

**FRAMEWORK FOR TALANOA
ON UNCERD
CONCLUDING OBSERVATIONS**

Bi –Partisan Talanoa
Subcommittee

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Framework for Talanoa on UNCERD Concluding Observations

Consistent with the spirit of talanoa which continued to sustain the subcommittee's discussions and recommendations on land issues and on Constitutional changes, this proposed framework is designed to (re)construct our common understanding of the crucial areas for your qualitative judgement of how the committee wants to move forward with the 'Concluding Observations of the Committee on the Elimination of Racial Discrimination.'

The crucial areas include:

- (1) Our common understanding of the "unconcealed" underlying purpose or intention of the issues identified; and
- (2) Our common understanding of the "unconcealed" underlying purpose or intention of the way-forward which reassembles the given issues and recommendations, and relates them to the measures that you may want to consider to remedy the concerns, and the institution / agency that you might want to see responsible for implementing such measures and monitoring the progress made over time.

These areas are arranged in a 'matrix form', in the order of the sections from A to D and the paragraphs from 1 to 34, containing the introduction, factors and difficulties impeding the implementation of the Convention, positive aspects, and concerns and recommendations of CERD for your talanoa.

Framework For Talanoa on UNCERD Report	
Para-graph	A. Introduction
2	The committee welcomes the sixth to fifteenth periodic reports, the supplementary report, and the additional oral information and responses from the State party's high level delegation. It welcomes the resumption of the dialogue after a lapse of 18 years, and appreciates in particular, the efforts made by the State party to respond to the issues raised in the Committee's observations made in 2002 during a preliminary dialogue with the representative of the Government of Fiji.
3	The Committee hopes that the State party will hereafter ensure the timely submission of all periodic reports, as required by article 9 of the Convention.
B. Factors and difficulties impeding the implementation of the convention	
4	The Committee recognizes the challenges faced by Fiji in respect of its historical legacies, in particular the political, social and economic consequences of the deployment of numerous labourers from India, the establishment of an ethnically stratified labour market, and the creation of an economic system during colonial rule, which separated rather than unified Fiji's different communities.
C. Positive aspects	
5	The Committee notes with appreciation that the State party provided detailed information, including statistical data, relating to the composition of the Fijian population and the situation of the various Fijian ethnic groups.
6	The Committee notes the State party's intention to promote stability in the multi-ethnic and multi-cultural Fijian society, to restore and rebuild confidence among its citizens and communities and to strengthen the foundation for economic growth and prosperity for all in Fiji. It welcomes the creation of a Ministry of Reconciliation to help unite all Fijians.
7	The Committee notes with satisfaction that the State party considers the Convention as a solid basis for dialogue and cooperation with civil society. It appreciates that there was consultation with human rights NGOs in the compilation of the report, as well as assurances that the State party would continue this dialogue in the future.
8	The Committee expresses its appreciation for the inclusion, in the 1997 Constitution of Fiji, of a Social Justice Chapter (section 44), calling for the elaboration of programmes designed to achieve, for all groups or categories of persons who are disadvantaged, effective equality of access to education and training, land and housing, and participation in commerce and all levels and branches of State Public Services.
9	The Committee notes with appreciation the creation in 1999 of a National Human Rights Commission, in compliance with section 42 of the Constitution, and in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights ("Paris principles"), endorsed by the General Assembly in its resolution 48/134.
10	The Committee appreciates the 2002 Agreed Statement by the Prime Minister and the Parliamentary Leader of the Fiji Labour Party, urging their respective parties to abstain from making racial statements during parliamentary sessions.

