

## **FJI**

### **Environment Legislation (provisional review) and Miscellaneous Issues**

On the basis the work of the International Waters Programme will be in four principal areas; marine protected areas and sustainable coastal fisheries, the protection and conservation of freshwater and the management of community-based waste, a pilot project established under the Fiji national component of the International Waters Programme has the potential to interact with several Government ministries responsible for various legislation.

In an attempt to understand public service responsibilities for the administration and management of activities in these four focal areas, a brief review of current legislation, including responsibilities for its implementation, was undertaken during the first visit of the International Waters Project Coordination Unit to Fiji in May 2001. The resulting summary, presented here, was assisted by a review of environment legislation presented in a national state of the environment report produced for Fiji in 1992 (Watling and Chape, 1992). Since that review, some legislation has been reviewed (for example the Fisheries Act) while new legislation has been drafted (for example the Sustainable Development Bill (proposed)).

Watling and Chape, (*op. cit.*) were critical of the lack of application of the environmental provisions of existing legislation in Fiji. They noted that although much of the extant legislation in Fiji dated from colonial times it was generally sufficient to support sustainable resource use in pursuit of the broad economic and social objectives of the Government. The fact that significant environmental concerns existed in Fiji at the time the State of Environment report was prepared in 1992 was ascribed to inadequate application and enforcement of existing legislation by responsible ministries.

Since the review of environmental legislation in 1992, Government officials have increasingly acknowledged that effective application of environmental law in Fiji is difficult. Responsibilities for the administration of approximately 54 individual pieces of legislation concerning environmental issues are currently spread across 14 different Government departments, statutory bodies and agencies (provisional list presented at Table 3). In addition, there are increasing demands arising from an expanding suite of international conventions to which Fiji is Party.

In response to this, in January 1995, Cabinet endorsed the drafting of a new act to integrate environmental issues in a single piece of consolidated legislation. The new legislation was to be known as the Sustainable Development Bill (SDB).

The objective of the Bill was to create a new legal framework for the management of the environment with enabling legislation for the Department of Environment that would address both the sources of environmental problems and their effects and establish conservation and sustainable resource use guidelines as prescribed in the National Environment Strategy (NES).

In conjunction with the First parliamentary Counsel, two consultants (Mere Pulea and George de Berdt Romilly) produced an initial draft of the SDB containing 19 sections (including sections to establish a National Council for Sustainable Development and environmental management units,

management systems and compliance provisions), which provided for an expanded role for the Department of Environment. Subsequent review by Government ministries resulted in a decision to reduce the scope of the SBD to framework legislation providing guidance on environmental principles and authority for management within six sections:

- Part I. Preliminary
- Part II. Administration
- Part III. Environmental Impact Assessment
- Part IV. Codes of Environmental Practice
- Part V. National resources Management Plan, and
- Part VI. Offences and Penalties.

The revised draft was approved by Cabinet in September 1999. However the October 1999 sitting of Parliament rejected the draft Bill because it was considered to impose too many constraints on economic development. Instead it was committed to a Joint Sector Standing Committee on Natural Resources and Economic Services in February 2000. The considerations of the Standing Committee were incorporated into a revision of the SBD but political developments in May 2000 prevented the Bill from being considered, as was intended, at the May 2000 sitting of the House of Representatives.

Further recommendations of the Joint Sector Standing Committee, including issues raised as a result of submissions from the public, have been incorporated into a further revision of the SBD, which is now with the Fijian Affairs Board (in both English and Fijian language versions) for review. The Department of Environment expects to receive the comments from Fijian Affairs in August 2001.

The IWP will need to monitor progress as the Department of Environment continues its efforts to submit the Bill to Parliament for enactment. Once the Bill is adopted, the National Coordinator, perhaps in association with the Department of Environment's Legal Office, should review the Bill in its final form and provide comments on aspects of the Bill that impact on the work of the IWP.

