

## Chapter 5

### Case Study: Fiji

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#### 5.1 Context

The republic of Fiji consists of 332 islands, many very small, covering a total land area of more than 18,333 km<sup>2</sup>. The two major islands are Viti Levu, on which the capital Suva is situated, and Vanua Levu to the north east. The country has an estimated population of around 900,000. It is a multi-ethnic society, with constitutional protection given to indigenous Fijians and the Fijian culture. The head of state (president) must be an indigenous Fijian, and is normally appointed by the Great Council of Chiefs.

Fiji is a parliamentary democracy, but has experienced a number of military coups, the most recent in 2006. The parliament was suspended and the military-backed government has indicated that it does not intend to hold fresh elections until 2014. Following an inquiry, elected local councils were also dismissed in early 2009 and administrators appointed (see below).

#### 5.2 System of local government<sup>10</sup>

Fiji has several types of local governance. In urban areas, there is a 'western' system of municipalities comprising two cities and ten town councils: this system is managed by the Ministry of Local Government.<sup>11</sup> In largely rural areas with predominantly indigenous populations there are 14 provincial councils, overseen by the Ministry for Provincial Development, Indigenous and Multi-Ethnic Affairs. The outlying northern Dependency of Rotuma has its own island council, established under the Rotuma Act of 1978. In addition, there is a parallel system of 'local authorities' appointed under the Public Health Act to manage urban and rural sanitary districts. These are answerable to the Central Board of Health for functions that include building control, lodging houses, nuisances and offensive trades, as well as more typical aspects of public health regulation. In urban areas the 12 previously elected municipal councils are the designated local authority for this purpose. In rural areas the 17 appointed local authorities are also responsible for town planning.

This discussion will focus on urban local government established under the Local Government Act of 1985. The average population of urban councils is about 20,000, ranging from a little more than 1,000 to around 80,000. However, most such councils also have a substantial peri-urban population, living just outside the incorporated area but using urban facilities (see Table 5.1). This reflects rapid urbanisation, with about half the total population of Fiji now living in urban or peri-urban areas. However, the contribution of urban local government to GDP in 2001 was only 6.5 per cent.

There is no recognition of local government in the national constitution: this was considered by the 1997 Constitution Review Commission, but it took the view

**Table 5.1 Characteristics of Fiji municipalities**

Local government	Area (km <sup>2</sup> )	Population (town)	Population (peri-urban)	Total urban population
Ba	327	6,775	8,960	15,735
Suva	2,048	75,225	10,953	86,178
Lami	680	10,474	9,749	20,223
Nadi	577	11,871	30,841	42,712
Nasinu	4,500	75,719	11,051	86,770
Nausori	167	24,630	22,181	46,811
Lautoka	1,607	44,143	8,599	52,742
Levuka	67	1,143	3,147	4,290
Sigatoka	127	1,542	7,904	9,446
Tavua	100	1,076	1,373	2,449
Labasa	360	7,550	19,900	27,450
Savusavu	800	3,372	3,628	7,000

**Source:** Provisional Results, 2007 Population and Housing Census, available at: [www.statsfiji.gov.fj](http://www.statsfiji.gov.fj) (accessed 4 February 2013)

that it would not be appropriate to expressly recognise local government (i.e. urban municipal government), nor to guarantee local government autonomy. However, it did recommend a review of the Local Government Act, which led to a package of amendments passed in 2006 and resulted in some strengthening of local government's role and functions.

### 5.2.1 Local government structures

The 12 urban councils all have the same legal responsibilities and operate as a single tier answerable directly to the national government. Establishment of new councils or changes to boundaries are determined by the Minister for Local Government, who may seek advice from the Local Government Committee.<sup>12</sup>

Prior to the replacement of councillors by administrators in 2009, local elections were conducted on the basis of wards, with between three and five councillors per ward. The national Electoral Commission determined the number of councillors that constitute a council, and the number of councillors per ward, but the minister could set the minimum number of councillors in total. Results were determined by a 'first-past-the-post' system, and unlike national elections, voting was not compulsory. Councillors were elected for a term of four years (although the interim government has indicated it will reduce the term to three years). In addition to councillors, the minister could appoint non-voting advisory members to councils.

