

**Universal Periodic Review (34th session, October-November 2019)
Contribution of UNESCO**

**Fiji
(Right to Education)**

I. Background and framework

<i>Title</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
<i>Convention against Discrimination in Education 1960</i>	Not a State Party	Reservation to this Convention shall not be permitted		Right to education
<i>Convention concerning the Protection of the World Cultural and Natural Heritage (1972)</i>	21/11/1990 Ratification			Right to take part in cultural life
<i>Convention for the Safeguarding of the Intangible Cultural Heritage (2003)</i>	19/01/2010 Ratification			Right to take part in cultural life
<i>Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)</i>	Not ratified			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. Fiji adopted a new **constitution in September 2013**.¹ **Article 31** enshrines the right to education: “(1) Every person has the right to (a) early childhood education; (b) primary and secondary education; and (c) further education.” The same article also provides that “the State must take reasonable measures within its available resources to achieve the progressive realisation of the right (a) to free early childhood, primary, secondary and further education; and (b) to education for persons who were unable to complete their primary and secondary education.” **Article 26** affirms the right to equality and freedom from discrimination and provides that “(5) Every person has the right of access, membership or admission, without discrimination on a prohibited ground, to [...] education institutions.” With regard to languages, **Article 31** provides that “(3) Conversational and contemporary iTaukei and Fiji Hindi languages shall be taught as compulsory subjects in all primary schools.” The State has a human rights obligation to fulfil the right to education: **Article 31(5)** states that “in applying any right under this section, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.” With regard to religion, conscience, and belief, **Article 22 (4)** provides that “Every religious community or denomination, and every cultural or social community, has the right to establish, maintain and manage places of education, provided that the educational institutions maintains any standard prescribed by law”. In addition, “(5) In exercising its rights under subsection (4), a religious community or denomination has the right to provide religious instruction as part of any education that it provides. (6) Except with his or her consent or, in the case of a child, the consent of a parent or lawful guardian, a person attending a place of education is not required to receive religious instruction [...] if the instruction [...] relates to a religion that is not his or her own or if he or she does not hold any religious belief.” The Constitution also promotes Human Rights Education in **Article 45 (4)**, which specifies that the Human Rights Commission is responsible for “(b) education about the rights and freedoms recognised in this Chapter, as well as other internationally recognised rights and freedoms”.

2. The **Education Act of 1978** specifies that the Minister of Education “may, with the consent of Parliament, by order, specify any area or areas of Fiji in which all children of such age or ages as may be specified in such order shall be required to attend a school.” The **Compulsory Education Regulations of 1997** and subsequent Orders of 1997, 1998 1999 and 2000 (issued for completion of compulsory education in different districts) provide for the gradual achievement of compulsory education for children aged 6-15 years.

3. At present, “the Education Act 1978 does not adequately reflect the State responsibilities and the international legal obligations as laid down in international human rights conventions”, nor does it incorporate the Constitutional provisions or the plans made in the Education Sector Strategic Development Plan 2015-2018.²

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

¹ <http://www.unesco.org/education/edurights/media/docs/99ce20f9f1f64c7d96a4de313201f830d03c3d4f.pdf>

² Report of the Special Rapporteur on the right to education on his mission to Fiji, 2016, p. 6. http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/37/Add.1

4. Freedom of expression is guaranteed under Article 17 of the Fijian Constitution of 2013, but with limitations regarding national security; public safety and morality; another's reputation, dignity and privacy.³

5. Seditious is a criminal offence under Article 66 of the Fijian Penal Code (1971) that is punishable with a maximum prison term of three years and/or a monetary fine. Article 67 of the Code imposes penalties for articles in any newspaper with a seditious intention, either in lieu of or in addition to any other punishment. The penalties include prohibiting future publication and prohibiting the publisher or the editor from publishing, editing or writing in any newspaper for a certain period.⁴ Article 68 provides the court the power to prohibit circulation of seditious publications.

6. Defamation, including by the means of the press, is a civil offence under the Defamation Act (1971).⁵

7. A freedom of information law titled Information Act 9 was adopted in Fiji in 2018.⁶

Implementation of legislation:

8. The Telecommunication Authority of Fiji regulates the broadcasting sector, including issuance of licenses. It reports to the Minister, who appoints the members of the Board of the Authority.⁷

9. The press is regulated under the Media Industry Development Decree (2010) that establishes the Fiji Media Industry Development Authority (MIDA) with powers to enforce the Decree and investigate violations.⁸

10. Among other functions the MIDA is tasked to ensure that “nothing is included in the content of any media service which is against public interest or order, or national interest, or which offends against good taste or decency and creates communal discord”.⁹

Safety of Journalists:

11. Since 2018 UNESCO recorded no killing of journalists in Fiji.

³ <http://www.wipolex.wipo.int/en/text/492727>

⁴ http://www.paclii.org/fj/legis/consol_act_OK/pc66/

⁵ http://www.paclii.org/fj/legis/consol_act_OK/da99/

⁶ https://www.rti-rating.org/wp-content/uploads/2018/09/FIJI.RTI_May2018.pdf

⁷ <http://www.taf.org.fj/Footer/Functions---Powers-of-Authorities/Powers-of-the-Authority.aspx>

⁸ <http://www.mida.org.fj/about-us/>

⁹ <http://www.mida.org.fj/about-us/>

III. Review and specific recommendations

A. Education

13. During the last UPR cycle, Fiji received a variety of recommendations, including to: continue its efforts to provide free education for all primary and secondary school students, improve the accessibility and quality of education, especially for children with disabilities and consider mainstreaming sexual and reproductive health education in schools.