11	The Committee welcomes the information given by the delegation that the Citizens' Constitutional Forum, which had been deregistered under the Charitable Trusts Act, should be registered under another appropriate law, and that consultations in this regard are under way.			
D. Concerns and recommendations				
	Our Common Understanding of the Issues	Our Common Understanding of the Way Forward Towards Implementation		
	Sections	Recommendations for the State Party	Remedial measures needed to achieve objectives (a)	Institution/Agency responsible for (a) and/or monitoring the progress made
12	—notes with concern that the State party formulated upon accession declarations and reservations relating to articles 2,3,4,5,and 6 of the convention.	suggests that the Fijian authorities review those reservations, which are inherited from colonial times, with a view to withdrawing them, taking into account paragraph 75 of Durban Plan of Action. —ensure that the specific protection and enhancement of indigenous Fijians' rights comply with international standards relating to the prohibition of racial discrimination		
13	—deeply concerned about the damage to race relations caused by the 1987 and 2000 coups d'état in Fiji	—encourages the State party to address perceptions that the State party continues to politicize culture, identity and ethnicity in order to maintain indigenous Fijian hegemony.		
14	—deeply concerned that section 99 of the 1997 Constitution, which ensures power sharing between ethnic communities through the creation of a multi-party cabinet, is not currently being implemented. —welcomes, the assurance given by the State Party that it will comply with the Supreme Court ruling to be issued later this year on this matter			
15	—welcomes the commitment of the State party to ensure the social and economic development as well as the right to cultural identity of the indigenous Fijian community. —None of these programmes, however, should abrogate or diminish the enjoyment of human rights for all, which can be limited solely in accordance with the rules and criteria established under international human rights law.	—urges the State party to ensure that the affirmative action measures it adopts to pursue the above objectives are necessary in a democratic society, respect the principles of fairness, and are grounded on a realistic appraisal of the situation of indigenous Fijians as well as other communities. —recommends that the State party guarantee that the special measures adopted to ensure the adequate development and protection of certain ethnic groups and their members, in no case lead to the maintenance of unequal or separate rights for different ethnic groups after the objectives for which they were taken have been achieved (articles 1 paragraph 4 and 2 paragraph 2 of the Convention).		

16	<p>—notes that despite reports that levels of poverty among all Fijian nationals, including Indo-Fijians and Banabans, have worsened over the years, the State party's affirmative action programmes, as adopted under the Social Justice Act of 2001 and the 50/50 by year 2020 Plan, mainly target indigenous Fijians and Rotumans.</p>	<p>—strongly recommends that the State party ensure that its poverty alleviation programmes benefit all poor Fijian citizens, irrespective of their ethnic origin, to avoid undue stress on already strained ethnic relations.</p>	<p>—adoption of any affirmative programme be preceded by consultation involving all ethnic communities</p>	
17	<p>—current perceptions amongst some Fijians that the State Party is not paying enough attention to the issue of reconciling the different population groups in Fiji.</p>	<p>—explicitly promote a national identity that unites rather than divides indigenous and Indo - Fijians, as well as other communities.</p>	<p>—include this objective in the national development plan.</p>	
18	<p>—expresses concern about the under - representation of Indo-Fijians and other ethnic minorities in the police, the army, and other public services in general</p>	<p>—recommends that specific programmes be adopted to ensure appropriate representation of all ethnic communities in these services. — requests that updated statistics on poverty, unemployment and education disaggregated between and within ethnic groups be elaborated and included in the next periodic report. —requests the State party to inform it of the results of all its affirmative action programmes, in particular those relating to poverty alleviation.</p>		
19	<p>— concerned that the expiry of many leases of Native land has allegedly led to the "eviction" of numerous farmers, mainly Indo-Fijians, and that the resettlement programme of the State party appears to be insufficient. —underlines the State's responsibility to provide "exited tenants",</p>	<p>—recommends that [the State] increase its efforts to compensate and resettle affected families. — urges the State party to develop measures of conciliation between indigenous Fijians and Indo-Fijians over the land issue, with a view to obtaining a solution acceptable to both communities</p>		
20		<p>—wishes to receive more detailed information in the next periodic report about the exact number of "exited", resettled and compensated persons, disaggregated by ethnic membership as well as on the way the State party plans to respond to the expiry of many more leases in due course.</p>		
21	<p>—concerned that, according to some information, hate speech and assertions of the supremacy of indigenous Fijians regularly occur.</p>	<p>—recommends that the State party adopt all necessary measures to put an end to the dissemination of doctrines of superiority based on ethnic origin, which are socially unjust and dangerous, as well as in breach of the Convention. —wishes to receive, in the next periodic report, information relating to the effectiveness of the 2002 Agreed Statement relating to the prohibition of racial statements in Parliament, and to any other measures adopted to strongly oppose such statements in other public fora, including the media.</p>		

