

Fiji

Mid-term Implementation Assessment



*Promoting and strengthening
the Universal Periodic Review*
<http://www.upr-info.org>

Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 14 December 2012

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/fiji>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

16 stakeholders' reports were submitted for the UPR. 8 NGOs were contacted. 1 UN agency was contacted. The Permanent Mission to the UN was contacted. The domestic NHRI was contacted.

4 NGOs responded to our enquiry. The UN agency did not participate. The State under Review did not respond to our enquiry. The domestic NHRI responded to our enquiry either.

IRI: 79 recommendations are not implemented, 16 recommendations are partially implemented, and 6 recommendations are fully implemented. No answer was received for 15 out of 116 recommendations (full list of unanswered recommendations is available at the end of this document).

2. Index

Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
1	International instruments, Death penalty,	page 17	not impl.
2	Death penalty	page 17	not impl.
3	General	page 21	partially impl.
4	NHRI	page 21	not impl.
5	Women's rights	page 19	fully impl.
6	Torture and other CID treatment, International instruments, Detention conditions,	page 17	not impl.
7	Special procedures	page 13	not impl.

rec. n°	Issue	page	IRI
8	NHRI, Freedom of religion and belief, Freedom of opinion and expression, Freedom of association and peaceful assembly,	page 21	not impl.
9	Torture and other CID treatment, Special procedures, Justice, Human rights defenders,	page 13	not impl.
10	NHRI	page 21	not impl.
11	Justice, Human rights violations by state agents, Detention conditions,	page 17	not impl.
12	Death penalty	page 17	not impl.
13	International instruments	page 14	not impl.
16	Special procedures	page 13	not impl.
17	Torture and other CID treatment, Special procedures, Justice,	page 13	not impl.
18	Treaty bodies, International instruments,	page 14	not impl.
19	Torture and other CID treatment, International instruments, ESC rights - general, CP rights - general,	page 16	not impl.
20	Torture and other CID treatment, International instruments, ESC rights - general, CP rights - general,	page 16	not impl.
21	International instruments	page 14	not impl.
22	Treaty bodies, Special procedures,	page 17	not impl.
23	International instruments, Human rights defenders, Civil society,	page 7	partially impl.
24	Death penalty	page 17	not impl.
25	Human rights defenders	page 18	not impl.
26	Freedom of the press	page 7	not impl.
28	Justice	page 18	not impl.
29	Indigenous peoples, HIV - Aids, Disabilities,	page 13	not impl.
30	Women's rights	page 20	fully impl.
31	Justice	page 18	not impl.
32	Justice	page 19	not impl.
34	Justice	page 19	not impl.
35	Public security, CP rights - general,	page 7	not impl.
36	Rights of the Child, International instruments,	page 20	not impl.
37	Freedom of opinion and expression, Freedom of association and peaceful assembly,	page 8	partially impl.
38	Women's rights	page 20	not impl.
39	Rights of the Child, International instruments,	page 20	not impl.
40	Special procedures	page 14	not impl.
41	Special procedures	page 14	not impl.
42	Special procedures, Justice,	page 14	not impl.
43	Women's rights, Torture and other CID treatment, International instruments, ESC rights - general, CP rights - general,	page 15	not impl.
44	Minorities, Freedom of religion and belief,	page 9	not impl.
45	Special procedures	page 14	not impl.
46	Justice	page 19	not impl.
47	Human rights violations by state agents, Freedom of the press, Freedom of opinion and expression,	page 7	not impl.
48	Elections	page 9	partially impl.
49	Human rights defenders	page 18	not impl.

