

Documentation

Please provide the APF Secretariat with the following documentation:

Constitutional provisions relating to:

- Right to education;

Section 39(1) Bill of Rights [BOR].

- Non-discrimination and the access for all; and

*Sections 38, 39(1) BOR &
Section 17(3) (j) HRC Act.*

- Relevance of international law in the national jurisdiction.

Section 43(2) BOR - application of public international law.

Relevant legislation referring to:

- Right to compulsory and free primary (or basic) education on a non-discriminatory basis;

The Education Act (Cap 262, Part XI, Section 28) of 1978, on Compulsory Education in Fiji, stipulates the following:

- a. the Minister may, with the consent of Parliament, by order, specify any area or areas of Fiji in which all children of such age or ages as may be specified in such order shall be required to attend a school.*
- b. when any order has been made under the provisions of subsection (I), the Minister may make regulations to secure that every child of the age specified in such order shall receive education in a school. The Compulsory Education Regulations which came into effect in January 1997, attempted to, as far as practically possible, ensure that it be the duty of every parent or guardian to ensure that every child of compulsory school age receive suitable and relevant education by regular attendance at a school. This is further delved into in detail in the later part of this report.*

The regulations started with primary school students and have since been extended to cover students from Form 1 to Form 4 in the lower secondary school.

Also refer to:

- *Constitution - section 39(1)*
- *Education Act 1966 – Section 28*
- *Compulsory Education Regulation 1997*

- Right to secondary and higher education;

There is no such legislation with Education Ministry at the moment.

- Financing of education;

There are fees guidelines in secondary schools, fee grants for primary school and building grant regulations.

- Minimum age of employment;

*Employment Act -Sections 59, 60, 61;
Minimum Age Convention 1973*

- Minimum age of marriage; and

*Marriage Act 1969 - Section 12
Male 18 years;
Female 16 years.*

- Minimum age of criminal responsibility

Penal Code of Fiji – Section 14

NGO reports

- Reports on education by local, national and / or international non-governmental organisations within your country, especially the shadow reports produced for the country sessions of the UN Treaty Bodies.

Attached Report [CEDAW] – 12 January 2002.

Part 1: Issues raised in the Terms of Reference

Preliminary Questions

Education Policy and Programs

1. Please provide an overview of the framework of government education policies and programs in your country, including the division of responsibilities and financing between national, state and local governments.

*Education and training has been and still remains a government priority.
Education has always been given the largest portion of the National Budget.*

The new Vision “Educating the Child Holistically for a Peaceful and Prosperous Fiji” is aligned to the national Vision of rebuilding Fiji to be a peaceful and prosperous nation.

National policies for education will ensure that government’s commitments to international conventions are met, in particular the Convention on the Rights of the Child, Education for All [EFA] and the Millennium Development Goals [MDG]. Unlike countries like Australia and New Zealand, financing of education in Fiji is both met by government and stakeholders [communities etc]. Government provide certain grants to subsidise costs and provide salaries of teachers.

Apart from that, communities and parents shoulder the burden of majority of fundraising to assist the running of School.

[refer to Strategic Plan]

Justiciability of economic, social and cultural rights with respect to the right to education

2. Please provide details of cases from the national courts of your country with respect to the justiciability of economic, social and cultural rights, with a particular focus on the right to education.

Case Summaries

- *Abdul Lateef v Suva Muslim Primary School*
- *The State v Manasa Baledrokadroka & Ors.*

3. Please provide information about remedies available and the enforceability of the decisions of national courts with respect to the right to education.

For any right to education matters there are the following means of seeking redress:

- *Individuals/groups can take up the matter in a civil court through their respective lawyers.*
- *Individuals/groups can make a constitutional redress application pursuant to section 43(2) of the Constitution on their own or through their lawyers to the High Court of Fiji.*
- *Individuals/groups can lodge a complaint with the Fiji Human Rights Commission and Commission can take up the matter on their behalf if all other avenues have been exhausted and if the matter falls within the mandated jurisdiction of the Commission.*

Any decision made by the court would have to be enforced against the school involved or the Ministry of Education as they would be bound by the decision. If they do not abide by the court decision they could be held in contempt of court.

4. Please provide information relevant to your government's position regarding the proposed Optional Protocol for the International Covenant on Economic, Social and Cultural Rights.

ICESCR – not ratified but Court can have regard to public international law when hearing matters for Constitutional Redress – see section 43(2) Bill of Rights.