Table 3: Legislation and Responsible Government Offices

<p>Legislation</p> <p>Mining Act 1966 (Cap 146)</p> <p>Forest Act 1953 (Cap 150)</p> <p>Town Planning Act 1946 (Cap 139)</p> <p>Fijian Affairs Act (Cap 120)</p> <p>Native Land Trust 1940 (Cap 134)</p> <p>Native Land Act (Cap 133)</p> <p>Property Law Act (Cap 130)</p> <p>Crown (State) Lands Act (Cap 130)</p> <p>Sub-division of Lands Act (Cap 140)</p> <p>Local Government Act (Cap 125)</p> <p>Land Development Act 1961 (Cap 142)</p> <p>Crown Acquisition and Land Act (Cap 135)</p> <p>Land Transfer Act (Cap 131)</p> <p>Land Conservation and Improvement Act 1953 (Act 141)</p> <p>Agricultural Landlord Tenant Act 1966 (Cap 270)</p> <p>Birds and Game Protection Act 1923 (Cap 170)</p> <p>National Trust of Fiji Act 1970 (Cap 265)</p> <p>Preservation of Objects of Archeological and</p>	<p>Responsible Government Offices</p> <p>Ministry of Lands and Mineral Resources, Director of Lands</p> <p>Ministry of Forests, Conservator of Forests</p> <p>Ministry of Housing and Urban Development, Director of Town and Country Planning</p> <p>Native Land Trust Act Board</p> <p>Land Development Authority</p> <p>Ministry of Primary Industries, Land Conservation Board</p> <p>Ministry of Primary Industries</p> <p>Ministry of Primary Industries</p> <p>Ministry of Housing and Urban Development</p> <p>Board of Trustees of Fiji Museum and Ministry of Women and Culture</p> <p>Ministry of Primary Industries</p> <p>Ministry of Primary Industries</p>
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<p>Palaeontological Interest Act 1978 (Cap 264)</p> <p>Plant Quarrantine Act 1982</p> <p>Noxious Weeds, Pests and Disease of Plants Act 1964 (Cap 133)</p> <p>Animal Importations Act (1970)</p> <p>Marine Spaces Act 1977 (Cap 158A)</p> <p>Fisheries Act 1941 (Cap 158)</p> <p>Fisheries Regulations 1965</p> <p>Marine Species Act (Cap 158A)</p> <p>Continental Shelf Act 1970 (Cap 149)</p> <p>Ports Authority of Fiji Regulations 1990</p> <p>Rivers and Streams Act 1882 (Cap 136)</p> <p>Irrigation Act 1973 (Cap 144A)</p> <p>Drainage Act 1961 (Cap 143)</p> <p>Water Supply Act 1955 (Cap 144)</p> <p>Mining Act (Cap 146)</p> <p>Mining Regulations (Cap 146S)</p> <p>Petroleum (Exploration and Exploitation) Act (Cap 148)</p> <p>Pesticides Act 1971 (Cap 157)</p> <p>Public Health Act 1955 (Cap 111)</p> <p><i>Proposed or draft?</i></p> <p>Water and Land Resources</p>	<p>Office of the Prime Minister</p> <p>Ministry of Primary Industries</p> <p>Ports Authority of Fiji</p> <p>Ministry of Primary Industries</p> <p>Ministry of Primary Industries</p> <p>Ministry of Primary Industries, Commissioner of Water</p> <p>Ministry of Lands and Mineral Resources, Director of Mines</p> <p>Ministry of Primary Industries, Registrar of Pesticides</p> <p>Ministry of Health, Central Board of Health (water supplies)</p>
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Management Bill  
 Wildlife Protection Act  
 Fauna Protection and Control  
 Act  
 National Parks and Reserves Act

***Other aspects of Fiji legislative and policy environment of interest to the IWP***

*National Development Plans:* As a guide to economic development, between 1949 and 1990, the Government of Fiji produced a series of National Development Plans. These Plans, which described broad sectoral strategies for economic growth and social benefit, and shaped Fiji's evolving environment policy, were partly produced in response to a requirement for ex-colonies of Britain to receive development assistance. No Plans have been produced since 1990 following the Government's decision to deregulate and promote private sector-led, export orientated growth and economic diversification. Policies and strategies under this initiative have been promoted through a series of national economic summits and reviews of economic performance.

