they staff to investigate allegations?

What powers of sanction are in place against parliamentarians?

Have they been invoked?

- The PSC issues circulars to ministries detailing instructions on the handling of gifts and hospitality
- Each department/ministry is required to adhere to these instructions as the responsibility is left with them to account for.
- Currently there are no clear instructions on the handling of traditional gifts (tabua, mats) and those other gifts or tokens of appreciation that are given on a traditional lineage.
- The disposal of such gifts is left at the discretion of the various departments and their officials
- Policing and monitoring of circular instructions especially in regards to the handling of gifts and hospitality has not been carried out effectively. Although the instructions are delivered by the PSC, each department through their chief accounting officer is expected to adhere to the requirements specified therein

Are there restrictions on post public servant employment?

No. The public service secrecy act however binds the civil servant for life in the event that any information that they may have been exposed to or has dealt with in the course of their duty in the civil servant is used for personal gain in their post civil service employment.

Are procedures and criterion for administrative decisions published (e.g. for granting permits, licenses, bank loans, building plots, tax assessments, etc)?

Not in any detail.

Are there complaint mechanisms for public servants and whistleblower protection measures?

The PSC receives complaints from many sources and through various means which indicates that either:

- there is no mechanism in place or

- a mechanism is in place but is not effective hence the reason for employees to use other methods
- There is no whistle blower protection mechanism in place

Are there means for complaints by members of the public?

Yes. This is either through the various departments or senior officials or the union or the media. The PSC endeavors to act on every complaint but whether its action has been effective enough to deter officials from corrupt practices is not clear. It is only seen to be taking a reactive stance only when matters are raised through the media, employees union and directly through senior officials in the public service

Additional comments on what is actually happening:

- Affirmative action policy of government is not carried out fairly and impartially. The intent to promote indigenous Fijian and other marginalised groups within the public service ends up in nepotism and cronyism because selections are not based on who is the best applicant from this marginalised group but on a 'who knows who' basis.
- The effectiveness of the Public Service Commission is not sufficiently exerted because of the length of time it takes to deal with issues especially those that relate to government employees facing disciplinary action. This is because of the lengthy and cumbersome nature of current procedures for handling staff and other administrative matters.
- Recent decision by the Commission that it cannot hold former civil servants to account for their mal-practices whilst serving in office is a huge drawback to government. The civil servant's oath of secrecy is in force and is binding over their post government employment activities but no regulations exist to address how public servants after leaving office should be held to account for their actions during their term of employment, particularly in the case of abuse of office and abuse of funds, and where those responsible are influential and privileged people. So others bear the brunt.
- The weakness of the Public Service Commission is further displayed by the Commission not being able to investigate promptly involvement of members of civil service in the 19th May 2000 coup attempt. [One such member being a high ranking traditional Chief.]
- Quote from the Editorial of a local Newspaper-dated 18th March 2001. "Prime Minister must demand unreserved loyalty and commitment from his Ministers and civil servants. He needs that assurance to support his task in returning the nation to parliamentary democracy. Public confidence in the public service is greatly eroded. There is a big temptation for civil servants, especially those in senior position, to abuse their authority and bend the rules for their own benefit. Not only civil servants but government ministers entrusted to run the state affairs fall into the temptation also, because unlike elected members of the parliament, they do not have to be answerable to the people. Some of their decisions are tainted with political influences, bias and racism. This breeds nepotism, unaccountability, favouritism and secrecy because there is less supervision and monitoring of their performances."

COMMISSIONER OF POLICE

Is the Commissioner of Police independent? i.e. Are appointments required to be based on merit?

Yes, the office of the Commissioner of Police is independent. The three main arms of the law, i.e. the office of the Commissioner of Police, office of the Director of Public Prosecutions and the Judiciary are independent.

Is the appointee protected from removal without relevant justification?