In 2005, only some 13 per cent of councillors were women, although this was a higher proportion than that of women in the national parliament and in Pacific local government generally.

The mayor and deputy mayor were elected or re-elected annually from among and by the councillors, and could be re-elected for further one-year terms. The mayor presided at meetings and undertook such executive functions as were allocated

under the Local Government Act. In particular, the mayor had the power in cases of emergency to take (or stop) action in order to ensure provision of an essential service or maintain public safety. The mayor was part-time. The council recommended a mayoral allowance, which must be approved by the minister.

Councils conducted their business through standing or special committees. They could delegate to a committee any of their powers and duties other than those to borrow money, set a rate, make by-laws, execute a contract or institute an action. Typically, committees covered finance, public health, town planning, traffic and public transport, and works. All committees other than the Finance Committee could include non-voting members appointed from outside the council, but at least two-thirds of members had to be councillors.

Councils (administrators) may also establish joint committees with other local authorities. In this context, 'local authority' includes any municipality established under the provisions of this act, any provincial council established under the provisions of the Fijian Affairs Act, any company or other legal entity and any local authority within the meaning of the Public Health Act (section 30(3)). These provisions offer wide-ranging scope for joint ventures and public-private partnerships, subject to the council's capacity to contribute.

Staff are recruited directly by councils, which also set salary levels, except that for the town clerk/chief executive and any other senior officers earning above defined limits, whose salaries are determined by the national Higher Salaries Commission. In addition to the town clerk, councils must employ a building surveyor and a health inspector. Typically, councils also seek to employ specialist engineering and finance and administrative staff, but recruiting suitable professionals can be difficult.

The Local Government Act and other acts make some provision for informing and consulting local communities. These include:

- publicising proposals for boundary changes, with objections being heard at public hearings organised by the Local Government Committee;
- publication by the council in a local newspaper of its balance sheet, and a statement of income and expenditure, together with the report of the auditor;
- inspections of property valuations entered in the rate book; and
- public notification of planning schemes and proposals for changes to land use (re-zoning).

Some councils have also taken special initiatives to involve the public in particular programmes (e.g. in Suva City for health promotion, and in Lautoka City for traffic management).

### 5.2.2 Role and functions

All municipal councils have the same legal responsibilities. Under section 88(1) of the Local Government Act a council has the power to: 'do all such things as it lawfully may and as it considers expedient to promote the health, welfare and convenience

of the inhabitants of the municipality'. However, that power is heavily constrained by the limited financial resources available to councils, and by the need to obtain ministerial approvals, e.g. for the provision of 'public utility services' including public transport, for public works and for housing schemes. It is worthy of note, given the growth of peri-urban settlements, that such services, works and schemes may extend beyond municipal boundaries.

In similar vein, section 126 of the act provides that a council must provide services to Fijian villages located within its municipality, and may, subject to the approval of the Fijian Affairs Board and the minister, make by-laws concerning: the manner in which Fijian villages may be incorporated in the municipality; how service fees are to be levied on those villages; and minimum building standards. Many municipalities have Fijian villages within their boundaries or in adjoining peri-urban areas. Some 83 per cent of all land is owned by indigenous Fijians, and urban development has now reached the point where available state and freehold property is largely developed, so that future urban growth will have to take place on those communally owned native lands.

As a general rule, local councils also undertake construction and maintenance of roads, parks and drainage systems, refuse collection and disposal, health and environmental protection, and economic promotion and tourism. In addition, councils have functions under numerous other acts, notably the Public Health Act 1985, the Town Planning Act 1978, the Sub-divisional Land Act 1978 and the Land Transport Authority Act 1998.

In 2007, the aggregate expenditure of the 12 urban councils was about 37 million Fiji dollars (F\$; CLGF 2009: 69). Principal sources of revenue were property rates and market fees and rentals. Income from business licences, and in the larger urban centres parking fees, is also significant. There is a high level of outstanding rates.