**The right to receive an education:
available, accessible, acceptable, and adaptable**

Availability

Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. (CESCR General Comment No. 13)

Expenditure

5. Please provide an overview of government expenditure on all levels of education in your country. Where there is a divide in education expenditure between national, state and local governments please provide this information. Where

possible, figures should be disaggregated (primary, secondary, higher education, formal and non-formal) and expressed in both real terms and as a percentage of gross national product.

Education and training has been and still remains a government priority and this is reflected in the increase in the 2006 budget to \$301 million in 2006. 75% of this budget allocation is for the wages for 10,300 teachers and other employees of the Ministry of Education.

There is no divide in education expenditure between national, state and local government because all funding comes from the state. There is no assistance from local government or City/Town Councils. [ref MoE SP 2006-2008]

6. Please provide information about education funding models used in your country. Issues for consideration could include (but are not restricted to):

- Funding for state and non-state (private) education institutions;

Funding in terms of tuition, per-capita, building grant, and provision of all teachers.

- The dependence on school fees in any form, direct or indirect

Schools levy school fees, building fees, library fees, sports fees, book fees, miscellaneous fees, recreational fees etc to compliment assistance from government. There is a guideline of school fees, which is approved by CEO-Edu. Any increase must be within 10%.

- Use of education vouchers;

No use of vouchers.

- Privatization of the education system.

The only private primary and secondary school is the International Secondary School and the Christian School.

7. Please provide information about your government's laws, policies and programs regarding acceptance of international assistance and cooperation in relation to education.

Assistance have come in through the Fiji Education Section Programme [FESP] i.e. FESP-EU Component and FESP-AUSAID. This assistance was sealed through government to government agreement.

Any other form of international assistance goes through the Ministry of Finance to Ministry of Education before it is released to Schools and in some cases through the Ministry of Foreign Affairs.

8. Please describe the role and impact of non-state actors such as international financial institutions and trans-national corporations on the realisation of the right to education in your country. For example, if your country has adopted a

structural adjustment program, has this impacted upon government expenditure on education policies and programs?

The non-state actors in Fiji are not only international financial institutions or transnational corporations but also the NGO's and other private and non-profit making organizations in Fiji. International government assistance e.g. AUSAID scholarship donors are also one of the non-state actors who play a part in the realization of the right to education in our country.

The role of these non-state actors is basically to fill or reduce the gap between countries regarding education rights and bring about equity in educational needs.

The right to education is not a new phenomenon but the pace of its global expansion is because of the increasing number of other non-state actors coming into play. It is this growth that brings with it increasing levels of competition both within and between countries. Many new providers now in Fiji exist, combining telecommunication, cable and satellite businesses, publishing and software companies.

The positive view is that it improves access to higher education in Fijian education, widens choice and promotes internationalization. Perceived negative effects are that it challenges standards, traditional educational values and consumer rights. The multi-level challenges of the right to education to existing higher education provision should be seen in the context of change, as a manifestation of globalization.

Transnational corporations pose a number of real, potential and even some imaginary challenges to educational providers, students, citizens, professional bodies, companies, and higher education institutions (state recognized and non-official), and ministries. It is useful to chart these national 'micro-level' challenges to understand better their scope and potential impact on the development of the Fijian educational space. The impact of some non-state actors have been great and it leads Fiji now to ask itself the following questions"

Reconsideration of long and deeply held beliefs about the nature and role of national educational providers (competition, marketisation) and their relationship to students.

Customers and society.

Current national and international approaches to academic and professional recognition, transparency and mobility as the professions progressively become globalised and certain sectors of traditional education are permanently transformed.

The competitiveness of national education and, linked to this, the use of a foreign language as a necessary mode of delivery.

Fiji will have to decide on the nature of their educational systems in the 21st century in the context of globalization. It will have to be marketed to the outside world with a clear identity, presumably associated with quality, relevance and cultural diversity.

The government from abroad, however, ties any assistance, to the structural adjustment policies i.e. (changes in the labor market or employment needs)

Infrastructure

9. Please provide information the availability and adequacy of infrastructure, especially for girls, for schools and other educational institutions in your country, including classrooms, library, sanitation facilities, safe drinking water and any other relevant facilities.