Although the success National Development Plans identified key resource management issues of soil, water and vegetation conservation as a basis for maintaining economic productivity, there was little implementation of strategies and plans specified in the Plans (Watling and Chape, 1992). The reasons for this were attributed to:

- Little or no integration of development, economic and social policies with environmental policies;
- environmental law dispersed through numerous legislation administered by different sections of government; and
- limited capacity within Government to implement, monitor and enforce.

The current Interim Government has recently introduced a new strategy to re-institute National Development Planning. This is being promoted through a series of task forces established for Tourism, Sugar and Natural Resources. The Natural Resource Task Force is composed of representatives from the following sectors: mineral resources and geoscience; living marine resources (which includes the Department of Environment and NGOs), forestry, agriculture, and land resources. The Task Forces are to identify priorities for Government action. The results are intended to be presented to a National Forum (now postponed until after the August elections) and the subsequent drafting of a National Development Plan designed to be implemented over a period of three years.

*Land and Resource Use:* Under the Native Land Trust Act, Fijian landowners surrender the administration of their land to the State which administers the land through the Native Land Trust Board. Except in respect of land acquired for public purposes by the State, land cannot be sold.

Traditional ownership of land is based on:

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- Land owned by titular heads of tribes or chiefs who, at the time he holds the hereditary title is the *Ka Levu*
- Land owned by the agnate descendents of a member of a tribe – *qele ni kawa*
- Land owned by a *tokatoka* (family unit);
- Land owned by a *mataqali* (clan);

- Land owned by a *yavusa* (tribe); and
- Land owned by several *yavusa*.

Various Native Land Commissions appointed under the provisions of the Native Land Act have defined ownership boundaries by survey.

*Conservation and Protected Areas Management:* In 1992, Fiji's expertise in conservation and protected area management was vested in the Department of Forestry, resulting from the fact that at that time the majority of protected areas and conservation areas had been established under the auspices of that Department. It was recommended that management responsibilities for reserves be gradually transferred to the Department of Conservation.

The National Trust also has a role in conservation. A review of the National Trust of Fiji during the preparation of the NEMS in 1992 concluded that the Trust had been ineffective in advancing the preservation and conservation of Fiji's heritage. The 1992 review recommended that legislation relating to wildlife should be reviewed with the objective of consolidating responsibility for its management and administration in the Department of Conservation – as was attempted in the initial drafts of the SDB.

The 1992 State of the Environment Report also noted that there was no effective legislation or management arrangements for Fiji's freshwater resources. Although minor legislation relating to land management is provided for in the Land Conservation and Improvement Act, management of the resource was considered inadequate (NEMS). Given the current review process, it is uncertain to what extent the final SDB will address these concerns.

*Waste:* Waste management and pollution monitoring are currently the responsibility of Health Officers attached to municipal or rural authorities under the direction of the Central Board of Health of the Ministry of Health. The 1992 NEMS recommended the development of a National Waste Management Strategy and the gradual relocation of responsibilities for its implementation be transferred to the Ministry of Planning and Environment. It is uncertain to what extent the final SDB will address these concerns.

#### *Management Committees*

- An Environmental Management Committee, which was established in 1980 to develop a cross-sectoral approach to environmental planning and management, has developed into an advisory committee on the environmental implications for development proposals. Uncertain status in 2001?

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- In 1983, the Department of Lands and Survey established an inter-ministerial Mangrove Management Committee. The Committee meets (met?) on an *ad hoc* basis to consider proposals that affect mangrove resources.

