YEAR 11

HISTORY

HOME LEARNING KIT

WEEK 7

* COURT
* APPEAL
* LAW
* LAWYER
* JUDGE
* JUDICIARY
* LEGAL OFFICER



**Lesson No:**59

**Strand: GOVERNMENT AND GOVERNANCE**

**Sub-strand: UNIT 6 – FIJI’S LEGAL SYSTEM**

**Lesson Outcome: know the system of court in Fiji**

**System of Courts**

* The Court system comprises the DPP, Lawyers (Barristers), Magistrates and Judges who preside in the Magistrates Court, High Court, Court of Appeal, and Supreme Court.

**Procedure of a Trial**; **a Criminal Case**

1. **Investigation**
* When a crime is reported, the police are responsible for conducting an investigation.
* A suspect may be arrested or issued a citation in lieu of arrest.
* After completing their investigation, the police submit their reports to the DPP.
* The DPP’s Office reviews the case and decides whether to charge an individual or individuals with a crime.
* Police officers may also submit an incident rep.
* When a person is arrested and taken to jail, they may remain in jail until their arraignment or may be released.
* If released, the defendant must sign a release agreement.
* The conditions of the release agreement include appearing in court as ordered, not leaving Fiji without the permission of the court, and not having any contact (direct or indirect) with the victim of the crime.
* The release agreement is in effect until the court case is concluded
1. **Filing Criminal Charges**
* A criminal case begins when the DPP's Office, files a charging document (complaint, information or indictment) against the defendant.
* A crime is a **felony** if the maximum penalty includes a sentence of more than one year of jail
* Common Felonies include illegal possession, manufacturing and delivery of drugs, robbery, burglary, theft, identity theft, assault and sexual assault crimes.
* A crime is a **misdemeanour** if the defendant cannot be ordered to serve more than one year in jail.
* Common misdemeanours include minor assault, harassment, menacing, minor theft, criminal
trespass.

**Class Activity**

1. Briefly explain the process of investigation.
2. Define the term **arraignment**.

 **Lesson No: 60**

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1. **Arraignment**
* The arraignment is the first court appearance after a defendant is arrested or issued a citation.
* At the arraignment, the defendant is formally advised of the criminal charges filed.
1. **Preliminary Hearing**
* At a preliminary hearing, the DPP must present evidence to the court to show that;
* a felony has been committed
* the DPP has sufficient evidence to prosecute the defendant for the offense.
* A defendant may waive his right to this hearing and proceed to the next step in the prosecution.
1. **Entering a Plea**
* If the defendant enters a plea of not guilty, a trial date will be set.
* It may be several months before a trial takes place, and the trial may be reset (postponed) more than once.
* When the case goes to trial, victims and witnesses will be subpoenaed to testify.
* If the defendant enters a guilty plea or a no contest plea, the defendant may be sentenced at the time of the plea, or the sentencing may be scheduled for a later date if the victims have requested to be present.
1. **The Trial**
* A trial can have a Judge or be decided by a Jury (In Fiji a Jury is referred to “Assessors”).
* A trial follows an established sequence:
1. The DPP presents the case
2. The DPP calls witnesses for the Prosecution
3. Lawyers for the accused question the prosecution’s witnesses
4. The lawyers for the accused present their case
5. The lawyers for the accused calls witnesses for the Defense
6. DPP questions the defense’s witnesses
7. DPP sums up the case for the Prosecution
8. Lawyers for the accused sum up the case for the Defense
9. The Judge instructs the Assessors to make a decision
10. The Jury meets in private to make a decision
11. Chairperson of the Assessors announces the decision (guilty or not guilty)
12. Judge considers the case and the assessors decision and announces a verdict (a sentence)
* In some trials, the Judge withdraws to consider the case and may not announce a verdict or sentence for
sometimes as long as a month.

