

MEDIA RELEASE

NEW FIJI CONSTITUTION ATTACKED

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**MEDIA SUMMARY**

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**Australian Jurists Criticise Gerrymander in New Fiji  
Constitution**

SYDNEY, SUNDAY

A hard-hitting statement issued in Sydney tonight condemns the new Constitution of the Republic of Fiji promulgated in July 1990. The statement issued on behalf of the Australian Section of the International Commission of Jurists (AICJ) is also signed by judges and a number of prominent Australians of different political affiliations. The signatories include Justice Michael Kirby (President of the Australian Section of the International Commission of Jurists and a Commissioner of the ICJ in Geneva), Gough Whitlam, John Dowd, Janine Haines, Don Dunstan and Justice Kenneth Handley. The statement has been issued tonight to coincide with the twentieth anniversary of the independence constitution of Fiji which falls on Wednesday.

"Self-perpetuating oligarchy"

The statement criticises the new Fiji Constitution as "a means by which Fiji may be ruled in perpetuity by an oligarchy of Fijian Chiefs and their associates. After a detailed examination of the provisions of the Constitution,

the jurists have concluded:

*"The government will not be answerable to the governed. Racial and geographic divisions and discrimination against citizens of all races are enshrined in the constitution which the majority is powerless to alter."*

The statement claims that, although the constitution has the "trappings" of representative government it lacks the "reality". It denies:

*"... a large majority of the people, particularly a large proportion of indigenous Fijians and the overwhelming majority of Indo-Fijians [are denied] an effective and equal voice in the choice of those who should govern them and the laws by which they should be bound."*

#### Ethnic Fijians disadvantaged

Quite apart from the disadvantages suffered by Fijians of Indian origin, the AICJ statement draws attention to the serious discrimination against "parts of the Fijian population". It points out that:

*"Of the 37 Fijian seats, 5 are allocated to the towns and 32 to the provinces. At the 1986 census 33% of Fijians lived in the towns. So two-thirds of Fijians get 32 seats; one-third only 5. In 1987 it was urban Fijians who voted in significant numbers for Dr Bavadra. In addition the provincial seats are unevenly distributed, heavily favouring the supporters of the regime...."*

The statement also points out that a further obstacle facing indigenous Fijians is that they must be enrolled or establish that they are eligible to be enrolled with their clan. Many

Fijians are not so enrolled having moved to towns or provinces to escape the restrictions of the traditional communal system. According to the statement:

*"It is clear therefore that significant numbers of Fijians will be unable to vote, despite the claim of the army and the military backed regime that the overthrow of the legally elected government and subsequent rule by military backed decree have been undertaken in order to protect and advance the indigenous Fijians."*

#### Privileged position of the military

The statement also points out that the new Fiji constitution entrenches the privileged position of the Fiji Military Forces which engineered the 1987 coups. Under section 94(3) it is declared to be the "Overall responsibility of the Republic of Fiji military forces to ensure at all times the security, defence and well-being of Fiji and its peoples". The jurists' statement acidly comments:

*"This is a recipe for continued military intervention in the life of the community."*

The Australian Section of the International Commission of Jurists is a branch in Australia of the ICJ which is based in Geneva and was founded in 1951. The Australian Section was founded by Sir Owen Dixon, then chief Justice of Australia. The ICJ is concerned with the rule of law, the protection of human rights and the independence of the judiciary and of lawyers. The Australian Section is made up of a large number of Australian judges and lawyers. Gough Whitlam is a past-president of the Australian Section as is

John Dowd, the New South Wales Attorney General. The ICJ is a non-political body. The concern about the situation in Fiji can be gauged from the strong language which the jurists have adopted in the Fiji statement.

"Veneer of constitutionalism"

Justice Kirby said that there was a meeting of the Executive of the ICJ in Geneva on 19-20 October 1990. He said:

*"I expect the situation in Fiji to be discussed by the International Executive of the ICJ. The new Constitution is quite as bad as the apartheid laws in South Africa. Those who lift their voice against that form of entrenched legal discrimination must do so against this new and completely unacceptable Constitution. The veneer of constitutionalism will deceive no-one. Wednesday 10 October 1990 is the twentieth anniversary of the independence constitution proclaimed with so much hope and faith. The new constitution is a sad betrayal of those ideals."*

For follow-up comment on the above statement contact Don Dunstan, telephone (08) 362 9812 or Justice Michael Kirby (02) 230 8203; 371 8818.