- The Land Conservation Board in relation to responsible agricultural practices and sustainable land use practices.

- Rubbish Dump Committee which has been established since 1989 mainly to identify an alternative solid waste disposal site to the Lami dump.

- National Oil Pollution Committee which was formed in 1991 to merge the Ports Authority Steering Committee and the Oil Pollution Committee to coordinate and implement a national oil spills response plan.

- NBSAP a national steering committee involving a wide selection of Government agencies, NGOs, statutory bodies, tertiary institutions and inter-governmental organisations that met over a period of two years to draft Fiji's national biodiversity

strategic action plan.

- National Land Trust Board Steering Committees which has meets (?) on an *ad hoc* basis to oversee national park projects in conjunction with local landowners.
- National Environment Steering Committee which was established to oversee the National Environment Management Project, which produced Fiji's National Environment Management Strategies in 1992, and coordinate Fiji's involvement in the UN Conference on Environment and Development in 1992 and the World Heritage Convention.
- A Fiji Visitors Bureau Environment Sub-committee which resulted from a National Tourism Convention. In 2001, this Sub-committee has a 6-month program aimed at environmental awareness in schools and communities.
- Consultative Committee on Ozone Depleting Substances was established to oversee implementation of the Montreal Protocol to phase out the use of chlorofluorocarbons (CFCs) in Fiji.
- Environment Commission? Recommended to coordinate government environmental policy and strategies. Proposed membership at permanent secretary level or equivalent. Chaired by Planning and Environment with membership from Primary Industries, Forestry and Cooperatives, Finance, Lands and Mineral Resources, Infrastructure, Public Utilities and Marine, Tourism and Native Lands Trust Board (General Manager). Current status?
- National Environment Council? Proposed to advise the Minister of Planning and Environment on current issues. Proposal was that it should be chaired by the

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Minister with membership to include statutory authorities, USP, NGOs, private sector and local government representatives. Current status?

The National Coordinator will need to confirm the activities, functions and interests of these and any other operational committees in the environment sector in Fiji.

Issues of Concern and areas requiring additional information

- *Unsustainable resource use: beche-de-mer, giant clam, forest resources, agriculture land use in relation to poor management of watersheds and catchments.*
- *Conservation of biological diversity and destruction of limited and fragile habitats.*
- *No national register of archaeological or cultural sites of historic interest?*
- *Pollution of surface and ground water from agricultural, domestic and industrial activities not a reported problem? But sewerage is an issue in Suva where approximately 60% of residences discharge into septic systems – but – Suva soils do not allow septic effluents to discharge properly and high rainfall and low evaporation results often results in saturation preventing oxygen penetration resulting in low natural treatment of sewerage discharges. “Average faecal coliform counts greatly exceed internationally acceptable standards in most, if not all of Suva's creeks”.*
- *Integrated watershed management/deforestation (area of indigenous forest is around 750,000ha – almost half the total Fiji land area – 1.8 million ha). Since 1967 11-16% of the forest has been converted from forest to non-forest land – at a rate of 0.5 to 0.8% per annum. Forestry accounts for just under 2 percent of GDP. Forest logging under the guise of “agricultural development”*
- *Farming on marginal soils.*
- *Adaptation and mitigation in response to sea level rise.*
- *Mangrove habitat – 42,000ha remain of the original 46,000ha. Mangroves are on State*



*land – theoretically reduces the need to deal with landowners – as a result provides the sites for most solid waste dumps.*

- *1992 State of Environment Report provides a preliminary listing of sites of national significance.*

- *Projects?*

- o Integrated Development Plan for Taveuni Island? Status? (Cost \$1.4 million)?*

- o Community-owned pine plantations (Cost US\$325,000/5 years) ?*

- o Tailevu Province Natural Resources Program?*

- o South Pacific Community Ecoforestry (SPCEF) Project/Floriculture Project?*

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