Councils may levy a general rate not exceeding 10 per cent of the unimproved value of land, and special or local rates not exceeding 5 per cent. However, large areas of land – including among others unleased native lands and any area so designated by the minister – are non-rateable. Moreover, councils are required to transfer to central government 5 per cent of revenues from business licences.

In 2007, under the Urban Policy Action Plan, the national government offered grants to councils on a 50:50 matched basis from a 'Challenge Fund' for local infrastructure projects that benefit the poor. F\$500,000 was allocated but this scheme was then discontinued due to lack of funds. Councils' ability to meet their share of the cost of projects from recurrent revenues was limited, and their capacity to borrow is restricted by the need to obtain ministerial approval for loans exceeding 5 per cent of total recurrent annual revenue.

There has been a growing trend for councils to contract out services such as waste removal, street cleaning and other maintenance activities to the private sector. Also, under the government's public enterprise reform programmes, begun in the 1990s, some public enterprises have been partly or fully privatised, and some local services, such as electricity supply and fire fighting, have been consolidated into national operations.

### 5.2.3 Oversight and scrutiny

Local councils are subject to detailed oversight and close scrutiny by the Minister for Local Government. Table 5.2, taken from the Local Government Act itself, lists various sections of the act under which ministerial approval is required. However, it is not comprehensive: for example, important requirements for the minister to approve by-laws for construction of roads and streets, and to dedicate land for roads and streets, have been omitted.

Among other things, councils are required to submit for approval:

- annual budget estimates and variations to those estimates;
- monthly financial statements and activity reports;
- annual financial statements and the auditor's report;
- resolutions to increase fees or charges or create new fees or charges;
- proposals to provide public utilities or undertake public works;
- proposals to acquire or dispose of land, including some leases;
- proposed by-laws, including by-laws setting minimum construction standards for roads;
- loan applications that exceed 5 per cent of the annual recurrent estimated gross revenue of the council (applications exceeding 15 per cent also require the approval of the Minister of Finance); and
- a report containing a summary of the proceedings and activities of the council during the preceding year.

In addition, the minister may instruct councils to prepare by-laws and has unfettered powers to make regulations to give effect to the provisions of the act. S/he may also prohibit or suspend works or other activities carried out by a council if, in his/her opinion, those works or activities are likely to cause serious injury or annoyance to the public (section 129).

Subject to receiving an adverse report from an inspector, and the findings of a subsequent committee of inquiry, the minister has the power to dismiss a council and appoint administrators (two or more). Additionally, the minister may suspend or dismiss the mayor if s/he is satisfied after due enquiry that the mayor has been guilty of misconduct or is unable to perform his/her duties or has acted in a manner prejudicial to the interests of the municipality.<sup>13</sup>

### 5.2.4 Inter-government relations

The Local Government Act is silent on the issue of inter-government relations, other than the oversight powers of the minister. Until the recent suspension of elected local government, there was a developing relationship between the ministry and the Fiji Local Government Association, which provided a useful mechanism for information