- The appointment is based on merit and is protected from unjustifiable removal.
- The Commissioner's appointment is on a five yearly contract based on work performance.
- The contract could be terminated by the Constitutional Offices Commission upon the advice of the Prime Minister.
- The Commissioner highlighted that since his appointment to the office seven years ago there has been an ongoing attempt to remove him.
- He also pointed out the difficulties faced by the force in terms of budgetary allocation. Before the 19 May 2000 coup he had sought funding from the government to strengthen the Police Mobile Unit of the force. There was no response. The Forces role to maintain law and order cannot be over-emphasized, especially in the era of instability the country is currently undergoing. He has again raised the issue with the Interim Government warning that if they are not careful, the staging of a fourth coup is highly likely. The only difference this time is that it will be bloodier.

Are public prosecutors independent?

Yes. The Commissioner of Police also has blanket independence on the appointment of Police officers.

Are there special units for investigating and prosecuting corruption crimes?

Yes, there is a unit within the Police Serious Crime Squad to investigate corruption crimes however there is a serious need for specialized training on investigation and prosecution of such crimes.

Is there an independent mechanism to handle complaints of corruption against the Police?

Yes, there is a unit within the police force to do such work. It was initially called the Internal Affairs Unit and is now the Professional Standards Unit after the force was restructured. The Professional Standards Unit is only answerable to the Commissioner.

Does civil society have a role in such a mechanism?

Yes

- If they are victims of such crimes or witness to it, they should always make themselves available for statements.
- In turn they will be under police protection in the absence of a formal whistle blowing protection mechanism.

In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)?

No, in the last five years there have been no cases brought about

Are there any cases of corruption within the prosecuting agencies?

No, the Commissioner is not aware of any cases of corruption within the prosecuting agencies.

Which legislative instruments can be used by the police for the investigation and prosecution of cases of corruption/bribery? Is private to private corruption punishable by law?

- Most of the cases are based on Section 106 to 116 of the Penal Code Act 17 however other offences such as forgeries, falsification of account and obtaining money by false pretences may also come, in which there are specific cases of the law that caters for them.
- Yes, Section 106 (b) of the Penal Code Act caters for this and which reads 'Any person who corruptly gives, confers or procures or promises or offers to give or confer, or to procure, or attempt to procure to, upon or for any person employed in the public service or for any other person, any property or benefit of any kind on account of any such act or omission is guilty of a felony and is liable to imprisonment for seven years'.

Is the law applied?

Yes

How many cases of prosecution have been undertaken in the past years? How many have been successful? If the number is low, are there other effective measures or other good reasons why the number is low?

In the last two years 1998 and 1999 comparatively there had been a marked decrease of the offence of corruption/abuse of office. In 1998 out of the 29 cases reported, all were detected giving 100% detection. In 1999 out of the 14 cases reported, 8 were detected giving 57% detection. The decline in detection was due to insufficient evidence to secure lying of charges

Additional comments on what actually happens:

- The state of law and order in Fiji has deteriorated over a short period of time and numerous public criticism targeted at the Police have been leveled at the force's inconsistency with regards to law enforcement.
- Since the political turmoil of May 2000 and the resultant instability, there has been a growing concern about the effectiveness and neutrality of the Police in carrying out the necessary investigations on people inciting civil unrest. This only adds further problems to the already shortage of qualified personnel in the force who could be relied upon to investigate into corruption and white collar crime.
- The force has not been assisted with the necessary training and funding support to prepare them towards taking a proactive approach to combating crime and its over-reliance on a public relations approach has not been very effective.
- Corruption within the force cannot be denied, as there are allegations of Police receiving bribes and applying kickbacks in the process of enforcing the law. This is most common in the area of traffic offenders and other petty criminal acts.
- The Police have been inconsistent in applying the law, favouring certain groups and being strict on the others based either on race or political grouping. The public is losing confidence in the Police Force.

CONSTITUTIONAL OFFICES COMMISSION

Are appointments made by the Constitutional Offices Commission independent? i.e. Are appointments required to be strictly based on merit?

Yes

In cases where an appointment is sought externally (overseas) the Prime Minister's approval has to be attained first

Are appointees protected from removal without relevant justification?

Yes.

Term of appointees is five years and any removal from office has to be in compliance with due process outlined in Section 172 of the 1997 constitution. The only prerogative of the Commission is, if there is a report on an appointee's shortcoming of some kind then the degree of the shortcoming is something that the Commission has to decide on.

Has an appointee been removed without relevant justification in the last three years?

No

Are members of the Commission obliged by law to give reasons for their decisions?