rec. n°	Issue	page	IRI
50	Elections	page 9	not impl.
51	Elections	page 9	not impl.
52	Justice	page 19	not impl.
53	Freedom of the press, Freedom of movement, Freedom of association and peaceful assembly,	page 8	partially impl.
54	Justice	page 19	not impl.
55	Elections	page 10	not impl.
58	Justice	page 18	not impl.
59	Torture and other CID treatment, Special procedures, Justice,	page 14	not impl.
60	Special procedures, Justice, Freedom of opinion and expression,	page 14	not impl.
61	Freedom of opinion and expression	page 8	partially impl.
62	Justice	page 8	partially impl.
63	Torture and other CID treatment, International instruments, ESC rights - general, CP rights - general,	page 15	not impl.
64	Justice	page 9	partially impl.
66	International instruments, ESC rights - general, CP rights - general,	page 15	not impl.
67	Human rights violations by state agents, Human rights defenders, Detention conditions,	page 18	not impl.
68	Freedom of the press, Freedom of opinion and expression,	page 11	not impl.
69	Detention conditions	page 18	not impl.
70	Human rights education and training, Freedom of religion and belief,	page 11	not impl.
71	NHRI	page 21	not impl.
72	Freedom of the press, Freedom of opinion and expression,	page 7	not impl.
73	Human rights defenders, Freedom of the press,	page 11	not impl.
74	Human rights defenders	page 18	not impl.
75	Justice	page 8	fully impl.
76	Freedom of the press, Freedom of opinion and expression,	page 7	not impl.
77	International instruments, ESC rights - general, CP rights - general,	page 16	not impl.
78	International instruments, CP rights - general,	page 16	not impl.
79	Torture and other CID treatment, International instruments, ESC rights - general, Death penalty, CP rights - general,	page 15	not impl.
80	International instruments, ESC rights - general, CP rights - general,	page 15	not impl.
81	International instruments	page 15	not impl.
82	Torture and other CID treatment, Rights of the Child, International instruments, ESC rights - general, CP rights - general,	page 15	not impl.
84	Justice	page 8	fully impl.
86	Minorities, Justice, Elections,	page 9	partially impl.
87	Justice	page 8	fully impl.
88	Human rights defenders, Freedom of opinion and expression, Freedom of association and peaceful assembly,	page 8	partially impl.
90	Justice	page 21	not impl.
91	Human rights defenders, Freedom of the press, Freedom of opinion and expression,	page 11	not impl.
93	NHRI, Justice,	page 10	partially impl.

rec. n°	Issue	page	IRI
96	Technical assistance, Environment,	page 11	fully impl.
97	Technical assistance, NHRI,	page 22	not impl.
98	Torture and other CID treatment, International instruments, ESC rights - general, CP rights - general,	page 16	not impl.
99	International instruments	page 16	not impl.
100	International instruments	page 16	not impl.
101	General	page 10	partially impl.
102	Justice	page 19	not impl.
103	Women's rights, Rights of the Child,	page 20	not impl.
104	General	page 22	not impl.
105	Rights of the Child	/	no comment
106	Justice	page 19	not impl.
107	Freedom of opinion and expression	page 11	not impl.
108	Elections	page 9	partially impl.
109	Elections	page 9	partially impl.
110	Justice	page 10	partially impl.
111	Human rights defenders	page 18	not impl.
113	Freedom of the press, Freedom of opinion and expression, Freedom of association and peaceful assembly,	page 11	not impl.
114	Justice, Elections,	page 9	partially impl.
115	Special procedures, Justice,	page 14	not impl.
116	Justice	page 19	not impl.

3. Feedbacks on recommendations

CP Rights

Recommendation n°23: *Create an environment more conducive to stronger civil society in the country, including by guaranteeing the full legitimacy of human rights defenders, in accordance to the United Nations Declaration on Human Rights Defenders, to spare them the intimidation to which they have thus far been subjected* (Recommended by Slovakia)

IRI: *partially implemented*

Fiji Women's Rights Movement (FWRM) response:

The only exception the State has made in this regard is that for the period Jul 2012 - December , NGOs and other groups wishing to have meetings no longer have to apply for permits.

Recommendation n°26: *Enforce a legal framework enabling media to operate freely and independently* (Recommended by Norway)

IRI: *not implemented*

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Recommendation n°47: *Guarantee the right to freedom of expression in the country, including by putting an end to all acts of intimidation and harassment carried out by security forces against journalists, and by prosecuting those held responsible* (Recommended by Italy)

IRI: *not implemented*

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Recommendation n°72: *Put an end to arbitrary restrictions on freedom of expression and to prior censorship of national and foreign media* (Recommended by Spain)

IRI: *not implemented*

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Recommendation n°76: *Put an immediate end to the censorship of Fijian media, and to allow the people of Fiji and the media the right to freedom of expression, which includes the right to express criticism of the Government without fear of arrest, intimidation or punishment* (Recommended by United States)

IRI: *not implemented*

FWRM response:

The State has made no move in this area. The Media Industry Development Decree 2010 continues to be in force.