**Table 5.2 Supervisory powers of the Fiji Minister for Local Government**

Section	Role of the minister
19 (2)	Shall cause copies of the annual statement and reports to be laid before parliament
40 (1) (b)	Approve loan or loans not exceeding in the aggregate 15 per cent of the recurrent estimated gross revenue of the council
40 (1) (c)	Approve loans or overdraft in any other case in consultation with the minister responsible for finance
43	Approve investment made by the councils
44 (c)	Approve contribution by the councils in any charitable purpose within the meaning of the Charitable Trusts Act
46 (2)	Receive in the month of November a copy of the estimate of the income and expenditure of councils for the next succeeding year
46 (3)	Receive and where appropriate approve at any time during the year, a revised or supplementary estimate
47 (2)	Direct the manner be which the accounts and records of the councils are to be kept
48	Approve the transfers from the general account to meet deficiencies in the separate accounts
49	Approve the transfer from separate account in the general account
51	Appoint the auditor of the councils
65 (1)	Approve the appointment of a valuer or assistant valuer by the councils
73A (2)	By order vary the maximum amount of discount which may be allowed by councils
80	Approve the write-off arrears of rates and interest on grounds of hardship
81	Approve the promotion, establishment and maintenance of public utility services including public transportation, or any public works, which in the opinion of the councils may be necessary or beneficial to the municipality and contribute to the cost of such public works
91 & 93	Give consent for the acquisition and disposal of land by agreement
92	Give consent to let any land in the possession of the councils for terms exceeding ten years
123	Make regulations for fixing the maximum amounts payable for financial loss, travelling and subsistence allowances and for other general or specific purposes
124	Serve order upon councils to make such by-laws as are specified in the order and to amend or revoke any such by-laws
129	Suspend or prohibit any order of resolution by councils which is likely to cause serious injury or annoyance to the public
130 & 131	Appoint an inspection and/or committee of inquiry to investigate the affairs of councils
131A	Prescribe actions, reduce grant and dissolve the councils or default
132	Disallow expenditure incurred without proper authority based on reports of the inspection or auditor or surcharge councillors or person responsible
138	Receive certified copies of minutes or records of proceedings of meetings and confirmed minutes within seven days after the date of confirmation

exchange and co-ordination. Membership of the association is voluntary, and the association is funded by member contributions and grants. Its main functions are to:

- provide opportunities for municipal councils constituted under the Local Government Act to be consulted on matters of mutual interest;
- disseminate information concerning local government matters and provide a common educational centre for all municipal councils;
- foster and promote common enterprise between constituent councils;
- watch over and protect the interests, rights and privileges of members and take action in relation to any subject or legislation affecting any member;
- promote legal opinions, prosecute or defend test cases or engage in any other legal proceedings in respect of matters of general interest to members and generally to promote the efficient functioning of local government so far as it affects the municipalities in Fiji;
- encourage the formation of joint committees under section 30 of the Local Government Act to deal with matters of mutual interest to municipal councils;
- affiliate with international, national and local organisations in order to promote local government; and
- raise the standard of local government service.

### 5.3 Agendas for reform: the 2006 amendments

As noted earlier, issues concerning the future of local government, and particularly the question of constitutional recognition, were considered in the mid-1990s by the Constitution Review Commission (Fiji Constitution Review Commission 1996). The Commission endorsed the concept of local government in the following terms (ibid: 627):

A local form of government allows the people of an area, linked by a community of interest or a common dependence on services or amenities, to identify themselves as an integrated community and thereby manage their common interests and dependence in an orderly and meaningful way.

The commission found that while the constitution did not expressly establish or require local government, a number of its provisions did recognise the existence of various forms of local authority. It noted that local government representatives had sought not only a provision to recognise or mandate local government, but also to give it more autonomy from the tight control of central government, which the commission acknowledged was considerable (ibid: 630). The commission concluded, however, that its primary focus should be on national unity and that there was no known threat to the continued existence of municipalities. Interestingly, it observed that the provisions in the Local Government Act enabling the establishment of district councils in rural areas had not been used, and this would indicate that having autonomous local government is not a major concern of the Fijian people – although

it did propose that, in principle, the government should examine replacing existing advisory councils in rural areas with elected bodies having a statutory basis (ibid: 631–2).

The commission also found against proposals that there should be reserved seats on elected town and city councils for indigenous Fijians. It argued a case for moving away from ethnicity as a basis for political organisation (ibid: 631–2).

Ultimately, the commission recommended a: ‘broad and comprehensive review of all local government arrangements in Fiji, to be carried out by an independent and broadly representative body’ (ibid: 633). This was to include an examination of the Local Government Act, ministerial supervisory powers, electoral arrangements and appropriate democratic systems of local government for rural areas.