Assistance in terms of infrastructure for boarding girls:

2005:

- *Jasper Williams High School - \$40,000;*
- *Ballantine Memorial School - \$20,000.*

Classrooms, library, ablution block, safe drinking water:

2005:

- *Ba Methodist High School - \$14,000;*
- *Ballantine Memorial School - \$10,000 [kitchen]; \$45,000 [library];*
- *Lelean Memorial School - \$20,000 [upgrading];*

2006

- *Lelean Memorial School - \$20,000 [upgrading].-*

Assistance to co-ed schools include all the assistance in terms of hostel grants:

- *[\$420,000 primary and \$470,000 secondary in 2005 and another allocation for 2006.*

Assistance in terms of building grants are as follows:

- *primary - \$60,000; Junior sec Schools - \$5000,000; secondary schools - \$700,000.*

[Affirmative Action Programme – applies to Non-Government Schools]

Teachers and support staff

10. Please provide information about the availability of qualified teachers and support staff for all levels of education in your country, on teacher training initiatives to meet 'education for all' goals, and any other relevant issues that impact upon this availability.

The Ministry of Education recognises the teacher's roles as essential in the improvement of quality of education. There are wide variations in Pupil-Teacher ratios between schools in Fiji. More teachers are trained and qualified including initiatives to convert grant-in-aid teachers to be civil servants.

Within the last three years trained and qualified teachers increased by 25% for primary and 15% for secondary education. These are teachers who have attained a Bachelor's degree with teacher training qualifications. There are actually 96% of teachers in secondary school who are qualified and 98% of teachers in primary schools. There are more female than male teachers that have at least a bachelor degree in schools. [ref MoE SP 2006-2008]

Teaching facilities and materials

11. Please provide information about the availability and adequacy of teaching facilities and materials including: classrooms, books and writing materials, information and communications technology equipment, libraries, laboratories, workshops, sporting equipment and facilities and other relevant materials.

Provisions of classrooms, laboratories, workshops are usually given through requests to the Ministry of Education. These requests are then priorities to meet the limited resources allocated from the budget.

Provisions of books, writing materials, ITC equipment, sporting equipments are usually the task of School Committees; hardly any assistance [very minimal] comes from government.

However, under the Affirmative Action Programmes, selected schools are given grants for the above...hostels, classrooms, textbooks etc.

In answering questions 5-11, please give consideration to the issue of diversity and the impact of 'availability' on the rights of minorities and indigenous people.

Accessibility

Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. (CESCR General Comment No. 13)

Non-discrimination

12. Please provide details of legislation and government policies and programs relevant to issues of non-discrimination, equal treatment and equality of opportunity in education. Information provided should include (but is not limited to) consideration of issues of access for people living with disabilities, internally displaced persons, non-nationals, prisoners, refugees and other minorities.

The Constitution as the supreme law of Fiji provides for non-discrimination in all areas including education – Section 38 (1) and (2) and section 39 of the Constitution and section 17 of Human Rights Commission Act. These sections will apply equally to all persons in Fiji, including people with disabilities, internally displaced persons, non-nationals and other minorities. Constitution as the supreme law will override any other legislation which has contradicting provisions.

The Fiji Human Rights Commission Act 1999 extends this further under section 17 (3) (j).

Other legislation:

- *Prisons and Corrections Act 2006 – Sections 32(b); 43(1)(b)*
- *Governments Affirmative Action Program*
- *Social Justice Act 2001*

Gender parity and gender equality

13. Please provide details of legislation and government policies and programs directed to improving gender parity and gender equality in education at all levels.

What Fiji has done in EFA

- *Gender specific curriculum.*
- *Reviewed TVET and non-formal education.*
- *Curriculum review committees focusing on gender bias has been set.*
- *Gender Awareness seminars carried out at different levels and amongst target groups within the school system.*

Present Initiatives.

- *Train and recruit student counsellors.*
- *Career workshops conducted.*
- *Mount gender awareness programmes for curriculum and resource writers.*
- *Set up review committees to look at existing curriculum materials and correct any form of gender biasness.*
- *Educate teachers trainees, practising teachers, Principals and Head Teachers on teaching practices that promote gender equity.*

Future Priorities.

- *Ministry of Education Careers section will take a more active role in counseling in schools to break down traditional attitudes that have existed in the minds of students and parents regarding career choices.;*
- *Annual career choices for career teachers, parents and students in schools to be conducted;*
- *More career guidance on career options for girls to be provided. Identify areas of disparity by gender that is immediate and long term in order to put in place strategic management programs to eliminate them;*
- *There is a need to set up a task force, research facilities and personnel to carry out these programs;*
- *Also accessibility of good qualitative data to evaluate disparity is needed by end of 2005;*
- *Fiji proposes to gender- sensitized curriculum writers and to review, change and re-print current resources and curriculum materials that are gender biased.*

Physical accessibility

14. Please describe the main issues regarding geographical location of and physical access to educational institutions for people from urban, rural and remote communities, as well as for people with physical disabilities.

The disparity of access to education between urban and rural is an issue for government. [ref MoE SP 2006-2008].

