

# International Anti Corruption Day: Using Freedom of Information in Fiji's fight against corruption

*By Claire Cronin, Commonwealth Human Rights Initiative*

The 9<sup>th</sup> December marks international Anti-Corruption Day, nearly one year since the UN Convention Against Corruption entered into force. Recognising the devastating effects that corruption can have on a country's economic growth and democratic processes, the UN Convention is the first internationally binding mechanism in the global fight against corruption. To date, it has been signed by 140 countries and ratified by 80 including Australia and New Zealand. Fiji and the rest of the Pacific Islands have been rather more reluctant to put their names to the agreement.

Corruption has played a significant role in Fiji's struggle to establish democratic governance and has been cited as a major reason behind the current political upheavals. Although previous governments have pursued anti-corruption initiatives, these have so far proven to be ineffective. In 2005, the same year that Fiji achieved dire results in Transparency International's Corruption Perception Index<sup>1</sup>, the government announced its plans to establish an Anti-Corruption Committee in order to crack down on bribery, fraud and the embezzlement of public funds. However, nearly two years on little concrete action has been taken and it remains to be seen if the new regime is willing to stand by its own promises to crack down on corruption.

One of the most effective tools in the fight against corruption, and an integral element of the UN Convention, is Freedom of Information (FOI) – the public's right to request and receive information from their governments. FOI is a long established principal of international law and was heralded in 1946 by the UN General Assembly as 'a fundamental human right and a touchstone of all freedoms to the United Nations in consecrated.' Since then, the Commonwealth<sup>2</sup> has also developed minimum standards on the right to information and the Pacific Plan highlights transparency as a key element in its 'good governance' strategy. If well implemented, a strong FOI law can serve to challenge the cultures of secrecy in which corrupt practices thrive. By holding governments to account for their decision-making processes and public expenditures, FOI can increase levels of government transparency and reduce any gaps that exist between official and public knowledge.

FOI can also be a useful tool at election time, providing citizens with the means to make informed decisions based on a candidate's past conduct, and ensuring that voter's are less likely to rely on political propaganda or make their choices simply on the basis on ethnic affiliations. Post elections, it can serve to shed light on the behaviour of government officials by empowering citizens with a tool to help scrutinise and monitor government decision-making and bring public officials and politicians to account.

FOI legislation should consist of three main elements: the public's right to request information, the government's corresponding duty to provide the information requested, and a positive obligation on the authorities to proactively publish information of public

---

<sup>1</sup> In this survey of 154 countries which rated the perceived levels of corruption in a country from 1 to 10, 1 reflecting the highest levels and 10 the lowest, Fiji achieved a less than inspiring 4.

<sup>2</sup> See (1999) Commonwealth Freedom of Information Principles, in *Promoting Open Government Commonwealth Principles And Guidelines On The Right To Know*, Report of the Expert Group Meeting on the Right to Know and the Promotion of Democracy and Development, Marlborough House, London, 30-31 March 1999.

interest at regular intervals. Although exemptions to disclosure will exist, they should be subject to an overriding principle that *all* information should be disclosed, unless the harm caused by disclosure is greater than the public interest in accessing the information. The information should be accessible in a user-friendly, cheap, quick and simple way and the government should be required to conduct ongoing training for government officials and educate the public on the right to information.

The 1997 Fijian constitution guaranteed citizens the right to seek, receive and impart information and placed an obligation on the government to enact an FOI law as soon as is reasonable after constitutional commencement. In spite of this, previous governments have displayed reluctance to fulfil their duties – in the last week of November Prime Minister Laisenia Qarase failed to table the Freedom of Information Bill despite a recent cabinet decision for the bill to become law. Given the current state of political unrest in Fiji, there is no sure way of knowing when there will be another chance to bring the bill before Parliament and indeed, it remains to be seen if a new, post coup regime will pay any heed to the constitution and will be willing to make FOI a priority.

The right to information is not a luxury afforded only to those who live in economically and politically stable societies. Rather, it is a fundamental human right, well established in international law and promised to all Fijian citizens in their constitution. Given Fiji's current state of political upheaval there is an even greater need to implement an effective FOI law. This would not only function as a safeguard against the loss of hard won democracy, but in placing public information back in the hands of its rightful owners, FOI could serve to re-engage civil society in political decision making processes.

Today, as we mark the anniversary of the UN Convention Against Corruption, Fiji should remain more aware than ever of the need to implement effective systems in the fight against corruption and undemocratic practices. By casting a shining light on the cultures of secrecy in which these practices thrive, FOI could be a key step towards a more transparent, open and effective government, and a key tool in ending for good Fiji's historic cycle of instability.