Recommendation n°35: *Ensure the elaboration, in full transparency, of a new constitution guaranteeing the rights and freedoms of each individual, and to lift the state of emergency to allow the re-establishment of civil and political rights* (Recommended by France)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°37: *Ensure the right of assembly and the right to freedom of expression, in accordance with international human rights standards, and to withdraw the Public Emergency Regulation* (Recommended by Netherlands)

IRI: *partially implemented*

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Recommendation n°53: *Immediately lift all Public Emergency Regulations and to abolish any policy or decree that restricts the freedom of the media or the rights of freedom of association and movement* (Recommended by United Kingdom)

IRI: *partially implemented*

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Recommendation n°61: *Lift the Public Emergency Regulations and to restore an environment in which all of Fiji's citizens can meet freely and express political opinions without fear or retribution* (Recommended by Australia)

IRI: *partially implemented*

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Recommendation n°62: *Lift the state of emergency and to take the measures necessary to reestablish a constitutional order complying with the rule of law, before the date indicated recently by the Government* (Recommended by Switzerland)

IRI: *partially implemented*

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Recommendation n°75: *Put an end to the state of emergency in force since 2009* (Recommended by Chile)

IRI: *fully implemented*

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Recommendation n°84: *Reconsider the need to maintain the current state of emergency, given its implications for human rights, with a view to lifting it as soon as possible, and to ensure that as long as it is still in force, all human rights and fundamental freedoms that cannot be derogated under international law are respected* (Recommended by Mexico)

IRI: *fully implemented*

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Recommendation n°87: *Repeal immediately the Public Emergency Regulations in force since 10 April 2009* (Recommended by United States)

IRI: *fully implemented*

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Recommendation n°88: *Repeal the Public Emergency Regulations and to establish conditions allowing for freedom of expression, assembly and democratic dialogue, including by ensuring protection from harassment and freedom for political activists and human rights defenders* (Recommended by Canada)

IRI: *partially implemented*

FWRM response:

On January 7th the Public Emergency Regulations which declared Fiji was in state of emergency, was lifted. It was replaced with the Public Order Amendment Decree which came into force on the 6th January 2012. This continues to restrict fundamental freedoms.

Recommendation n°44: *Fully guarantee the right of freedom of religion or belief, to ensure the protection of all religious groups and minorities and to re-establish a legal framework for the enhancement of this right* (Recommended by Italy)

IRI: *not implemented*

Tandem Project (TP) response:

US Department of State 2011 Religious Freedom Report, Fiji : The role of religion continued to be a sensitive political issue, however, and the government's respect for religious freedom declined in practice during the year.

FWRM response:

The State has made no move in this area.

Recommendation n°48: *Guarantee the right to universal suffrage with a view to holding genuinely free, competitive and democratic elections as soon as possible, and to extend a standing invitation to international electoral observers* (Recommended by Spain)

IRI: *partially implemented*

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Recommendation n°50: *Hold free and fair elections guaranteeing for all persons the right to participate in the country's Government* (Recommended by Sweden)

IRI: *not implemented*

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Recommendation n°51: *Hold free elections, given the importance of democracy for the full realization of human rights* (Recommended by Brazil)

IRI: *not implemented*

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Recommendation n°108: *Take immediate steps towards holding democratic elections and returning Fiji to constitutional rule* (Recommended by New Zealand)

IRI: *partially implemented*

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Recommendation n°109: *Take immediate steps towards holding democratic elections before the end of 2010, in order to restore democratic institutions and processes in Fiji* (Recommended by Canada)

IRI: *partially implemented*

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Recommendation n°114: *Take the measures necessary to ensure the free and fair election of a new legislative power, and to take the steps necessary to re-establish an independent judiciary in accordance with international human rights standards* (Recommended by Netherlands)

IRI: *partially implemented*

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Recommendation n°64: *Make every effort to achieve a sustainable return to democracy and constitutional rule at the earliest time possible* (Recommended by Republic of Korea)

IRI: *partially implemented*

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Recommendation n°86: *Re-establish, peacefully and without further delay, the constitutional order in the country, engaging in a genuine dialogue with all ethnic*

communities, through free and fair democratic elections as the only means for the Government's legitimacy, the return of the rule of law and respect for human rights. The underlying issues that have led to Fiji's political instability should be duly addressed (Recommended by Slovakia)