Physical access to educational institutions in urban areas is not a problem. Even some schools have re-structured their facilities to meet OHS guidelines and allow disabled to move freely.

However, in rural and remote communities, there are still schools that are disadvantaged by road, electricity and water. Notably, roads have not reached some schools. Education of disabled children is usually sent to urban areas where the facilities are friendly to them.

Disability access – Children with disability go to ‘special schools’ – not satisfactory.

Economic accessibility

Primary education

15. Is primary education compulsory and free for all? Please provide details of relevant legislation and government policies and programs. For example, does your government have a plan of action for making primary education free?

What Fiji has done in EFA?

- *Improve cost sharing formula for fees with an increase in government contribution overtime, until free primary education is achieved.*
- *Provide training on financial management in schools and establish standard auditing procedures of school accounts.*
- *Education ministry has been paying fee free grants to the 723 schools in Fiji.*
- *Provision of boarding facilities and per capita grants to schools.*
- *Assisted in furniture grants to schools and as well as transport subsidies.*
- *Awareness programs on parents to motivate their children to come to school.*
- *Primary education is free & compulsory but this is not monitored adequately by MoE.*

Future Priorities.

- *A need to ensure that formula for tuition fee free grant is revisited to avoid the widening gap between the small/medium schools and the large school.*

16. Please provide information about any school fees, charges and other costs imposed on parents or guardians for primary education. Please describe the extent of financial assistance available for the completion of primary education.

The Ministry of Education awards grants to Schools based on the school roll in 4 categories:

- *Category A: 10 – 49 students [\$2,500 per year];*
- *Category B: 50 – 99 students [\$4,000 per year];*
- *Category C: 100 – 149 students [4,500 per year];*
- *Category D: 150 + \$30 per student per year.*

Schools can also levy fees to parents but that has to be approved in an annual general meeting. Minutes of that AGM should accompany the request to CEO-Education.

Secondary education

17. Is secondary education compulsory and free for all? Please provide details of relevant legislation and government policies and programs.

No secondary education is not free an compulsory.

Tuition Grants paid are as follows:

- *Forms 1-2 : \$90/student/year;*
- *Forms 3-4 : \$90/student/year;*
- *Forms 5-6 : \$165/student/year.*

Per-Capita Grants paid are as follows:

- *\$8/student/year if school teaches both Ind/Arts & Home Economics*
- *\$7.50/student/year if schools teach either of the two subjects.*
- *\$7/student/year if schools teach none of the two subjects.*

Boarding per-capita:

- *\$45/student/year.*

18. Please provide information about any school fees, charges and other costs imposed on parents or guardians for secondary education. Please describe the extent of financial assistance available for the completion of secondary education.

Apart from the grants from the Ministry of Education, Schools can levy fees [Administration fee Book fee, Library fee, Sports fee, Building fee, miscellaneous fee etc] to parents subject to approval from CEO-Education.

This should be agreed in an AGM and a letter seeking approval should accompany the minutes from that AGM.

Higher education

19. Please provide information about fees, charges and other costs for higher education. Please describe the extent of financial assistance (if any) available for the completion of higher education.

Reference Refer to the following Hand Book's:

- *School of Public Health and Primary Care Hand Book 2005-2006*

- *University of the South Pacific 2006 Hand Book*
- *Fiji Institute of Technology Hand Book 2006*
- *NZPTC Student Hand Book 2006*
- *Fiji College of Advanced Education Hand Book 2006*
- *APTECH Course Detail 2006*

Please describe the extent of financial assistance (if any) available for the completion of higher education. (Reference Refer to the Ministry of Education Strategic Plan)

There are various means of financial assistance available for those students whose family cannot afford to cater for their needs for example the Ministry of Education has a funding assistance that looks after Primary School students right up to Secondary school level. The financial assistance may come in the form of fees, stationery e.g. text books, uniforms etc.

The Ministry also provides financial assistance to a few government institutions i.e. the

- *Fiji College of Advanced Education,*
- *The Lautoka Teachers College*
- *The Fiji School of Nursing.*

Other forms of financial assistance are in the form of Government scholarships like:

- *Public Service Scholarships,*
- *Fijian Affairs Scholarships,*
- *Multi Ethnic Scholarships.*
- *AUSAid,*
- *NZAid*

Non-formal education

20. Please provide information about access to non-formal education in your country. Issues for consideration include (but are not restricted to):

- The existence of and support for Community Learning Centres

The access to non-formal education is present in many fields. This is evident in the existence of Institutions that cater for the support of non-formal education like the tertiary institutions listed below:

- *Fiji Institute of Technology (for technical and vocational studies) - Open and Distance Learning Centre;*
- *University of the South Pacific- Pre-degree studies Unit and the Non-formal education section of the Distance and Flexible Learning Support Centre (**more on the USP web-site**);*
- *Existence of Early Childhood Centres in some parts of Fiji.*

Furthermore Fiji endorsed the Programme of Action of the International Conference on Population and Development (ICPD) held in Cairo in September 1994. As such, the Government pledged:

- *To achieve universal access to quality education, with particular priority being given to primary and technical education and job training, to combat illiteracy and to eliminate gender disparities in access to, retention in, and support for, education;*
- ***To promote non-formal education for young people, guaranteeing equal access for women and men to literacy centres; and***
- *To introduce and improve the content of the curriculum so as to promote greater responsibility and awareness on the interrelationships between population and sustainable development; health issues, including reproductive health; and gender equity.*
- *The legal and policy framework for the improvement of literacy for women.*

Through the commitments the Government has made to international conventions and declarations, in particular those outlined below, the Government has also recognised the following national Goals in relation to education.

Convention on the Rights of the Child (CRC)

Fiji ratified the CRC on August 13th 1993, thereby, making a commitment to the child's right to education. Article 28 of CRC establishes that right. Education is recognised to be essential for all children. The article stresses the right must be achieved on the basis of equal opportunity". This in summary includes:

- *Making primary education compulsory and available free to all;*
- *Promoting the different forms of secondary education and vocational education;*
- *Making higher education accessible to all;*
- *Making educational and vocational information readily available; and*
- *Taking measures to encourage regular attendance at schools and reducing dropout rates.*

Convention for the Elimination of all Forms of Discrimination against Women (CEDAW)

Fiji acceded to the CEDAW. By doing so, the Government acknowledges the strategic objectives contained within CEDAW relating to the elimination of gender discrimination against girls and women. These include:

- *Ensuring equal access to education;*
- *Eradicating illiteracy among women;*
- *Improving women's access to vocational training, science and technology and continuing education;*

- *Developing non-discriminatory education and training;*
- Allocating sufficient resources to monitor the implementation of educational reforms.

Acceptability

The form and substance of education, including curricula and teaching methods, have to be acceptable (eg – relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents. (CESCR General Comment No. 13)

Quality education and minimum standards

21. Please identify the relevant national and/or local institutions which are responsible for the implementation of the right to education. In particular, are there any specialised agencies, authorities or officials that have a mandate on the right to education?

The institutions that are directly involved in the implementation of the Right to education are the Ministry of Education and FHRC as an NHRI (ref: MoE- Strategic Plan; FHRC- Act)

22. Please provide information about measures adopted by education authorities to provide quality education and to establish minimum education standards and an effective and transparent system for monitoring standards.

The Ministry of Education has compiled a Final Draft of “Standards Monitoring in Schools –Policy and Framework and Guides” through the assistance of Consultants from the Fiji Education Sector Program – AusAid Component.

The Policy Framework makes explicit the connections between the purpose of Education in Schools and school assessment, school planning and school review. The Framework and Guides draws together the developmental work of schools and stakeholders and provides a common basis for all schools to demonstrate the quality of education on Fiji. [ref Standards Monitoring in Schools [Final Draft]

(Refer to MoE- Strategic Plan; MOE- Monitoring standards)

23. Please describe the indicators (including human-rights-based indicators) used by education authorities to monitor the realisation of the right to education in your country.

The indicators used by the Ministry are based on the strategic development objectives. Information compiled by the Bureau of Statistics includes- number of students in various levels of schools, sex ratio of children in school, number of primary and high school, number of teachers in both primary and high school, teacher/ student ratio etc.

(Refer: The Strategic Development plan of 2006- 2008 includes indicators that incorporates human rights element).

However, FHRC is concerned that MoE seems to be emphasising both right as well as responsibilities and values educates which the Commission has a problem with the rights based perspective.

24. Please provide details of legislation and government policies, practices and programs which may impact upon academic freedom and the autonomy of educational institutions.