No

- The Commission is obliged to consult with the Minister responsible on the appointment that it makes but.
- The Commission is in no way obliged to follow the recommendation that may be made by a Minister and is aware of the tendencies to politicize appointments.

Are the reports of the Commission published?

No

Does the Commission report publicly to the legislature?

No

- The commission does not disclose its activities to any forum although the appointment of the commission itself is made by the President on the nomination of the Prime Minister.
- The nomination of the Prime Minister only occurs after the names have first passed through the sector standing committee in the House of Representatives.

DIRECTOR OF PUBLIC PROSECUTIONS

Is the Director of Public Prosecution independent? i.e.

Are appointments required to be based on merit?

Is the appointment protected from removal without relevant justification?

Are public prosecutors independent?

Are there special units for investigating and prosecuting corruption crimes?

Is there an independent mechanism to handle complaints of corruption against the Police?

Does civil society have a role in such a mechanism?

In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)?

Are there any cases of corruption within the DPPs office?

Which legislative instruments can be used by the DPP for the investigation and prosecution of cases of corruption/bribery? Is private to private corruption punishable by law?

Is the law applied?

How many cases of prosecution have been undertaken in the past years? How many have been successful? If the number is low, are there other effective measures or other good reasons why the number is low?

We note with regret that the Public Prosecution Office did not provide any response to our questionnaire despite repeated attempts to make an interview appointment. Our attempt to secure an appointment even involved faxing the entire correspondence twice.

However public perception from media reports and statements made in the Courts is that the Prosecution office is ineffective, inefficient and staffed by most junior lawyers in the country. Public is losing confidence in the prosecutions office.

EXECUTIVE

Can citizens sue the Government for infringement of their civil rights?

Yes

Are there procedures for the monitoring of asset, including disclosure provisions, for the executive, Ministers and other high level officials?

No

- Ministers are required to write to the Prime Minister's office disclosing list of assets when they are sworn in.
- Although the above practice has been followed over the years there has never been an effective way of monitoring Ministers' assets. All disclosures are left with the office of the Prime Minister for his discretion and record keeping.
- Added to this is there is no procedure for monitoring the assets of the Prime Minister. There is no clear instruction as to whom he is accountable to in regards to his disclosures and the policing of his/her assets

Are there conflict of interest rules?

Yes. A Ministerial code on "conflict of interest" is in place.

Are there rules and registers concerning gifts and hospitality?

No

- The office of the Secretary to Cabinet is not aware of any register kept with the office to record gifts and hospitality

If so, are these registers kept up to date? By whom?

Have they legal powers to enforce disclosure?

Have they staff to investigate allegations?

What powers of sanction are in place against parliamentarians?

Have they ever been invoked?

The answers to the above questions are included in the answers to question 4(a) above.

Are members of the executive obliged by law to give reasons for their decisions?

Yes

- Ministers may have to provide explanations for their decision if required
- Explanation need not be supplied immediately after a decision is passed and may only be kept in files for record and future purposes.

Do Ministers or equivalent high level officials have and exercise the power to make the final decision in ordinary contract award and licensing cases? Is this power limited to special circumstances?

Are there administrative checks and balances on decisions of individual members of the executive

FJI COUNCIL OF CHURCHES

What is the Council's view of the level of corruption in the country?

- The Fiji Council of Churches views the level of corruption in the country with grave concern. It has been bringing this concern to the attention of the various governments in power ever since the early seventies just after Fiji had gained its independence. It welcomes this research of the Country's Integrity System and sees it as a positive means for addressing corruption in the country
- In its bid to fight mal-administration in government and unethical practices in the private sector, the Methodist Church in Fiji had fought for the formulation and enforcement of a code of conduct for public officials and government ministers. The church had included this as part of their submission in the 1996 constitutional review process.

Is the Council aware of any corrupt practices of church organizations in the country?

- The Council is not aware of any corrupt practices of its members. If it does exist they are left to the individual church organizations to deal with.
- The council as a consultative body does not investigate into the affairs of individual church organizations. It respects the high sense of moral duty of its members.

If so, has the Council powers to combat corruption that exists and what action it could take to avoid occurrence of corrupt practices?