IRI: *partially implemented*

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Recommendation n°93: Return to constitutional rule, to restore a democratic form of Government, to reinstate an independent judiciary, to repeal the Public Emergency Regulations and to reinstate the full independence of the Human Rights Commission (Recommended by Norway)

IRI: *partially implemented*

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Recommendation n°101: Strive to move forward its reform programme in order to restore democracy as soon as possible (Recommended by Maldives)

IRI: *partially implemented*

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Recommendation n°110: Take immediate, clear and credible steps to return Fiji to democracy and the rule of law, including through a broad-based and genuine dialogue among the key political parties in Fiji, and in line with calls by the Security Council, which will enable Fiji to fully participate once again in the international community, including the Pacific Islands Forum and the Commonwealth (Recommended by Australia)

IRI: *partially implemented*

Fiji Human Rights Commission (FHRC) response:

Constitutional process is underway

FWRM response:

On March 9 2012, the State announced its plans for constitutional and electoral reforms. They have also indicated the elections will be held in 2014. A five member commission has been appointed that includes two internationally recognised Constitutional experts. While the State has announced its time line for constitutional reform and elections , it has put in place decrees on the promulgation of the Fiji Constitutional Process (Constituent Assembly and Adoption of Constitution) Decree 2012 and the Fiji Constitutional Process (Constitution Commission) Decree 2012.

The Commission and civil society have raised concerns on aspects of the Decree giving Commodore Frank Bainimarama “full control over the size and composition of the Constituent Assembly” as well as the “broad immunity provision for the 2006 and earlier coups to be entrenched in the new constitution”.

Recommendation n°55: Instigate an open and inclusive national dialogue leading to early and credible elections (Recommended by United Kingdom)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°68: *Protect the free exercise of the media by guaranteeing freedom of expression and putting an end to repressive measures against journalists* (Recommended by France)

IRI: not implemented

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Recommendation n°73: *Put an end to censorship of the media, and to take measures to guarantee the integrity of human rights defenders and of persons who criticize the Government's actions* (Recommended by Switzerland)

IRI: not implemented

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Recommendation n°91: *Respect and provide for freedom of expression, to end censorship of the media and to put an immediate end to attacks, harassment, intimidation and detention with regard to journalists, critics and human rights activists* (Recommended by Sweden)

IRI: not implemented

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Recommendation n°107: *Take immediate actions to fully guarantee the right to freedom of expression for everyone* (Recommended by Hungary)

IRI: not implemented

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Recommendation n°113: *Take the measures necessary to ensure respect for freedom of opinion, expression and assembly, as well as freedom of the press* (Recommended by Switzerland)

IRI: not implemented

FWRM response:

The State has made no move in this area.

Recommendation n°70: *Provide its police force with training to ensure respect for the right to freedom of religion* (Recommended by New Zealand)

IRI: not implemented

FWRM response:

The State has made no move in this area.

TP response:

[...]

ESC Rights

Recommendation n°96: *Seek the assistance of the international community in adapting to climate change and developing its capacities to address the adverse effects of climate change on the enjoyment by its citizens of their human rights* (Recommended by Philippines)

IRI: fully implemented

Earthjustice (EJ) response:

Despite its limited capacity to minimize the effects of climate change on its citizens, the Republic of the Fiji Islands (Fiji) has taken steps to contribute to the protection of human rights from

climate threats. In March 2012, Fiji adopted the National Climate Change Policy, noting that climate change will increase threats to marine and terrestrial ecosystems, thus impacting health as well as access to water and food and livelihood. In the forward to the policy, Fiji's Minister for Foreign Affairs and International Cooperation, Ratu Inoke Kubuabola wrote:

Climate change constitutes one of the greatest barriers to sustainable development. It puts Fiji's biodiversity and ecosystems, particularly marine and coastal, at risk. This has severe implications for Fiji's economic growth, as the country relies heavily on its natural resources for economic development; fisheries, forestry and agriculture are its primary industries. The effects of climate change are widespread and cross-sectoral. Effective co-ordination of a multidisciplinary approach and a well-established government position on issues and policies are required to address the impacts of climate change.

