

APPLICATION FOR MEMBERSHIP - FIJI HUMAN RIGHTS COMMISSION

BACKGROUND

The Fiji *Constitution Amendment Act 1997*, which contained a provision establishing a human rights commission, commenced on 27 July 1998.

The Fiji *Human Rights Commission Bill 1999* was drafted to give effect to the Constitutional provision. The bill subsequently passed into law on 4 April 1999. Three Commissioners have been appointed to the Commission.

The passage of the legislation and the appointment of commissioners makes Fiji the first South Pacific island nation to create a commission for the promotion and protection of human rights.

The Fiji Commission have now applied for membership to the Forum. The application form follows the procedure established at the International Coordinating Committee of National Institutions.

ANALYSIS

Membership of the Forum is premised on a national institution complying with the Paris Principles.

In determining the compliance of the Fiji Commission with the Paris Principles, the Fiji Commission has submitted the following information:

- Accreditation checklist
- Constitution Amendment Act 1997
- Fiji Human Rights Commission Act 1999

A review of this material by the Forum Secretariat indicates that the Fiji Human Rights Commission is compliant with the Paris Principles and therefore eligible for membership to the Forum.

In addition to the information supplied by the Fiji Commission, the Secretariat would like to draw to the attention of Forum members the following points:

1. Under the heading 'Responsibility' in the Accreditation checklist the Commission states that it does not contribute independently of government to UN reporting obligations. The Commission states: "under the Human Rights Commission Act 1999, this is not allowed. It is seen as a State obligation that the State is compelled to carry out."

In relation to this issue, section 7 of the Fiji Human Rights Commission Act – *Powers and duties of the Commission* – contains a relevant provision. Section 7(1)(h) of the Act states that the Commission has the power:

To advise the Government on its reporting obligations under international human rights instruments and, without derogating from the primacy of the Government's responsibility for preparing those reports, to advise on the content of the reports

The Fiji Commission does, therefore, have the ability to provide advice to the Government on the content of Fiji State reports under international human rights instruments.

2. Under the heading 'Independence' in the Accreditation checklist the Commission, with reference to the issue of 'financial autonomy derived from stable, adequate funding' states that: "in terms of financial autonomy derived from stable and adequate funding, this is still a sore point that has to be ironed out. At the time being Government is the only source of funding.'

In relation to this issue, section 14 of the Fiji Human Rights Commission Act – *Funds of the Commission* – states:

- (1) *The funds of the Commission consist of*
 - (a) *any moneys appropriated by Parliament for the purposes of the Commission and paid to the Commission;*
 - (b) *all other moneys lawfully received by the Commission for its purposes;*
and
 - (c) *all accumulations of income derived from any such money.*
- (2) *The accounts of the Commission must be audited by the Auditor General.*

Forum members may wish to discuss with the representatives of the Fiji Commission any concerns they may have about financial autonomy.

3. It is interesting to note that section 6 of the Act – *Functions of the Commission* – makes an explicit reference to the Paris Principles. It states:

- In order to ensure that it complies with the Principles Relating to the Status and Functions of National Institutions for the Promotion and Protection of Human Rights (the “Paris Principles”) the Commission has, in addition to the functions conferred on it by section 42(2) of the Constitution*
- (a) *the function of promoting and protecting the human rights of all persons in the Fiji Islands; and*
 - (b) *any other function conferred on it by or under this Act or by or under any other written law.*

RECOMMENDATION

In the opinion of the Forum Secretariat the Fiji Human Rights Commission complies with the Paris Principles.

It is therefore recommended that Forum members at the 4th Annual Meeting of the Forum:

- Accept the Fiji Human Rights Commission as the seventh member of the Asia Pacific Forum of National Human Rights Institutions.