- The Fiji Council of Churches itself does not have any powers to combat corruption apart from the normal stance of preaching against it.
- The Methodist Church in Fiji has one of the most transparent, accountable and democratic systems of management. A model whereby the leaders of the church are held to the highest degree of accountability to their members at the various levels of the church organization structure beginning from the 'mata siga' to the 'bose vaka yabaki'. Members of the church are equally held to account at this various levels.

If the answer to the first part of question 3 is yes, than how many cases have been appropriately dealt with over the past two years?

There are cases that various church organizations have had to deal with individually. The council does not maintain records for these cases. The council also has confidence in the existing mechanisms of individual church organizations to deal with corruption or illegal/unethical practices if they occur.

Answers to this questionnaire were obtained through an interview with the Methodist Church in Fiji Education Unit because of the difficulty met with trying to organise a joint sitting of the Council. The Methodist Church in Fiji currently holds the presidency to the council.

FIJI WOMEN'S RIGHTS MOVEMENT

What is the organization's view of the level of corruption in the country?

- The Fiji Women's Rights Movement [FWRM] is aware that corruption is very much at play in the country and referred to the National Bank of Fiji saga as the most important one that has had political, social and economic consequences.
- FWRM however is of the view that 'bad practices' and 'ineffective administration' are more worrying. There are incidences of bad boards/management that don't do enough to scrutinize important things.
- In addition people who have been found to be inefficient are not taken to task and appropriately dealt with.

Is the FWRM aware of any corrupt practices that the organization has been subjected to or engaged in?

- No but the organization has been subjected to bad practices (refer Family Planning of Fiji case where the budget funding of US\$90,000 was not utilized in the most effective way e.g. purchase of landcruiser for the CEO).
- The FWRM has not engaged in corruption since its establishment.
- FWRM can only bring to the attention of the public, cases that it
- sees happening – whistleblower.
- The organization does not have any enforcement powers.

FIJI MUSLIM LEAGUE

What is the League's view of the level of corruption in the country?

Sadly corruption is very prevalent in a very wide section of the community in particular within the government and statutory agencies.

Is the league aware of any corrupt practices that it has engaged in or subjected to in the past?

Fiji Muslim League has not engaged in any such activities as an organisation however we may have been subjected to corruption if 'paying goodwill' for land acquisition be termed as such.

If so, has it powers to combat corruption that exist and what action it could possibly take to avoid occurrence of corrupt practices?

It is important that religious organisations like the Fiji Muslim League play a leading role in such activities but there are limitations because of fear of victimisation.

If the answer to question 3 is yes, what has the league done in the past two years in this respect?

Fiji Muslim League has its theme and mission to promote good and prohibit wrong doing at all levels. The message is continuously promoted through all Fiji Muslim League programs.

JUDICIARY

Have the courts the jurisdiction to review the actions of the executive (i.e. Presidency, the Prime Minister's or other Ministers and their officials)?

Yes, there are two avenues, which the court can exercise to review the actions of the executive.

- Constitutional avenue through Bill of Rights.
- Remedy of Judicial Review in the area of administrative law and endowments.

Are the judges/investigative magistrates independent? i.e. Are their appointments required to be based on merit?

Yes, judges are appointed by the Judicial and Legal Services Commission while the Chief Justice is appointed by the President on the advise of the Prime Minister and the Leader of the Opposition.

Are the appointees protected from removal without relevant justification?

Yes

Are recruitment and career development based on merit?

Yes

Have there been instances of successful prosecutions of corrupt senior officials in the past three years?

Yes, the court had successfully tried senior police officers and convicted them. Appeal against the judgement made on the senior police officers was also rejected by the Court of Appeal.

Does the education system pay attention to integrity issues and corruption/bribery? Is it expected to?

The judiciary feels that there is more that the education system could do to incorporate integrity issues and corruption/bribery into the educational curriculum. Currently it does not see any of these issues existing in the curriculum.

LEGISLATURE

Is Parliament required to approve the budget?

Yes

Are there significant categories of public expenditure that do not require legislative approval? Which?

No

Are there conflict of interest rules for parliamentarians?