The National Climate Change Policy provides guidelines to ensure that current and expected impacts of climate change are considered in planning and implementation programs. In addition, mitigation initiatives are part of Fiji's contribution to global efforts to reduce greenhouse gas emissions. The policy was developed in conjunction with the SPC/GIZ "Coping with Climate Change in the Pacific Island Region" program and the UNDP/GEF "Pacific Adaptation to Climate Change" project.

Nevertheless, no amount of effort on the part of Fiji will fully protect the human rights of the people of Fiji, as long as climate change continues to:

- threaten the physical security and health of coastal communities (over 90% of the population) with increased temperatures, sea level rise and increasingly severe storms and cyclones resulting in tidal surges, lowland flooding, beach and mangrove erosion, and the spread of vector-borne diseases;
- threaten Fijians' access to freshwater by increasing extremes of temperature and precipitation, increasing instances of drought, and by causing salt-water intrusion into groundwater due to lowland flooding and coastal erosion; and
- jeopardize food security by impeding the agricultural capacity of the islands and damaging ocean ecosystems such as reef fisheries on which Fijians rely for food.

In light of these harms, it is impossible for a nation like Fiji, with limited resources and minimal contribution to climate change, to guarantee full protection of the human rights of its people.

The primary responsibility for the harms to the human rights of the people of Fiji caused by climate change falls not on the national authorities of Fiji, but on the States most responsible for past and current emissions of climate pollutants. These polluting States must take responsibility for their share of the impacts of climate change on the enjoyment of the human rights of the people of Fiji, implement effective measures to substantially reduce their emissions, and provide financial,

technical and other support for measures to minimize the effects of climate change on the human rights of the people of Fiji.

In sum, climate change poses serious threats to the enjoyment of human rights in Fiji. Under international human rights law, the primary obligation to prevent and minimize those threats lies with the nations that are responsible for the majority of historical and current emissions of global warming pollution. We encourage the Human Rights Council to recognize this obligation in the context of the Universal Periodic Review of Fiji.

Indigenous & Minorities

Recommendation n°29: *Enhance and, where appropriate, review the implementation of medium- and long-term strategies, including the Strategic Development Plan 2007-2011, the 2020 Plan for Indigenous Fijians, the National Policy for Persons Living with Disabilities 2008-2018 and the national AIDS strategy, inter alia, with a view to achieving further gains in the promotion and protection of human rights in the country* (Recommended by Malaysia)

IRI: not implemented

FWRM response:

The State has made no move in this area.

International Instruments

Recommendation n°7: *Allow and facilitate the visit of special procedures mandate holders who have asked for it* (Recommended by Slovenia)

IRI: not implemented

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Recommendation n°9: *Allow visits by the Special Rapporteurs on the independence of judges and lawyers, torture and human rights defenders, and by any other special procedures who request visits to Fiji* (Recommended by United Kingdom)

IRI: not implemented

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Recommendation n°16: *Consider extending a standing invitation to special procedures to visit and help with the reforms* (Recommended by Maldives)

IRI: not implemented

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Recommendation n°17: *Consider favourably the request for a visit by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and to find time in the near future for a visit by the Special Rapporteur on the independence of judges and lawyers* (Recommended by Norway)

IRI: not implemented

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Recommendation n°40: *Extend a standing invitation to all special procedures of the Human Rights Council* (Recommended by Chile)

IRI: *not implemented*

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Recommendation n°41: *Extend a standing invitation to all special procedures of the Human Rights Council* (Recommended by Slovenia)

IRI: *not implemented*

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Recommendation n°42: *Facilitate a visit to Fiji by the Special Rapporteur on the independence of judges and lawyers* (Recommended by New Zealand)

IRI: *not implemented*

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Recommendation n°45: *Give a positive response to requests for visits made by the special procedures* (Recommended by Spain)

IRI: *not implemented*

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Recommendation n°59: *Invite and facilitate a visit by the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture* (Recommended by Germany)

IRI: *not implemented*

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Recommendation n°60: *Invite special procedures to visit Fiji, in particular the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression* (Recommended by Israel)

