

HOW THE COMMISSION WENT ABOUT ITS TASK

PLAN OF WORK

4.1 The Commission decided to carry out its work in three phases: the first focussed on gathering and analysing information; the second on reviewing the Constitution and reaching policy decisions about whether, and if so how, it needed to be improved; and the third on writing its report. In accordance with that plan, it carried out the activities described in the remainder of this chapter.

MEETINGS WITH THE PRESIDENT, THE PRIME MINISTER AND THE LEADER OF THE OPPOSITION

4.2 The Chairman of the Commission, sometimes accompanied by its other members, made regular reports about the progress of the Commission's work to the Prime Minister, as Minister in charge of Constitutional Affairs. With his permission, there were occasional meetings for the same purpose with His Excellency the President and with the Leader of the Opposition. The Commission would like to express its appreciation to all of them for their courtesy and their encouragement in what has been a demanding task.

MEETING WITH THE JOINT PARLIAMENTARY COMMITTEE

4.3 On 16 June 1995, the Commission met with the members of the Joint Parliamentary Committee which had been instrumental in securing Parliament's agreement on its setting up, composition and Terms of Reference. The purpose of the meeting was to brief the Committee about the way in which the Commission planned to carry out its work.

PUBLIC HEARINGS

4.4 The Commission made an early decision to hold public hearings in all parts of Fiji so that all citizens would have the opportunity to inform it of their views on the 1990 Constitution in the light of the important considerations in its Terms of Reference. We considered it important that a public and open process should be followed in obtaining input from Fiji's citizens. A list of the places and dates of public hearings is set out in Appendix C. The Commission also held

closed meetings with the persons and groups that had asked for an opportunity to make submissions on a confidential basis.

SUBMISSIONS

4.5 In all, the Commission received some 852 submissions. The majority were in writing, but in most cases the persons or groups making the submission appeared in support of it at a public hearing. In addition, a number of people made oral submissions. We express our thanks to our interpreters who translated into English the oral and written submissions made in Fijian or Hindi.

4.6 The Commission is deeply appreciative of both the number and the variety of people who took the trouble to make their views known to it in this way. In some cases they incurred the expense of engaging counsel to help them in presenting their views.

4.7 For many who appeared in person it was perhaps the first occasion on which they had expressed their thoughts about their country's constitutional arrangements at a public gathering. Some came a long distance to do so. For most, making a submission involved a personal effort and sometimes a monetary cost. But from their words the Commission obtained a picture of the hopes and concerns of the people of Fiji about their country's future. It has tried to take these into full account in making its recommendations.

4.8 Appendix D lists the individuals and organisations that made submissions. It is impossible to reflect in the report the full range of views on every issue, but wherever possible we have referred to trends of opinion. Occasionally, we have dealt specifically with particular views or arguments. But whether or not our report contains a direct reference to it, we would like all those who made a submission to know that their comments and suggestions have been carefully considered. Their input enabled the Commission to carry out the direction in its Terms of Reference to inquire into, and ascertain, the variety of views and opinions among Fiji citizens on how the provisions of the Constitution can be improved to meet the needs of Fiji as a multi-ethnic and multicultural society.

PUBLIC DEBATE

4.9 The Commission regarded all written submissions made at public hearings or received at its office without any request for confidentiality as public documents which could be inspected on request. Many people, including media representatives, took advantage of the opportunity to learn what the people were saying. The

extensive press and television coverage of the public hearings helped the Commission to carry out the further direction in its Terms of Reference - to facilitate the widest possible debate on the terms of the Constitution.

4.10 Several groups of citizens came together specially for the purpose of carrying on that debate. In some cases they went to the trouble of inviting experts from other countries at considerable expense so that the people of Fiji could have access to a wider range of views and constitutional experience. They also held seminars in various parts of the country. Fiji's future constitutional arrangements have been under discussion in a wide range of existing organisations and groups. To all who have assisted us in this way we also express our appreciation.

RESEARCH PAPERS

4.11 Early in the first phase of its work, the Commission identified the matters on which it would need further information and research. It asked government departments and agencies to supply factual data and statistics. It also asked a number of academic and other specialists, both in Fiji and overseas, to prepare research papers. Those prepared in Fiji dealt with particular social, cultural and economic issues bearing on the country's constitutional arrangements. Those prepared overseas examined the constitutional experience of the author's own country in relevant contexts, often on the basis of wider-ranging comparisons. One paper dealt at length with the internationally recognised principles and standards of individual and group rights which the Commission was directed to take into account.

4.12 In writing their papers the authors were asked to draw conclusions and identify issues for the Commission's consideration. They were not asked to make recommendations. The Commission realised that, although much could be learnt from the constitutional arrangements in other countries, none of them would necessarily suit the circumstances of Fiji. It was also conscious that it alone had the responsibility of making recommendations which might help the people of Fiji to find the best solutions to their constitutional problems.

4.13 Appendix E lists the authors and titles of the papers prepared at the Commission's request. We would like to record our gratitude to all those who helped us in this way. In particular we should like to express our thanks to the Electoral Assistance Division of the United Nations Department of Political Affairs which enabled us to make contact with specialists in voting systems, particularly in multi-ethnic societies, and funded the writing of five papers on this subject.