Such a review never took place, although some aspects of local government service delivery were addressed in the context of the government’s broader economic reforms, and minor amendments to the Local Government Act were passed in 1997. Ultimately, a further but still modest package of changes to the Act was introduced in 2006. According to the Local Government Amendment Bill 2006: Explanatory Note, these aimed chiefly:

- to provide an appeal mechanism to the advice of the local government committees, before the minister makes a subsidiary legislation in the form of order (sic) to define or alter the boundary of a municipality;
- to extend the term of municipal council (sic) from three to four years;
- to remove rating of native lands that are not leased or licensed to any person and villages within a municipality;
- to clarify that the Supervisor of Elections will conduct local government elections and the preparation of the rolls;
- to clarify that council (sic) can enter into business enterprises with private companies and other statutory bodies; and
- to make changes to other provisions in order to strengthen the operation of those provisions.

The note might also have made clear that the amendments further *compelled* councils to provide services to Fijian villages within their boundaries, while leaving it to the minister to approve levying of service charges for that purpose. However, it also replaced total ministerial discretion over the form of financial statements with a requirement to comply with the Fijian Accounting Standards.

The limited scope and strategic intent of the 2006 amendments was perhaps unsurprising given the political instability that had afflicted Fiji for much of the previous decade. Indeed, Fiji experienced its most recent military coup in December of that year. Nevertheless, it does appear to reflect a disconnect between the state of local government legislation and the emerging policy environment, particularly on issues relating to urbanisation.



In 2007, the Fiji Local Government Association (FLGA), assisted by United Nations advisers, published a White Paper on urban development policy. This drew on corporate strategies prepared by all 12 urban councils, and:

- summarised the evolution and expected future of Fiji's cities and towns;
- estimated the cost of essential infrastructure, equipment (including IT) and training; and
- called for greater co-operation between councils and for a concerted national and regional effort to tackle emerging problems (Khan 2007: 15–25).

The White Paper was prepared during a period of considerable activity in the field of urban policy in both the Pacific generally and Fiji in particular. This activity included:

- regional workshops and forums on urban management;
- formulation and later revision of a Pacific Urban Agenda;
- funding of urban development projects by AusAID and NZAID, including endowment of the previously mentioned Challenge Fund in Fiji;
- a national policy document, the Urban Policy Action Plan, covering some peri-urban areas on the main island of Viti Levu; and
- involvement of the Commonwealth Local Government Forum through its Pacific Project, including support for the FLGA secretariat and conferences, training programmes and other capacity building projects (ibid).

While such initiatives were not dependent on extensive changes to the Local Government Act or other legislation, it was becoming clear that systemic issues in local government, especially the weak financial position of councils, would need attention if the challenges inherent in rapid urbanisation were to be met successfully, and that at least in some respects current legislation was an inhibiting factor. This crystallised in the major review of local government conducted in 2008.

## 5.4 Agendas for reform: the 2008 review

The military-backed government that assumed power in December 2006 highlighted the importance of public sector reform. In July 2008 cabinet initiated a review of local governance and the Minister for Local Government was tasked to set up a committee of inquiry. He subsequently established a Local Government Review/Reform Committee (LGRC).

Underlying this review were criticisms or allegations concerning: poor performance of local councils with regard to inadequate service delivery and provision of infrastructure (notably roads and drainage); mismanagement, inefficiency and high overheads resulting in less funds being available for capital works; nepotism; misuse of council property; undue political influence in management decisions; failure to expand functions and undertake income-generating commercial projects; and lack of co-operation with national government (Davidson 2009).

The LGRC's terms of reference were broad and even included the option of abandoning the current system of local government. They were (LGRC 2008: 6–7):