IRI: *not implemented*

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Recommendation n°115: *Take the measures required to arrange a visit to the country as soon as possible by the Special Rapporteur on the independence of judges and lawyers to the country* (Recommended by Mexico)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°13: *Consider acceding to the major human rights conventions as a sign of intent and as a confidence-building measure* (Recommended by Maldives)

IRI: *not implemented*

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Recommendation n°18: *Consider ratifying all outstanding human rights instruments of the United Nations, and to improve its cooperation with United Nations treaty bodies by agreeing to submit overdue reports in a timely manner* (Recommended by Norway)

IRI: *not implemented*

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Recommendation n°21: *Consider the possibility of ratifying other human rights core instruments* (Recommended by Algeria)

IRI: *not implemented*

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Recommendation n°43: *Favourably consider ratifying, inter alia, the International Covenant on Civil and Political Rights, Optional Protocol 1 to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, as a further step aimed at the full implementation of its commitment to promoting and protecting human rights in the country* (Recommended by Republic of Korea)

IRI: not implemented

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Recommendation n°63: *Make a long-term plan for its step-by-step ratification of or accession to all core international human rights instruments, particularly the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by Slovenia)

IRI: not implemented

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Recommendation n°66: *Positively consider ratifying the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights as well as the main human rights treaties to which Fiji is not yet a State party* (Recommended by Mexico)

IRI: not implemented

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Recommendation n°79: *Ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocols to those respective treaties* (Recommended by Switzerland)

IRI: not implemented

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Recommendation n°80: *Ratify the major international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in a timely fashion* (Recommended by Japan)

IRI: not implemented

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Recommendation n°81: *Ratify those core human rights treaties to which Fiji is not yet a party and draw up a timetable for doing so* (Recommended by Hungary)

IRI: not implemented

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Recommendation n°82: *Ratify those human rights treaties pending ratification in particular, the International Covenant on Civil and Political Rights and its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the two Protocols to the Convention on the Rights of the Child* (Recommended by Chile)

IRI: not implemented

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Recommendation n°99: *Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention for the Protection of all Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and its Optional Protocol, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocols to the Convention on the Rights of the Child* (Recommended by Spain)

IRI: not implemented

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Recommendation n°100: *Sign and-or ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the two Optional Protocols to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention for the Protection of all Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and its Optional Protocol, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocols to the Convention on the Rights of the Child* (Recommended by Argentina)

IRI: not implemented

FWRM response:

The State has made no move in this area.

Recommendation n°19: *Consider ratifying the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by Brazil)

IRI: not implemented

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Recommendation n°20: *Consider ratifying the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by Philippines)

IRI: not implemented

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Recommendation n°77: *Ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights* (Recommended by Netherlands)

IRI: not implemented

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Recommendation n°78: *Ratify the International Covenant on Civil and Political Rights* (Recommended by Canada)

IRI: not implemented

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Recommendation n°98: *Sign and ratify the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights*

and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Recommended by Germany)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°22: Cooperate fully with the United Nations human rights mechanisms (Recommended by Switzerland)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Justice

Recommendation n°1: Abolish the application of death penalty for crimes prohibited in the Military Code, and to sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Recommended by Spain)

IRI: *not implemented*

+

Recommendation n°2: Abolish the death penalty with respect to all forms of crime (Recommended by Argentina)

IRI: *not implemented*

+

Recommendation n°12: Consider abolishing the death penalty under any circumstance (Recommended by Italy)

IRI: *not implemented*

+

Recommendation n°24: Do away with the death penalty (Recommended by Brazil)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°6: Align domestic legislation with international standards on detention, and to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Recommended by Italy)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°11: Carry out full investigations into alleged acts of brutality in detention, to hold to account those responsible, and to put an immediate end to immunity for members of the police and the military (Recommended by United Kingdom)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°25: *Effectively investigate and prosecute complaints concerning the harassment, intimidation and arbitrary arrest of human rights defenders, and to punish those responsible* (Recommended by Norway)

IRI: not implemented

+

Recommendation n°49: *Guarantee the safety and security of human rights defenders, and to ensure that all crimes against them are fully and independently investigated* (Recommended by Netherlands)

IRI: not implemented

+

Recommendation n°58: *Investigate all alleged human rights violations and to bring all those responsible to justice* (Recommended by Canada)

IRI: not implemented

+

Recommendation n°67: *Prevent, investigate and punish the excessive use of force, arbitrary detention, threats and harassment directed against human rights defenders by security forces* (Recommended by Spain)

IRI: not implemented

+

Recommendation n°69: *Provide independent investigation into and prosecution of all human rights abuses, and to ensure that all those in detention have the right to habeas corpus and due process* (Recommended by New Zealand)

IRI: not implemented

+

Recommendation n°74: *Put an end to criminal prosecutions against human rights defenders* (Recommended by Spain)

IRI: not implemented

+

Recommendation n°111: *Take steps to protect human rights defenders from harassment and intimidation* (Recommended by New Zealand)

IRI: not implemented

FWRM response:

The State has made no move in this area.

