



Commonwealth Human Rights Initiative

NGO in Special Consultative Status with the Economic & Social Council of the United Nations

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Executive Committee

B.G. Verghese
Chairperson &
Treasurer

The Hon. Laisenia Qarase
Prime Minister
Office of the Prime Minister
Government Buildings
Suva, Fiji

24 November 2006

Maja Daruwala
Director

Dear Prime Minister,

Members

R. V Pillai
Anu Aga
K. S. Dhillon
B. K. Chandrashekar
Mool Chand Sharma
Harivansh
Bhagwan Das
Poonam Muttreja
Sanjoy Hazarika
Nitin Desai
Ruma Pal

Re: Tabling of the draft *Freedom of Information Bill* in Cabinet

I am writing from the Commonwealth Human Rights Initiative (CHRI), an independent, non-partisan, international non-government organisation mandated to ensure the practical realisation of human rights in the lives of the people in the Commonwealth. CHRI's Right to Information programme assists Commonwealth member states to develop and implement strong right to information laws as well as to promote transparency and accountability more broadly.

I am following up on earlier correspondence sent to your office on 15 September 2005 and 20 January 2006 in which CHRI, along with its local partner the Pacific Centre for Public Integrity (PCPI), expressed its support for your Government's pledge to table a draft Freedom of Information Bill (FOI Bill) in Parliament before the end of 2005. We also recommended changes that could be made to help improve the Bill and bring it in line with international best practice standards.

I have now learnt that the Bill was scheduled to be brought before the Cabinet this week for endorsement which would have paved the way for its introduction in Parliament. However, it is my understanding that this has not been done and that there is now some uncertainty concerning the future of the Bill. I would like to express my disappointment that the Bill has not progressed and strongly encourage you to table the Bill before Cabinet as soon as practicable.

Article 174 of the Fiji Constitution, requires the Government to pass a law guaranteeing the right to information. It stipulates that such a law be passed to give members of the public rights of access to official documents of the Government and its agencies, as soon as practicable after the commencement of the Constitution. Adoption of the *Freedom of Information Bill* would not only fulfill the Government's obligation under the Constitution, but it would be a vital step towards promoting public accountability, good governance and tackling corruption.

I would also like to take this opportunity to underline both the benefits in terms of democratic and economic development of adopting the FOI Bill in Fiji and the overarching significance of the right to information as a fundamental human right, which should be protected and promoted by the state:

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Supported by: Commonwealth Journalists Association, Commonwealth Lawyers Association,
Commonwealth Legal Education Association, Commonwealth Parliamentary Association,
Commonwealth Press Union, Commonwealth Broadcasting Association.

Benefits of adopting the FOI Bill for Fiji's democratic and economic development

It strengthens democracy: The right to access information gives practical meaning to the principles of participatory democracy. The underlying foundation of the democratic tradition rests on the premise of an informed constituency that is able thoughtfully to choose its representatives on the basis of the strength of their record and that is able to hold their government accountable for the policies and decisions it promulgates. The right to information has a crucial role in ensuring that citizens are better informed about the people they are electing and their activities while in government. Democracy is enhanced when people meaningfully engage with their institutions of governance and form their judgments on the basis of facts and evidence, rather than just empty promises and meaningless political slogans.

It supports participatory development: Much of the failure of development strategies to date is attributable to the fact that, for years, they were designed and implemented in a closed environment - between governments and donors and without the involvement of people. If governments are obligated to provide information, people can be empowered to more meaningfully determine their own development destinies. They can assess for themselves why development strategies have gone askew and press for changes to put development back on track.

It supports economic development: The right to information provides crucial support to the market-friendly, good governance principles of transparency and accountability. Markets, like governments, do not function well in secret. Openness encourages a political and economic environment more conducive to the free market tenets of 'perfect information' and 'perfect competition'. In turn, this results in stronger growth, not least because it encourages greater investor confidence. Economic equity is also conditional upon freely accessible information because a right to information ensures that information itself does not become just another commodity that is corralled and cornered by the few for their sole benefit.

It helps to reduce conflict: Democracy and national stability are enhanced by policies of openness which engender greater public trust in their representatives. Importantly, enhancing people's trust in their government goes some way to minimising the likelihood of conflict. Openness and information-sharing contribute to national stability by establishing a two-way dialogue between citizens and the state, reducing distance between government and people and thereby combating feelings of alienation. Systems that enable people to be part of, and personally scrutinise, decision-making processes reduce citizens' feelings of powerlessness and weakens perceptions of exclusion from opportunity or unfair advantage of one group over another.

It is a proven anti-corruption tool: In 2006, of the ten countries scoring best in Transparency International's annual Corruption Perceptions Index, no fewer than nine had effective legislation enabling the public to see government files. In contrast, of the ten countries perceived to be the worst in terms of corruption, only one had a functioning access to information regime. The right to information increases transparency by opening up public and private decision-making processes to scrutiny.

The right to information as a fundamental human right

More than fifty years ago, in 1946 the United Nations General Assembly recognised that "Freedom of Information is a fundamental human right and the touchstone for all freedoms to which the United Nations is consecrated".¹ Soon after, the right to information was given international legal status when it was enshrined in Article 19 of the International Covenant on Civil and Political Rights which states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

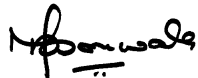
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¹ UN General Assembly, (1946) Resolution 59(1), 65th Plenary Meeting, December 14.

The passage and effective implementation of the FOI Bill would not only satisfy Constitutional requirements for a domestic law but it could usher in a new era of government openness, transparency and good governance in Fiji. A law that is well implemented will be a vital tool in promoting government accountability and tackling corruption.

If you would like to discuss this letter further, please do not hesitate to contact me on (0)9810 199 745 or (011) 2685 0523 or via email at majadhun@vsnl.com. Alternatively, please contact Cecelia Burgman, Project Officer, Right to Information Programme at cecilia@humanrightsinitiative.org.

Yours sincerely,



Maja Daruwala
Director

CC:

Mr Qoriniasi Bale, Attorney-General and Minister of Justice, Box 2213, Government Buildings, Suva, Suva, Fiji.

Angie Heffernen, Director, Pacific Centre for Public Integrity, 21 Marion Street, Suva Fiji.

Imrana Jalal, Regional Rights Resource Team, United Nations Development Programme Private Mail Bag, Tower Level 6, Reserve Bank of Fiji Building, Pratt Street, Suva, Fiji.

Fiji Women's Rights Movement, GPO Box 14194 Suva, Fiji.

Fiji Council of Social Services, 256 Waimanu Rd., P.O. Box 13476, Suva, Fiji Islands.

Transparency International Fiji Chapter, 1-9 Victoria Parade, GPO Box 12642, Suva, Fiji Islands.

Ecumenical Centre for Research Education and Advocacy (ECEA), 5 Bau Street, Suva, GPO Box 15473, Fiji Islands.