Education Act Chapter 262 (Fiji) via Ministry of Education [MoE] – governs educational institutions – centralized programme for all public schools either Catholic, Indian or Muslim schools – all government-funded schools are mixed-race & private boarding schools;

- *Two "International" schools - able to follow their own programme;*
- *The Government through the MoE - respects the autonomy of educational institutions groups and integrates children from all ethnic backgrounds to exercise the freedom to education;*
- *All educational policies, are decided by the MoE in consultation with the Education Forum. The Education Forum is an advisory body to the Minister and its membership is drawn from a wide cross-section of those who have contributed to education or who play a major role in the development of education in the country.*
- *Basic Education two projects:*
 - *Basic Education & Literacy Support (BELS); and*
 - *Basic Education Management & Teacher Upgrading Project (BEMTUP)*
 - *BELS – Fiji government became a signatory to the programme in 1992 signifying its commitment to basic education. The programs main objective is to raise and maintain the literacy levels of primary schoolchildren. There were three components of the programme and these included:*
 - . *Literacy*
 - . *Classroom skills*
 - . *Community awareness*

Discipline

25. Please provide information about the legal status of corporal punishment and other forms of discipline that operate within the education system in your country.

In 2001 corporal punishment in prisons, schools and any other public regime was declared invalid and unconstitutional by the High Court in Fiji. This was as a result of the submission made by the Fiji Human Rights Commission in a

criminal case appeal case. The Ministry of Education wanted to appeal this decision but did not. Following the High Court decision the Ministry of Education issued a policy on other forms of Discipline:

- *Judgment attached*
- *Discipline policy attached*

MoE has also come up with other forms of discipline in schools in line with UNICEF.

Curriculum

26. Please provide an overview of how education authorities determine curriculum development at all levels of education within your country.

(Refer: Draft Fiji Education National Curriculum Framework)

27. To what extent is human rights education incorporated into the curriculum of primary, secondary and higher education?

To date, the content for human rights education has been developed by FHRC for pre-school till Form Seven. The MOE will be the driving force in the implementation of human rights education in the curriculum. However, the delay in the implementation is due to the re-structure of the National Curriculum Framework.

(Refer: Draft Fiji Education National Curriculum Framework)

Meanwhile, at tertiary level, FHRC has made progressive improvements with the University of the South Pacific in trying to establish a Human Rights Research Centre, which will serve the interest of both students and academia in the field of human rights.

(Refer: FHRC Proposal to USP)

Parents / Legal Guardians

28. Please describe the extent to which parents and legal guardians are able to exercise freedom of choice with regards to educational institutions and educational programs.

- *Section 39(1) Bill of Rights Constitution 1997;*
- *Refer to website:*
http://www2.unesco.org/wef/countryreports/fiji/rapport_2.html - The EFA 2000 Assessment Country reports
- *Education Act 1978 (Cap 262) stipulates;*
 - *parents have the right to choose whichever school their children to attend. [...pupils should be educated in accordance*

with the wishes of their parents,” Ro Teimumu said regarding the review of the Education Act as approved by Cabinet.]

Religious and cultural practices, languages of minority groups

29. Please provide details of relevant legislation and government policies and programs regarding respect for religious and cultural practices and the use of languages of minority groups within schools and other educational institutions.

- *Constitution - Section 35(3)*
- *Constitution – Section 39 (2), (3)*

Section 4 of the Constitution provides that the English, Fijian and Hindustani languages have equal status in the State. English is the medium of instruction in schools. Fijian and Hindustani languages are optional subjects taught in schools.

The situation regarding language and cultural education varies according to the student population, and according to the policy formulated by each school. Where schools are exclusively attended by Fijian or Indian students, all core subjects in classes one and two are conducted in the vernacular language of the student with English being taught as a separate subject. From class three, all instruction is in English. In schools with a combination of races, all subjects are taught in English from class one.

Adaptability

Education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings. (CESCR General Comment No. 13)

Education and work

30. Please provide details of legislation which prescribes the age for the completion of compulsory education and the minimum age of employment in your country.

- *Education Act (Cap 262, Part XI, Section 28) of 1978:*
 - *Compulsory Education in Fiji - The Compulsory Education Regulations - ensures that it be the duty of every parent or guardian to ensure that every child of compulsory school age receive suitable and relevant education by regular attendance at a school;*
- *Employment Act Cap 92:*
 - *section 2– definition of “child” – 15 years; and*
 - *sections 59 – 60 & 64;*
- *Also refer to Employment & Relations Bill 2005 Pt X 10:*
 - *Regulations 90 –93 [note to replace Employment Act];*
- *ILO – Convention 138 – Minimum Age Convention 1973 – ratified 3 January 2003;*

- *ILO – Convention 59 – Minimum Age (Industry) Convention 1937 – ratified 19 April 1974;*

31. Please provide an overview of the strategies, policies and programs of governments and education institutions which enable the education system in your country to adapt to the education needs of those people who would otherwise not be able to undertake education. For example: working children and young people; children and young people in juvenile detention; working women; prisoners and other people in detention.