- Resolution on conflict of interest – a public document is kept with the Secretary General to Parliament.
- All procedures and guidelines of rules in the House are stipulated in the Standing Orders, which were adopted in February 1999.
- One such rule requires that in the event a conflict of interest arises out of a debate or discussion in the House than the member affected should declare such interest.
- Parliamentary Privileges Act, Cap 5 1970 is also relevant for reference. This however needs updating.

Are there rules concerning gifts and hospitality?

No

- The Fiji Legislature is based on the Westminster model and all such forms of accountability and transparency in terms of gifts, hospitality etc are merely perceived as a moral rather than legal requirement.
- It is therefore unusual that members of the House be scrutinized on all gifts and hospitality received or provided as they are expected to have a high sense of ethics in all their dealings.

If so, are these registers kept up to date? By whom?

Have they legal powers to enforce disclosure?

Since the system operates on a moral rather than legal culture, enforcement is weak

Have they staff to investigate allegations?

All rules and regulations concerning conduct of members are specified in the Standing Orders.

What powers of sanction are in place against parliamentarians?

Refer Standing Orders 1999

Have they ever been invoked?

No

If so, are there public registers for gifts and hospitality?

No

Is there an independent Electoral Commission?

Yes

MINISTRY OF EDUCATION

Does the education system pay attention to integrity issues and corruption/bribery? Is it expected to?

Yes

- The Ministry of Education as an organization abides by the Finance, General Regulations and all other working instruction/regulations of government.
- The Ministry also abides by the Public Service Act 1999 and has disciplinary and post processing procedures in place.

If so, what has the Ministry of Education done over the past five years to address integrity and corruption/bribery issues by:

- **including a subject on good governance in the school curriculum at various levels?**
- **including a subject on the ills of corruption in the school curriculum at various levels?**

- The Ministry has formulated a strategic plan that consists of five important areas that it will target this year. Four of these deal with integrity and corruption. They are morals and values education, effective management, school inspections and education forum.
- There will be strengthening of morals and values education from primary through to secondary stage.
- Effective management is about monitoring school controlling authorities be it public or privately managed – accountability and transparency on the part of the school managers.
- School Inspections involves the monitoring of the delivery of education services to the community; and,
- Education Forum is about the various consultative forums that the Ministry employs to encourage participation from stakeholders. An example is the joint consultative committee it has with unions on matters relating to staffing.
- In terms of having a specific subject on anticorruption or ills of corruption in the school curriculum, the Ministry of Education advised that currently this is being catered for in an integrated manner. Various subjects in the social sciences include issues of good governance like environmental degradation awareness, substance abuse etc. In addition morals and values education has been an ongoing discipline and this also been identified to be strengthened this

year. Extra curricular activities like sports and arts also have integrity elements built into their tutoring.

OMBUDSPERSON

Is there an ombudsperson or its equivalent (i.e. an independent body to which citizens can make complaints about mal-administration)?

Yes

- The Office of the Ombudsperson is governed by Section 157 to 164 of the 1997 Constitution and the Ombudsman Act 11 of 1998
- This has since been replaced by Section 14, Subsection 5 of Decree 9 of 2000. The replacement had come into effect following the 19 May 1999 coup and changes will be made as the country reaches normalcy.

Is the ombudsperson independent? i.e. Are appointments required to be based on merit?

Yes

- The office of the Ombudsperson is one, which is appointed by the Constitutional Offices Commission.
- Officers serving in the Ombudsperson's office are however appointed by the Public Service Commission in consultation with the Ombudsperson.

Is the appointee protected from removal without relevant justification?

Yes, like all other offices that are governed by the appointment and conditions set by the Constitutional Offices Commission, the appointee is protected from removal without relevant justification.

Has an ombudsperson been removed without relevant justification in the last five years?

No

Can petitioners complain anonymously if they fear possible reprisals?

No

- But discretionary powers rest with the Ombudsperson to inquire into any anonymous reports and this has been exercised on various occasions with success i.e. complaints investigated and resolved.
- The office has also acted on particular reports that have been brought to the attention of the general public by the media and they have also been addressed accordingly.

Are the reports of the ombudsperson published?

Yes

- The report is published and delivered to the President.
- The Ombudsman's office has openly shared its views about the definite need for the report to be tabled and debated in the Parliament, as this has not been the practice to date.