- to review and examine the current local government legislation and to determine whether such legislation can be amended and/or repealed and replaced by alternate legislation that will be more responsive to the demands of ratepayers and the interim government;
- to examine the role, functions and responsibilities of each municipal council under the act;
- to examine the role, functions and administrative effectiveness of the Department of Local Government under the Local Government Act;
- to review the current institutional, structural, financial and administrative workings of municipal councils;
- to evaluate the financial performance of municipal councils, in particular the ratio of funds expended on capital projects against operating costs;
- to examine ways in which service delivery to ratepayers can be better enhanced;
- to evaluate all operational aspects of municipal councils, including matters such as rate collection, human resources, provision of amenities, social services, environment management etc.;
- to examine and assess how the local government machinery can be best shaped to promote good governance and the well-being of ratepayers, with a view to building modern regional cities and towns in line with established principles of urban development;
- to examine the procedure and criteria for the election/appointment of councillors/administrators, and to identify a fairer and more democratic model of election and representation;
- to assess the Urban Policy Action Plan (UPAP) and Urban Growth Management Action Plan (UGMAP), and their adoption in any proposed local government machinery; and
- To determine whether an urban planning authority or regional authorities would be better able to perform the role and functions of current municipal councils.

Significantly, the first three terms of reference all referred specifically to the adequacy, appropriateness or application of current legislation.

The LGRC started work in August 2008 and was required to complete its report by the end of November – a rushed schedule. It held public meetings around the country and met with all municipalities, a sample of rural local authorities, government agencies and other key stakeholders. Written submissions were invited and around 200 received.

A major submission was made by the Fiji Local Government Association. It emphasised the problems faced by councils in terms of limited revenues and professional staff;

reiterated the need for effective measures to address urbanisation; and highlighted the adverse effects of the fragmented (between 25 and 30 acts) – and in a number of cases outdated – legislation under which municipalities were required to operate. Some of the association's principal proposals were to:

- establish a consolidated 'Municipal Act';
- transfer rural local authorities from the Public Health Act to the Local Government Act, and progressively make them elected district or town councils (this would also facilitate action to deal with the issue of peri-urban growth);
- transfer the (heavy) cost of elections to central government and enhance voter registration and education;
- extend the term of mayors to two years;
- ensure that committee meetings dealing with major issues (e.g. capital works, rates and charges) are open to the public;
- ensure that each council have a code of conduct for both councillors and staff (provisional code for councillors already prepared by FLGA);
- improve the use and quality of by-laws, e.g. for land subdivision;
- improve management standards and provide more staff training;
- promote greater use of local rates to fund infrastructure works;
- allow use of improved or annual (rental) property values for rating as alternatives to unimproved capital value;
- allocate councils a percentage of fuel tax and wheel tax revenues to improve infrastructure maintenance;
- increase resource sharing among councils;
- recognise the differing capacities of councils (larger versus smaller populations and budgets) to discharge their statutory and service delivery functions;
- strengthen the Department of Local Government and improve inter-government relations; and
- progress implementation of the Urban Policy Action Plan (UPAP) and Urban Growth Management Action Plan (UGMAP), including through councils' own strategic and town planning processes.

More than half of these proposals involved amendments to the Local Government Act, and in the case of the first, a substantial re-write plus incorporation of part or all of several other acts.

The LGRC endorsed the need for legislative change. It noted that the efficiency and effectiveness of local government is very much dependent upon required changes in a number of acts:

The legislation under which local government in Fiji operates, the Local Government Act (Cap 125), is considered to be generally workable, in that it has served local government for over 35 years. It is in the application that it was revealed that the legislation does need some major revisions and incorporation of provisions of other legislations for which local government is responsible. The committee believes that the Local Government Act should be repealed and a new legislation, the Municipal Authorities Act (or similar), be prepared by retaining the applicable components of the existing legislation and incorporating relevant provisions or, if appropriate, the entire legislation of related acts. The committee has identified, based on submissions made and detailed analysis, many amendments that should be incorporated into the new legislation in order to provide a more enabling legislative environment under which councils can operate.

(LGRC 2008: 12)

While so much is demanded and expected of the local municipalities by the central government, the rate payers as well as the public, at the same time, it is also important that more sharing of power is practised to enable the municipalities to be more autonomous, capable of running on their own rather than having their contribution stifled by outmoded and outdated legislation.