- *State funding;*
- *Consultation with other Ministries;*
- *Developing professional training force;*
- *Survey and outreach Programmes interior villages – community education and public awareness;*
- *Scholarship.*

Refer to:

- *Matua Educational Programme – Nabua Secondary School;*
- *Ministry of Information – “education as an investment” – report of 1 May 2006;*

Education for women

32. Please provide details of legislation which impacts upon the right to education of women. Issues for consideration could include (but are not restricted to):

- The minimum age of marriage
- Pregnancy

There is no specific legislation which impacts of the right to education of women in Fiji. However, the Constitution as the supreme law gives equal access and right to education for women and girls. Fiji has ratified the CRC and CEDAW and these two international instruments provide for equal treatment, access and right to education for women.

33. Please provide an overview of the strategies, policies and programs of governments and education institutions which enable the education system in your country to adapt to the education needs of women.

Please refer to the Ministry of Education Corporate Plan 2006, pg 5, Ministry of Education Strategic Plan 2006-2008 and the Suva Declaration

Also refer to the answer under question 13 of part 1 – gender parity and gender equality

Special Needs Education

34. Please provide information about any special needs education policies and programs that have been developed and implemented by government and non-governmental organisations in your country.

Special schools have been set up in the urban and rural areas to cater for children with special needs. Specialist teachers are also trained by the State. [Refer list attached]

35. To what extent are schools able to adapt to the special education needs of individual students?

No explicit policy for special education but there is a Blueprint for Affirmative Action for special education which is currently under investigations by the FHRC.

Part 2: Activities of National Human Rights Institutions

1. Please describe the mandate of your Commission for the protection and promotion of economic, social and cultural rights. What methods and approaches does your Commission use for the protection and promotion of human rights?

- *section 42 Constitution of Fiji;*
- *section 7 (1) & (2) Human rights Commission Act 10 of 1999: p 157 –158;*
- *section 39 – Bill of Rights.*
- *Methods & Approaches:*
By way of our Strategic and Corporate Plan and Education Activities Plan.
 - *FHRC's media & promotion section/team:*
 - *oral presentations to various private & public sectors, communities/organizations and educational institutions including tertiary;*
 - *press releases in the media & every three months publication of "rights quarterly";*
 - *visual documentary – photography and video;*
 - *talk –back show on local Radio.*
 - *FHRC's legal/policy section/team:*
 - *Oral & written submissions on various Bills to Parliament;*
 - *Independent observers in discussions with Government Ministries & NGO's on ratification process for International Conventions/Instruments/Covenants – than act as advisors to Government on consistency with HR and International HR.*

2. Has your Commission received complaints from individuals or groups relating to the right to education? If so, please provide a breakdown of the different type of complaints and, where possible, describe some of the most important cases and the role of your Commission in resolving these complaints.

FHRC:

A). Complaints on Right to Education - refer Annual Reports of 1999-2005

B). Breakdown of complaints - refer to Annual Reports of 1999-2005

C). Case Studies - Cs39 Right to Education -Abdul Lateef v. Fiji Muslim League & Anor.

3. Has your Commission conducted research and/or public inquiries on the issue of the right to education? If so, please provide the results of this research and the outcomes and recommendations of any public inquiries.

FHRC – has not conducted any public enquiry but has conducted workshop in Partnership with the Fiji Teachers’ Confederation Fiji National Action Plan for Human Rights Education Workshop – 10 December 2001, Suva, Fiji.

Inquiry on scaling of marks - Bhavna Nand v. Ministry of Education fhrc file ref: 14/06 [this info is classified]

Investigations underway on whether the MoE’s scaling of marks policy violates the right to education provided in the Constitution and HRC Act.

4. To what extent has your Commission identified laws / policies / practices in your country that impact on the realisation of the right to education?

Work being undertaken in this area currently.

5. Has your Commission conducted awareness and education campaigns relating to the right to education? If so, please provide information about these campaigns, identify the individuals or groups who have been trained and estimate how many people have been trained.

We have worked with Ministry of Education, UNICEF and UNDP.

A number of awareness and education programmes have been conducted with various organisations including schools. Training mostly covers human rights in general and then the focus is on the bill of rights.

Poster competition was also organised and had the right to education theme. Apart from all these, there have been school broadcast as well with the right to education theme. This was carried out for five weeks in term one of this year.

(Refer: FRHC website www.humanrights.org.fj for more on the different types of training and also to our Quarterly Newsletters and Annual Report 2004).

6. Please provide information about your Commission’s general human rights education activities, including: materials used, information produced and how these activities have been made accessible to the community.