Recommendation n°28: *Engage partners at the national, regional and international levels in efforts to build the human rights capacities of Government personnel, particularly judicial and law enforcement personnel* (Recommended by Malaysia)

IRI: not implemented

FWRM response:

The State has made no move in this area.

Recommendation n°31: *Ensure an independent judiciary in order to guarantee the right to a fair trial* (Recommended by Sweden)

IRI: not implemented

+

Recommendation n°32: *Ensure that human rights are afforded full legal and constitutional protection in Fiji* (Recommended by Australia)

IRI: *not implemented*

+

Recommendation n°34: *Ensure that the judiciary is able to function independently, without any interference, whether direct or indirect, free of any restriction or improper influence and to reinstate judges, magistrates and other judicial officers unlawfully removed in April 2009* (Recommended by Israel)

IRI: *not implemented*

+

Recommendation n°46: *Guarantee the independence of the judiciary* (Recommended by Chile)

IRI: *not implemented*

+

Recommendation n°52: *Immediately cease its interference in the judiciary, and to ensure that judges are appointed and dismissed by means of an open and transparent process* (Recommended by Australia)

IRI: *not implemented*

+

Recommendation n°54: *Implement the Basic Principles on the Independence of the Judiciary and the Role of Lawyers* (Recommended by New Zealand)

IRI: *not implemented*

+

Recommendation n°102: *Take all measures necessary to ensure the independence of the judiciary* (Recommended by Switzerland)

IRI: *not implemented*

+

Recommendation n°106: *Take further steps to strengthen the rule of law and democratic governance* (Recommended by Philippines)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°116: *Uphold the rule of law, including human rights in domestic law, by immediately reinstating the 1997 Constitution* (Recommended by Israel)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Women & Children

Recommendation n°5: *Adopt, in the near future, the proposed laws on domestic violence and sexual offences, thereby prohibiting practices that legalize violence against women* (Recommended by Norway)

IRI: *fully implemented*

FWRM response:

The Domestic Violence Decree was approved by Cabinet in July 2009, and creates a new offence of domestic violence defined under the Decree as any act of violence committed in a family situation, including those committed in a de facto relationship and any violence committed against children. Courts will be given a wide discretion to prevent domestic violence, to take into account the “domestic” nature of an assault in granting or refusing bail, and to make restraining orders against the perpetrator to prevent further assault. The Decree also gives the police certain powers to prevent domestic violence.

Recommendation n°30: *Enhance measures to combat discrimination against women in all sectors of society* (Recommended by Philippines)

IRI: *fully implemented*

FWRM response:

The State has decreed the Domestic Violence law .

Recommendation n°36: *Ensure the full enjoyment by all children of the rights recognized in the Convention on the Rights of the Child, particularly with regard to access to education and health services* (Recommended by Slovenia)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°38: *Examine the possibility of promoting the adoption of a code of ethics for investors, including in the tax-free zones, and to address the issue of violence against women* (Recommended by Algeria)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°39: *Expediently implement actions requested by the International Labour Organization Committee of Experts aimed at combating the sexual abuse and exploitation of children* (Recommended by Slovakia)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°103: *Take appropriate measures to provide free legal and psychological assistance to victims of domestic and sexual violence* (Recommended by Brazil)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Other

Recommendation n°3: *Accord the utmost importance, in the formulation of the new Constitution, to the promotion and protection of human rights and fundamental freedoms* (Recommended by Philippines)

IRI: *partially implemented*

FHRC response:

Constitution Commission Team currently receiving submissions from members of the public.