COUNTRY VISITS

4.14 The Commission also decided that it needed to obtain first-hand experience of how people in a selection of other multi-ethnic countries had tailored their constitutional arrangements to the nature of their societies. It decided to visit Malaysia, Mauritius and South Africa. Each had something special to offer.

4.15 Parallels have often been drawn between Malaysia and Fiji because, in both countries, the indigenous people saw themselves disadvantaged in comparison with the educational and economic success achieved by an immigrant community and were anxious not to be dominated politically. Even so, the commitment to national unity is a strong one.

4.16 Mauritius, as another former British sugar colony, also has close ties with Fiji. Although there are no people who can be regarded as indigenous to Mauritius, the Creole community comprising the original French settlers and their former slaves from Africa, now inter-married, was later outnumbered by indentured labourers from India. After some difficulties in the early years of independence, they have now achieved a vigorous multi-ethnic society.

4.17 South Africa, though superficially having little in common with Fiji, has recently succeeded in freeing itself from apartheid. In 1995, its people, black, white, coloured and Indian, were engaged in one of the most intensive and innovative constitution-making exercises in recent times. As a transitional measure, they had put in place a government of national unity which we were keen to learn about.

4.18 The visits to all three countries were instructive. We were able to form impressions that could not have been gathered from books or papers. Each country, in its own very different way, had made, or was in the process of making, the accommodations necessary to take account of its multi-ethnic character and at the same time was deliberately seeking to foster a sense of national unity.

4.19 We were able to meet with a wide variety of non-governmental organisations and of political leaders, officials, judges and academics. They were generous in giving us their time, providing us with information and generally looking after us. Our thanks are due particularly to the Malaysian Prime Minister's Department, the Ministry of Foreign Affairs of Mauritius and Ida Cooper and her associates who organised our programme in South Africa.

4.20 On the way to Malaysia we visited Canberra for talks with members and officers of the Australian Electoral Commission, joined by officers of the Electoral Commissions of Tasmania and the Australian Capital Territory. The purpose was to make a close study of different voting systems. We were particularly interested in the Single Transferable Vote system (SVT) used for elections to the Australian Senate, the lower house in Tasmania and the single chamber legislature in the Australian Capital Territory, and the Alternative Vote system (AV) used for elections to the Australian House of Representatives and the Lower Houses of a number of Australian States.

4.21 An official of the Australian Electoral Commission visited Suva in April 1966 in order to help us further. In February 1996, we also met in Wellington with members of the New Zealand Electoral Commission and discussed the Mixed Member proportional system of representation recently adopted in that country. The Commission derived great benefit from this help in getting to grips with the technicalities and likely political consequences of the three voting systems mentioned.

4.22 We returned from Capetown to Suva via London, New York and Los Angeles, with a side-trip to San Diego. The purpose of these stopovers was to enable us to meet with many of the overseas experts who were writing papers for the Commission, and other specialists in the same fields. This gave the Commission the opportunity for valuable first-hand discussions. We also called on Mr Marrack Goulding, of the United Nations Department of Political Affairs, and members of its Electoral Division, to discuss their contribution to our work.

4.23 During the visit to San Diego and a later short visit to Wellington, the Commission was fortunate in being able to meet with the two acknowledged world experts on voting and other constitutional arrangements in divided societies, Professor Arend Lijphart, of the University of California at San Diego and Professor Donald Horowitz of Duke University (at the time a visiting fellow at Canterbury University). The Commission is particularly grateful for the generous help it has received from each of these leading authorities.

4.24 We set out in Appendix F a list of the individuals and groups that the Commission was able to meet in the course of its overseas travels. We are grateful to the Fiji Embassies in Canberra, London and Wellington and the Office of the Fiji Permanent Representative to the United Nations in New York for the considerable help they gave us during our visits to those places.

MEETINGS WITH HIGH OFFICERS OF STATE

4.25 On its return to Suva in mid-November the Commission initiated confidential and informal meetings with high officers of state in Fiji. These included Judges of the superior courts, Constitutional Officers, the Chairpersons of constitutional and statutory Commissions and Boards, and Heads of Departments and other services. These meetings enabled us to understand the strains under which some of the institutions of government are operating and the need for clear constitutional definitions of functions and relationships. We thank all those concerned for their contribution to our work. Appendix G contains a list of those with whom we consulted in this way.

REQUESTS FOR WRITTEN INFORMATION

4.26 The Commission also asked a number of public and private sector bodies, both in Fiji and overseas, for written information about matters relevant to its work and was grateful for the full and prompt responses. The names of those who assisted us in this way are set out in Appendix H.

SCRUTINISING THE CONSTITUTION

4.27 In the period from mid-January 1996 to mid-May, the Commission was engaged in phase 2 of its work, that is, in developing the policies which would guide its recommendations. Much of its time was taken up in scrutinising the 1990 Constitution, as required by our Terms of Reference.

WRITING THE REPORT

4.28 Phase 3 of our work, the writing of the report, began at the beginning of May and continued until its final adoption.

THE COMMISSION'S STAFF

4.29 The Commission would like to acknowledge the essential contribution of all members of its staff. Throughout the whole period, they worked loyally and hard, often late into the night and over weekends, to help it carry out its work. At times the Commission's own staff had to be supplemented by drawing on other resources, particularly Parliament's technicians, interpreters and Hansard reporters who assisted in the reporting of the public hearings. To them too, and to those who kindly agreed to make this extra help available, we express our thanks.