Does the government act on the Ombudsperson's recommendations?

- Since the report is not debated in parliament there is no formal mechanism to ensure that the government acts on the recommendations made
- The norm to date heavily rests on the personality of the Ombudsperson to see that the recommendations are followed through and necessary actions taken by the respective authorities.

Additional comments on what actually happens:

- The role of the office is ineffective because it is not publicised. Fiji has a scattered population in the main islands and smaller islands and this has to be reached in terms of making known the functions of the Ombudsperson. Awareness and assisting the public to comprehend the importance of the Ombudsperson's function will therefore be both costly and time consuming since there are additional problems of cultural and literacy constraints.
- Not publicising its role also reflects a certain degree of lethargy in the department. Noting the budgetary constraints the department may be faced with, we suspect the department is not ready to meet the demands that will be brought about by an increased awareness of the general public on their duties and role.
- The effects of a 'culture of silence' should not however be disregarded. It should be noted that the nature of a high degree of silence in our society is a feature that will not guarantee people's voice. This is after allowing for their full acknowledgement of the ombudsman's role.
- The report of the Ombudsperson is presented to the President but unlike that of the Auditor General is not tabled in parliament. It is perceived that recommendations by the Ombudsperson fall short of full implementation because the report itself and remedial procedures taken is not public information.

GOVERNMENT/PUBLIC PROCUREMENT AGENCY

Do rules for public procurement require competitive bidding for all major procurements with limited exceptions?

Yes (refer Supplies & Services Instruction and Government Stores Instruction manual; Finance & Supply Services Regulation 1982; General Conditions on Government Tenders)

Are the rules laid down in documents publicly accessible?

Yes. All the above documents are publicly accessible. Reservations were however made by the Controller of Government Supplies on the strict adherence of these rules.

Are there strict formal requirements that limit the extent of sole sourcing?

Yes

Are all major public procurements widely advertised to the private sector?

Yes

Are procurement decisions made public?

Yes

Is there a procedure to request review of procurement decisions?

Yes

Can an unfavourable decision be reviewed in a court of law?

- Yes there is an appeal mechanism that requires the deliberation of the Tender Board.
- The Tender Board is appointed by the Minister of Finance and is comprised of various permanent secretaries. The appointments are made by position and not by person.
- Concern was raised by the Controller about the difficulty faced in trying to convene meetings of the Tender Board. This was so because members felt that their independence and powers were minimized. E.g. decision regarding the purchase of cars was made by the Ministry of Finance first and only came to the Tender Board for their formal approval.

Are there provisions for blacklisting of companies proved to have bribed in a procurement process?

No

Are there rule and procedures to prevent nepotism and conflict of interest in public procurement?

- Yes but the rules are too general and lean heavily on the understanding of public officials to handle each case as and when they surface.
- Although procedures have been followed, there are no clear instructions to address nepotism and conflict of interest in public procurement.

Are assets, incomes and lifestyles of public procurement officers monitored?

No. There is also no policy on the scrutiny of post public service activities and employment of public procurement officers.

Additional comments on what actually happens:

- Track record indicates that Government Supplies has not been conducting its affairs in an ethical manner. Investigations were carried out into the conduct of a previous Controller over allegations about substantial conflict of interest between his responsibility as Head of Government Supplies and his private business operations. He was subsequently charged and dismissed.
- Government departments tend to beat the current tender procedures. There is a minimum amount of F\$10000 that need to be referred to the tender board for approval but departments get around this by making a series of tenders below the minimum amount thus circumventing the tender procedures

- Enforcement of rules and procedures pertaining to procurement of public goods and services by the agency is weak and needs definite improvements.

ARYA PRATINIDI SABHA OF FIJI

What is the organization's view of the level of corruption in the country?

The Arya Pratinidhi Sabha of Fiji believes that is corruption in practice at official levels, but hidden in approach. It would be difficult to pin point the practitioners. The Sabha further qualified that this information is heresay.

Is the council aware of any corrupt practices that the organization has engaged in or has been subjected to?

The Sabha is not aware of any corrupt practice in their Organisation. They are an organization basically involved in the provision of education and religious activities.