22	<p>—notes that the word "person", in the provisions of the Penal Code (sedition) and the Public Order Act (incitement to racial antagonism), also includes any organisation,</p> <p>—notes, however, such legislation makes provision for sentences such as imprisonment and fines, but not for the prohibition of racist organisations. While taking note of the State Party's declaration on article 4 of the Convention, the Committee considers that the State party's legislation does not fully comply with Article 4 of the Convention.</p> <p>— concerned that the State party has expressed in its periodic report, its reluctance to prohibit racist organisations, in order to preserve the freedoms of expression and association, and refers the State party to its General Recommendation XV (1993) on article 4.</p>	<p>— would like to receive further details on this matter.</p> <p>—recommends that the State party adopt specific and unambiguous legislation relating to the prohibition of racist organisations.</p>		
23	<p>—concerned by information relating to racist attacks and acts of religious intolerance against Indo-Fijians, in particular during the 1987 and 2000 coups.</p> <p>—underlines that no in-depth information relating to the prosecution of the authors of such acts, as well as on the adoption of preventative measures for the future, has been provided.</p>	<p>—requests that such information be provided in the next periodic report. Information, including statistical data, on the practical implementation and efficiency of legislation implementing article 4 of the Convention is also requested.</p>		
24	<p>—takes note of the growing number of suicides among Indo-Fijians</p>	<p>—recommends that the State party conduct research into the causes of this phenomenon, and keeps the Committee informed.</p>		
25		<p>—recommends that the State party continue to support the activities of the National Human Rights Commission.</p> <p>—like to receive more information about the results of its activities, as well as on the practical implications of article 27 of the Human Rights Commission Act, authorising the Commission not to investigate a case, when it "has before it matters more worthy of its attention" or when the" resources of the Commission are insufficient for adequate investigation".</p>		
26	<p>—welcoming the assurance given by that State that schools are not racially separated in Fiji</p>	<p>—wishes to receive more information on the consequences and practical implementation of the Education (Establishment and Registration of Schools) Regulation, which states that "while a registered or recognised school may, when selecting pupils for admission give preference to pupils of a particular race or creed, no admission shall be denied solely on the grounds of race or religion".</p>		

		<p>—wishes to know whether the State party enhances and finances multiracial schools.</p> <p>—would appreciate disaggregated data relating to any support provided to the various community and religious based schools.</p>		
27		<p>—wishes to receive, in the next periodic report, information on the legal status of persons of mixed ethnic parentage and of the various languages spoken in Fiji.</p>		
29	<p>—notes the State party's view that the remedies provided under national and international law are sufficient, and that making the declaration provided for in Article 14 of the Convention is not necessary.</p> <p>—stressing that the State party has not provided enough information to demonstrate that the available remedies are sufficient, reminds the State party that the remedies provided in Article 14 of the Convention may be considered as complementary to the existing ones.</p>	<p>— Invites the State party to reconsider its position, and to envisage the possibility of making such a declaration.</p>		
30		<p>— recommends that the State party ratify the amendments to article 8, paragraph 6 of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.</p> <p>—In this connection the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the General Assembly strongly urges State parties to accelerate their domestic ratification procedures with regard to the amendment, and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.</p>		
31		<p>—encourages the State party to consult with organisations of civil society working in the area of combating racial discrimination, during the preparation of the next periodic report.</p>		
32		<p>—recommends that the State party take into account the relevant parts of the Durban declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 on the Convention, and that it include in its next periodic report information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at a national level.</p> <p>envisage elaborating a national plan of action to combat racism</p>	<p>—avail itself of the Office of the United Nations High Commissioner for Human Rights.</p>	

33		—recommends that the State party's reports be made readily available to the public from the time they are submitted to the United Nations that the observations of the Committee on these reports be similarly publicized.		
34		—recommends that the State party submit its sixteenth periodic report jointly with its seventeenth periodic report, due on the 10 February 2006, and that it address all points raised in the present concluding observations.		