

Mr. Vice-President,
Members of Troika
Members of the Working Group

**Opening remarks by Ashwin Raj, Chairman Media Industry
Development Authority (MIDA)**

1. A free, responsible, accountable and robust media is critical in fostering a culture of deep and deliberative democracy. Unlike many other constitutional jurisdictions that deem the guaranteeing of freedom of speech, expression and publication to entail implicitly freedom of the press, the Fijian Constitution through its Bill of Rights, unequivocally recognises freedom of the press as pivotal in the materialization of freedom of speech, expression, thought, opinion and publication.

2. We take full cognizance and share the concerns raised at our last Periodic Review by Switzerland, Hungary, Sweden, Netherlands, Spain, Norway, France, United States, and Italy that repressive laws can have the effect of severely restricting press freedom. Fiji has taken significant steps in securing greater rights and freedoms. I am equally confident that this august Council shares our conviction that no country guarantees unfettered freedom without responsibility. Fiji is no exception. Whilst guaranteeing freedom of speech, expression, thought, opinion and publication, our Constitution explicitly prohibits any speech, opinions or expressions inter alia; that is tantamount to propaganda of war; incitement of violence or insurrection against the Constitution; or advocates hatred based on any prohibited grounds of discrimination such as race, culture, ethnic or social origin, sex, gender, sexual orientation and gender identity, language, economic, social or health status, disability, age, and/or religion. These rights are subject to limitations through law such as in the interests of national security and public safety, and the limitations specifically provide for;
 - the right to be free from hate speech

- the rights of persons injured by inaccurate or offensive media reports to have a correction published on reasonable conditions established by law
 - preventing the disclosure of sources
 - Preventing attacks on the dignity of individuals or groups in a manner likely to promote ill will between ethnic or religious groups or the oppression of or discrimination against individuals or groups.
3. To the extent that it is necessary the State can make provisions for the enforcement of media standards and the regulation, registration and conduct of media organisations.
 4. The limitations to freedom of speech, expression and publication in the Fijian Constitution on the prohibited grounds of discrimination listed in its Bill of Rights are in consonance with General Recommendation No. 35 (CERD/C/GC/35) of the International Convention on the Elimination of All Forms of Racial Discrimination on *Combating Racist Hate Speech*.
 5. Fiji's long history of racial intolerance, institutionalized racism and abuse of special affirmative action measures has taught us that some media organisations can be pivotal in either promoting understanding and tolerance or undermining it. What is needed is a strong, well-trained and confident media that does not exercise self-censorship. Our Constitution provides a definition of hate speech that is comparable to the German model, a model Fiji chose given its long history of religious and racial intolerance. Media training to ensure that the media understands the perimeters between free speech and limitations on free speech in accordance with international law, especially from the jurisprudence of the European Court of Human Rights is of paramount importance. The United Kingdom is familiar with having to address issues relating to this, having itself adopted a model of audited self-regulation subsequent to the Leveson Inquiry, with the audit being undertaken by the State.

6. The Public Emergency Regulations (PER) have been repealed. The Media Industry Development Decree 2010 through a very progressive Media Code of Ethics and the Constitution guarantee freedom of the press, protect the confidentiality of journalistic sources (consistent with the decision of the European Court of Human Rights and Article 10 of the Freedom of Expression provision in the European Convention of Human Rights), and encourage robust debate without inciting hatred for special communities and groups in Fiji consistent with the law on justifiable limitations to free speech under the ICCPR and the European Convention. It should be noted that the Media Code of Ethics in the Media Industry Development Decree 2010 was borrowed verbatim from the Code of Ethics adopted by the previous self-regulated Media Council.

7. Since its establishment, the Media Industry Development Authority (MIDA) has called for balanced, accurate and evidence based reporting encouraging quality journalism that is ethical and follows internationally recognized protocols of responsible journalism. During the elections, MIDA called for and received retractions and apologies from Radio New Zealand and Al Jazeera in relation to stories about Fiji which were racist unbalanced and inaccurate.

8. To ensure accountability and transparency in regulating the conduct of the media, the Media Industry Development Decree 2010 also provides for an independent media tribunal, presided over by a High Court Judge, to adjudicate on breaches of media codes or matters relating to media disputes. It is important to note that there has been only one prosecution under MIDA and that prosecution was in relation to foreign ownership of a media organisation. There has been no prosecution of any media organisation of breaches of the code of ethics, or of content. MIDA welcomes the inclusion of a guarantee of the right to information provided under section 25 of the Constitution, and welcomes

Government's commitment to passing a Freedom of Information Act, which is currently being finalised.

9. MIDA has actively encouraged the mainstream media (both print and broadcast) to report freely and critically public opinion and views including those which are critical of Government. MIDA's consistent call for the exercise of self-regulation and continuous education of the media is consistent with UNESCO's recent call for "strengthening national legislative framework; training of journalists to build capacity and to advance media and information literacy" and "supporting media independence by promoting professional standards and self-regulation" in its report on *World Trends in Freedom of Expression and Media Development*.

10. Consistent with this, MIDA has facilitated training for the media on the Media Code of Ethics, the Bill of Rights and on reporting the elections. The presence of 450 local and international media covering the general election, publication of opinion pieces and televised political debates capturing a plurality of voices in the lead up to the elections are all testament to our commitment to media freedom. Disturbing publications of hate speeches on the grounds of race, sexual orientation and religion, threats against journalists in the social media, and factually incorrect and anachronistic accounts on political developments underscore the need for continued media training. As Fiji enters a new era of parliamentary democracy, I am pleased that UNDP has expressed its keen interest in collaborating with MIDA on training our media on reporting parliamentary debates. Given Fiji's commitment to social and economic rights, we also welcome the ILO's proposal to train our media on labour rights. These collaborative efforts between Fiji and the international community signal an encouraging positive step towards constructive engagement in advancing freedom of the press. We also encourage civil society organisations to partner with us, as the international agencies have committed to do. ---END---