Recommendation n°4: *Adhere to the Paris Principles, which address the status and the functioning of national institutions for the protection and promotion of human rights, by ensuring the independence of Fiji's Human Rights Commission* (Recommended by Canada)

IRI: *not implemented*

+

Recommendation n°10: *Bring the functioning of the Fiji Human Rights Commission into conformity with the Paris Principles* (Recommended by Philippines)

IRI: *not implemented*

+

Recommendation n°71: *Provide the national human rights institution with a framework for independent functioning in accordance with the Paris Principles* (Recommended by Germany)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

FHRC response:

Despite the recommendations from UPR on Fiji and the 81st Session of CERD Committee, the Commission still awaits the appointments.

Recommendation n°8: *Allow for the full independence and effective functioning of the Fiji Human Rights Commission to ensure that the fundamental rights and freedoms of all persons, including, inter alia, freedom of religion or belief, expression or opinion, association and peaceful assembly, are respected* (Recommended by Israel)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

FHRC response:

Still awaiting

Recommendation n°90: *Rescind the Public Emergency Regulations 2009 and not replace them with equivalent measures* (Recommended by New Zealand)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Recommendation n°97: *Seek the support and technical assistance of OHCHR to ensure effective compliance by the Fiji Human Rights Commission with the Paris Principles* (Recommended by Algeria)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

FHRC response:

the process has not yet commenced

Recommendation n°104: *Take effective measures to guarantee the human rights and fundamental freedoms of the people of Fiji* (Recommended by Japan)

IRI: *not implemented*

FWRM response:

The State has made no move in this area.

Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

Uncommented recommendations

Hereby the recommendations which the MIA does not address:

rec. n°	Recommendation	SMR	Response	A	Issue
14	Consider establishing, as soon as possible in 2010, a full constitutional assembly that will shape the future of Fiji for Fijians and by Fijians	Maldives	Rejected	3	CP rights - general
15	Consider extending a standing invitation to all special procedures of the Human Rights Council	Latvia	Accepted	3	Special procedures
27	Engage members of the international community, including international organizations, with a view to capacity-building support and technical assistance, particularly with regard to the development of economic and human resources and poverty reduction	Malaysia	Accepted	4	Technical assistance, Poverty, Development,
33	Ensure that human rights are explicitly protected in domestic law, including by reinstating the 1997 Constitution and immediately restoring the judges, magistrates and other judicial officers removed by President Iloilo on 10 April 2009	United States	Rejected	4	Justice
56	Integrate the component of human rights education and training into its education system	Morocco	Accepted	4	Human rights education and training
57	Intensify its development programmes focusing on alleviating poverty and ensuring adequate standards of life for Fijians, while seeking technical and financial assistance, whenever needed, from the relevant United Nations bodies	Algeria	Accepted	4	Technical assistance, Poverty,
65	Persist in its reforms as set out in the Road Map for Democracy and Sustainable Socio-Economic Development, and to request aid and assistance from the international community for that purpose	Morocco	Accepted	2	Technical assistance, Development,
83	React positively to requests for visits in 2010 by the Special Rapporteur on the independence of judges and lawyers and by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment	Netherlands	Accepted	4	Torture and other CID treatment, Special procedures, Justice,
85	Re-establish, as quickly as possible, the conditions guaranteeing an independent and impartial judiciary	France	Accepted	4	Justice
89	Request the international community to do its part and show its goodwill by believing in and expressing support for democratic and human rights reform in Fiji	Maldives	Accepted	1	Technical assistance

92	Restore the right to receive pensions for those deprived of it merely because they had expressed an opinion against the Government	Spain	Accepted	5	Freedom of opinion and expression
94	Revoke any decree that prevents the courts from considering the legality of Government actions, and to abide by future judicial decisions	Canada	Rejected	5	Justice
95	Revoke the Fiji Human Rights Commission Decree, to lift restrictions on investigations and to take other measures to ensure that the National Human Rights Commission can operate in accordance with the Paris Principles	United Kingdom	Rejected	5	NHRI
105	Take further measures to prevent and combat the sexual exploitation of children	Brazil	Accepted	4	Rights of the Child
112	Take the appropriate measures to reinstate the legitimate authority, as this is crucial for the strengthening of the country's ability to guarantee human rights	Algeria	Rejected	4	Justice

A= Action Category (see on [our website](#))

SMR = State making recommendation

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