(ibid: 32)

The LGRC proposed that the various departments or agencies that administer acts relating to local government should form a co-ordinating mechanism to ensure that legislation is harmonised, compatible, relevant and effective (ibid: 32), and that changes in relevant provisions of the Local Government Act and related acts be consolidated to provide effective development and management of urban areas to enhance delivery of services. It also made a number of specific recommendations that would involve amendments to the Local Government Act. These appeared to be aimed at strengthening the role, operational autonomy and financial position of municipalities, while increasing accountability and organisational effectiveness. In some respects they echoed the approach taken in recent years in to local government legislation in New Zealand and Australia.

Specific proposals included:

### **General**

- A new section 2 of the Local Government Act be included that would (inter alia): state the purpose of local government; provide a framework and powers for local authorities; promote accountability of local authorities to the central government and the electorate or the public; and provide for municipalities to play a broad role in the promotion of the social, environmental and cultural well-being of communities.
- Local authorities should be given greater freedom to determine their own priorities, make policies and by-laws, set rates, fees and charges etc. The minister's power of oversight under the act should be limited to raising loans, overdrafts, municipal

boundary changes, changes in the composition of the council, sale of council properties and investment. The minister's powers to investigate and deal with allegations of malpractices should be maintained, although such investigation should be carried out by an independent body.

- Rural local authorities should be re-named district councils, with their functions and service delivery similar to municipalities.

### **Elections**

- The voting age should be lowered to 18 years (plus a number of other recommendations aimed at improving the electoral system).
- The system of democratically elected councillors should remain in place, but the minister should be empowered to appoint a representative of traditional landowners having an interest in the city or town.
- The mayor should be elected by popular vote.
- Registered political parties should not be permitted to contest local government elections.

### **Council and committees**

- In the interests of more efficient decision-making, but still maintaining adequate representation, the numbers of elected councillors per municipality should be reduced.
- The council and committee structures of municipal councils should be reviewed and rationalised to improve efficiency in decision-making.
- Committee meetings of the councils which deal with major issues like budgeting, capital projects, rates, fees, charges and drafting of by-laws should be open to the public.
- A code of conduct for municipal councillors and senior officials should be developed and enforced.

### **Staffing**

- Council staff should have their own code of employment similar to the Civil Service General Orders.
- In future, the position currently known as town clerk/chief executive officer should be referred to as city or town manager, with clear responsibilities for the operation of the council and implementation of councils' decisions.
- City/town managers should no longer 'hold office at the pleasure of the Council', but be employed under performance-based contracts for a term of no more than three years, with the option of renewal.
- There should be a clear division of responsibility between the council, councillors and the city/town manager and staff.

## Accountability

- Councils should be required to develop a simple, strategic, integrated community plan for the municipality to guide and inform planning, management and development.
- All municipal councils should develop and implement a community engagement and communications strategy.
- The Office of the Auditor General should retain responsibility for audits of municipal councils, and the power of the minister to direct otherwise should be removed.

## Rating

- The Local Government Act should be amended to empower municipal councils to collect outstanding rates more effectively.

These proposals echo a number of the points raised by the FLGA, and also appear to draw extensively on recent trends in New Zealand and Australian local government. Whether many of them could be implemented satisfactorily in Fiji, given the lack of resources at both local and national levels, is a matter for debate (see below).

The LGRC also had much to say about the need for improved financial management, including: better use of councils' rating base and reviews of fees and charges; the scope for additional revenue sources, such as development levies and a wheel or fuel tax; regional co-operation and resource sharing among councils; and strengthening of the national Ministry for Local Government to provide greater support, including implementation of the UPAP and UGMAP. For the latter purposes, and to ensure effective implementation of the overall package, it recommended establishment of an urban and regional authority within the ministry that would consolidate relevant functions and skills.

Above all, the LGRC strongly supported continuation and enhancement of the system of elected local government. It stated that (ibid: 11):

It is considered imperative that the institution of elected local government ... remains in place despite any issues related to performance or operations of individual Councils. There are mechanisms available under the Local Government Act and other legislations (sic) for dealing with allegations or instances of inefficiency, wastefulness or corruption by Councils. The institution itself should not be compromised in such cases.