Human Rights Education Activities include: poster competition, which has a human rights theme. The Commission has also produced some publications like a draft sexual harassment policy guidelines, draft genuine occupational and genuine justifications guidelines, disciplinary services handbook (also available on our web-site) annual report, rights quarterly, calendars, frequently asked questions. These are distributed to various stakeholders and handed out during

all awareness programs. Certain publications are in three languages for easier understanding and proper dissemination of information (Know your Rights and Fiji Human Rights Commission)

Information has also been disseminated through media- written (features, press releases), radio- scripts on the various rights, school broadcasting unit – to schools. (more on written features refer to the commissions web-site)

Training may also be conducted in any of the other two languages (Fijian or Hindi) depending on the audience and the level of understanding thus allowing human rights to be accessible to remote communities.

7. Has your Commission addressed the issue of the right to education in its annual reports? If so, please provide a copy of the relevant sections.

The Annual report 2004(p.49)- addresses the issue of right to education as in section 39 (1) of the Bill of Rights.(more on the right to education can be found in the Annual Reports available on our web-site: www.humanrights.org.fj)

The Annual Report for 2005 has yet to be tabled in parliament thus we cannot provide a copy however, these have been the cases we have dealt with.

8. Has your Commission intervened in court proceedings on an issue related to the realisation of the right to education? If so, please provide details of the cases, the role of the Commission and the outcomes of the cases. Please provide copies of any submissions and court decisions.

The Commission has intervened in any court proceedings so far on issues relating to the realisation of the right to education. The Commission may however, be taking a case on its own motion on the right to education and non-discrimination in the near future.

9. If your government has ratified any of the international human rights conventions listed below, has your Commission been approached by the government to contribute to the periodic reports to the relevant Committees, or alternatively, has your Commission provided a shadow report to the relevant Committees? If so, please provide copies of the sections relevant to the issue of the right to education.

- Universal Declaration of Human Rights;
- International Covenant on Economic, Social and Cultural Rights;
- International Convention on the Elimination of All Forms of Racial Discrimination;
- Convention on the Elimination of All Forms of Discrimination Against Women;
- Convention on the Rights of the Child
- Convention Against Discrimination in Education;
- Minimum Age Convention 1973
- Worst Forms of Child Labour Convention 1999

FHRC – is an Independent Body and retains its independence from the Government and as one of the many roles of the FHRC, it does NOT provide any shadow reports, the onus rests with the NGO's and other interested civil society members;

- See also section 7(1) of the Human Rights Commission Act 10 of 1999.

Fiji has ratified the following international human rights conventions:

- *International Convention on the Elimination of All Forms of Racial Discrimination*
- *Convention on the Elimination of All forms of Discrimination Against Women*
- *Convention on the Rights of the Child*
- *Minimum age convention 1973*
- *Worst forms of Child Labour Convention 1999*

Please note that UDHR cannot be ratified, as it is not a convention but a declaration.

Fiji Human Rights Commission in the past was invited to be part of the Committee writing the actual report but the Commission refused this to maintain its independence. The Commission does not provide shadow reports as well, as this is the role of the NGOs. The Commission can however, be consulted on the final report and the Commission provides its work in the relevant areas over the years.

The Commission has received the draft copy of the CRC report from the Ministry of Women, Social Welfare and Poverty Alleviation to comment on. This is still in progress and has not been finalized by the commission.

10. Does your Commission work in collaboration with civil society including the private sector, government or United Nations agencies or multilateral donors such as the World Bank, the International Monetary Fund and the Asian Development Bank on the issue of the right to education? If so, in what way?

Independent nature of FHRC. But FHRC has worked with UNDP on Citizenship Education and NGO's including organisations such as teachers union.

In terms of right to education, the Commission works closely with other organisations such as the Save the Children's Fund- outreach programme. The Commission has a Childs rights desk officer that conducts legal trainings for Save the Children's Fund when the need arises.

See also

- *Pacific Cooperation – voices of the region – Pt of Pacific Plan.*
- *NGO Status Report on the Status of Women – 12 January 2002*
 - *Fiji Women's Rights Movement (FWRM)*
 - *Fiji Women's Crisis Centre (FWCC)*
 - *Ecumenical Centre for Research Education and Advocacy (ECREA);*

- *NGO – Report On The International Convention On The Elimination Of All Forms Of Racial – January 2002*
 - *Fiji Women’s Crisis Centre (FWCC)*
 - *Ecumenical Centre for Research Education and Advocacy ECREA);*

This is the end of the questionnaire. Thank you for taking the time to respond.