**ACTIVITY**

1. Describe the process of **Preliminary Hearing**

**Lesson No:** 61

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**Lesson Outcome: know the about the other legal organisations in Fiji**

**The Supreme Court**

* The Supreme Court is the highest court in Fiji.
* It is also the final Court of Appeal
* If the accused is unhappy with a Magistrates Court or High Court verdict or sentence, they may present
a case for the trial to be heard again at a higher court. This is called the Court of Appeal.

**Other Aspects of the Legal System**

* Apart from the Courts there are many other individuals and organisation with a direct concern with the legal process.
* These organisations and individuals are usually referred to as civil society.
* They provide legal advice to citizens, raise awareness on legal issues and provide assistance to victims, prisoners and former offenders.
1. **Fiji Law Society**
* This is the official body that registers and regulates the activity of all lawyers in Fiji.
1. **Legal Aid Commission**
* To provide legal services to those people who are unable to afford the services of a private legal
practitioner.
* The Legal Aid Commission was established in July 1998.
* It provides legal representation in the Court and other related services.
* The Commission’s Board comprises of the Solicitor-General who is also the Chairperson, the Chief Registrar, three legal practitioners and two members who are not legal practitioners.
1. **Fiji Women’s Rights Movement**
* The Movement is a multi-ethnic and multicultural non-governmental organisation.
* It is committed to the removal of all discrimination against women.
* It promotes legal issues in relations to:
* feminism,
* democracy
* the rule of law
* good governance
* Human rights.
* Multi-ethnicity (multiculturalism)
* Healthy environment

**ACTIVITY**

1. State what is known as Supreme Court
2. Describe the role of legal aid

**Lesson No:** 62

**Strand: GOVERNMENT AND GOVERNANCE**

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**Lesson Outcome: know the about the other legal organisations in Fiji**

1. **Fiji Women’s Crisis Centre**
* The Fiji Women's Crisis Centre (FWCC) is directly involved in the legal process by providing legal support for women and children who suffer of violence.
* The Centre's work addresses legal matters related to violence against women including rape, beating, sexual harassment and abuse of children.
* It was established in 1984
1. **Fiji Human Rights Commission**
* Fiji Human Rights Commission was established in 1999 to protect and promote human rights for the people of Fiji.
* It is important in the legal process because it offers free legal advice on alleged violation
of human rights such as child labor, human trafficking, child abuse, corporal punishment and parental negligence.
* The FHRC investigates allegations.
* It’s Legal Division prepares a case for presentation to the Courts or refers the case to relevant government departments.
* The FHRC conducts regular visits to schools upon invitation to run awareness programs.

**Class Activity**

Use your Dictionary to find out the meanings of these terms in relation to the Legal System .

1. Hearing
2. Sentence
3. Sacrilege
4. Arson
5. Charges

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**Summary**

* In this unit you have examined the complex links between the courts, the constitution, human rights, and crime, the law, law reform and courtroom trials. This unit has included both national decision making and matters of immediate and personal concern to private citizens. Most citizens know there is a ‘court” which can make a judgment if they are worried about the law, for example;
* new law
* government policy or decree
* being accused of a crime
* want to challenge a land lease
* get your money back from a dishonest trader
* get a divorce • decide on the parentage of a child.
* Most people also know what the law is and how a Judge decided in an earlier case. Judges follow the decision of earlier court cases. Judges use these cases, evidence, verdicts and punishments as a guide. This is called legal precedent.
* You have also examined how the law is revised, reformed and how all citizens can obtain fair and just treatment before the courts.
* People accused of a crime or in a dispute are advised to hire a lawyer, make an appeal and “take it to court”. The media keeps us informed about court decisions that change the way we drive, walk across the street, pay taxes or apply for promotion at work. The phrase, “the law” is often used. Most people associate “the law” with crime, but as we have seen in this unit, the legal system has many different applications in society.
* Do all Fiji’s citizens really understand how “the law” works?
* Controversial court cases about extreme cases of corruption, cruelty or violence, as well as film and television have made some lawyers and judges into celebrities. The continual release of new films and television series based on crime, legal firms and courtroom proceedings are always far away from the USA, Britain, or elsewhere.

**Activity**

1. Define the roles of Magistrates and judge
2. Identify and list the different court