But the government saw things differently. In January 2009 it dismissed all elected councillors and replaced them with appointed special administrators in order to speed what it saw as essential reforms. The town clerks were re-employed by the ministry, and central control over councils thus strengthened. While it accepted 98 of the LGRC's 131 recommendations, the government opposed both lessening of ministerial controls and strengthening of the ministry to support councils. It established a Local Government Committee to progress implementation of 38 priority recommendations: these focused strongly on financial management and rating, reflecting in particular

the government's concerns about the high level of uncollected rates. Priority was also given to improving councils' operations through measures such as strategic planning, performance monitoring and codes of conduct; and to urban planning systems, including implementation of the UPAP and UGMAP (Davidson 2009).

However, progress was slow. By December 2009 the Local Government Committee had only met three times and lacked experienced staff support, apart from an Australian volunteer adviser who has since been withdrawn. While the response to the government's reform package by the special administrators and council staff was reported to be positive, lack of funds and human resources continued to be a major constraint: central government was unwilling to commit funds to assist councils, and practices such as compulsory early retirement of public servants and council staff deprive the sector of necessary expertise. In addition, there are numerous cross-cutting and potentially conflicting agendas and co-ordination among the key players remained weak (ibid).

## 5.5 Lessons for effective legislation

The Fiji experience highlights the importance of context. As both the FLGA and LGRC acknowledged, the Local Government Act itself is quite a good piece of legislation that has been kept reasonably up-to-date. Further amendments are desirable in the areas recommended by the LGRC report, but in themselves the deficiencies in the act are not a fundamental obstacle to successful operation of the system of urban local government – although they do create certain inefficiencies and impediments.

What has emerged quite clearly over recent years is that the system is failing – first, because it lacks a sound framework of national policy, and second, because it is complex and demanding of resources that are simply unavailable. Some of the key issues identified in this research are as follows.

- Maintaining stable and effective local government is extremely difficult or impossible in a climate of political instability at the national level, and when the responsible national ministry is grossly ill-equipped to manage and support a complex system. This difficulty is magnified when the legislation requires numerous councils constantly to refer matters to the national minister for decisions, particularly basic administrative steps such as adopting estimates of income and expenditure, or deciding on capital works. Amendments to legislation such as those proposed by the LGRC could address excessive oversight, but the underlying contextual problem would remain.
- The essential challenge is that of coping with rapid urbanisation, and in that regard focusing efforts on a limited number of urban authorities is probably a sound approach. However, urban local government cannot function adequately when its boundaries and revenue base bear little relation to the extent of the urban and peri-urban areas to be managed, and when there is a lack of mechanisms to ensure co-ordination with adjoining authorities established under a multiplicity of different systems. In Fiji this problem is exacerbated by the ethnic dimension involved, which affects both the external boundaries of municipalities and the

management of some areas (Fijian villages and unleased native lands) within those boundaries. Changes to legislation (but above all, considerable political courage) are needed to tackle these issues.

- Revenues available to councils fall well short of what is required to undertake their functions properly, especially provision and maintenance of infrastructure, and to attract, retain or train needed professional staff. This situation results from a narrow revenue base, limited capacity to tap that base effectively (e.g. through special and local rates and by collecting all rates due), too many exemptions from payment of rates, lack of central government support, inefficiencies and poor financial management. Some of these issues do require amendments to legislation, as indicated by the LGRC.
- Resources are stretched unnecessarily by the operation of multiple systems of local government – including the parallel local authorities established under the Public Health Act – and by the special treatment afforded to indigenous settlements. The *concept* of integrating these systems advanced by both FLGA and LGRC appears logical, but as the LGRC pointed out, this would require new management and oversight structures at the national level and a considerable injection of resources. As noted above, the narrower focus of the current Local Government Act system makes a lot of sense in an environment of scarcity.

At the time of writing, it appeared evident that for the foreseeable future there would be a lack of will to address these contextual issues, and this will limit what can be achieved by reforms within the Local Government Act system alone. In that case, the government's decision to focus on a relatively modest package of improvements to administrative processes and financial management in the urban councils seemed appropriate. However, on current indications even this may not be achievable within available resources.