Policy framework

- The **2015-2018 Education Sector Strategic Development Plan**¹⁰ identified nine overall outcomes intended for the next Strategic Direction: 1) equitable access to progressive, inclusive and quality education; 2) a relevant, responsive, innovative, inclusive and quality curriculum; 3) student welfare; 4) a productive workforce that reflects gender parity and is appropriately qualified and competent; 5) students acquire technological, entrepreneurial skills and competent vocational training; 6) improved public and private partnerships; 7) enhanced delivery of education services at all levels; 8) safeguard Fiji's cultural and natural heritage; 9) a nationally and internationally recognized framework of qualifications.

Access to education

- Primary and secondary education is tuition-free, and students are now given free textbooks.¹¹ School-based vocational centres are also tuition-free. A scholarship programme provides free tuition for the top 600 secondary school graduates and a Tertiary Education Loans Scheme provides loans to all students who are accepted into a university or technical college.¹² The 'One laptop per child' programme for primary school children recognizes the importance of digital literacy and realizes the possibility of distant teaching for small islands and those in rural and remote areas.¹³
- Fiji has achieved a gross enrolment rate in primary school of 105%, with 98% of students transitioning from primary to lower secondary school.¹⁴
- Indirect costs, such as uniforms, books and transport, partly remain in place, leading to school dropout where families cannot afford those costs.¹⁵

Infrastructure

¹⁰ Education Sector Strategic Development Plan. http://www.education.gov.fj/images/AnnualBusinessPlans/2015-2018_ESSDP.pdf

¹¹ Ibid, p. 9.

¹² Ibid, p. 10.

¹³ Ibid, p. 10.

¹⁴ Global Education Monitoring Report, 2019, p. 294. <https://unesdoc.unesco.org/ark:/48223/pf0000265866>

¹⁵ Concluding Observations of the CRC, 2014, p. 13.

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/FJI/CO/2-4&Lang=En

- Fiji has to contend with damage to schools from cyclones and extreme weather, notably Cyclone Winston in 2016 that destroyed at least 240 schools, interrupting education.¹⁶
- Accessibility can be undermined by geographical isolation of some schools in Fiji, especially those on small outlying islands and those in remote areas.¹⁷

Teachers

- It is difficult to find teachers to serve in rural and remote schools, and low rates of pay makes it difficult to attract and retain well-educated teachers.¹⁸

Disabilities

- The **Rights of Persons with Disabilities Act (Act no. 4 of 2018)**¹⁹ reiterates that all persons with disabilities have a right to education without discrimination and on the basis of equal opportunity, and such education shall be inclusive and lifelong (**Article 43(2)**). Persons with disabilities can access primary and secondary education on an equal basis with others in their community (**Article 43(3)**) and the State is obligated to facilitate learning including alternative modes of communication and environments which maximise development (**Article 43(4)**).
- Despite this, children with disabilities continue to face difficulties accessing education, preventing their full inclusion into society.²⁰ Special schools for children with disabilities are preferred over inclusive education, and secondary-level education is reported as non-existent for them.²¹

Gender

- The curriculum does not include comprehensive, age-appropriate sexual and reproductive health education or education on harmful practices and gender-based violence against women and girls, which further exacerbates the high rates of sexual violence and early pregnancy. Pregnant girls are often forced to drop out of school.²²

Specific recommendations:

14. Fiji should be encouraged to:
 1. Ratify the Convention against Discrimination in Education.
 2. Develop its legislative framework on education to reflect the recent policy reforms and the rights and obligations contained in the 2013 Constitution.

¹⁶ <http://unicefpacific.blogspot.com/2016/03/schools-out-cyclone-winston-impacts.html>

¹⁷ Report of the Special Rapporteur on the right to education on his mission to Fiji, 2016, p. 10. http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/37/Add.1

¹⁸ *Ibid.*, p. 15.

¹⁹ Rights of Persons with Disabilities Act 2018. <http://www.fiji.gov.fj/getattachment/99fa9072-67f7-4532-9c32-f5a2f20c4f72/Act-4---Rights-of-Persons-with-Disabilities.aspx>

²⁰ *Ibid.*

²¹ Concluding Observations of the CRC, 2014, p. 9. https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/FJI/CO/2-4&Lang=En

²² Concluding Observations of the CEDAW, 2018, p. 10. https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/FJI/CO/2-4&Lang=En

3. Include comprehensive sexuality and reproductive health education into the curriculum to reduce high rates of early pregnancy, and increase accessibility for young mothers to remain in or return to education after having a child.
4. Ensure financial resources are distributed to ensure that the quality of education is equitable between urban areas and rural and maritime schools.
5. Strengthen further the teaching profession and improve financial incentives, especially to encourage teachers to work in remote and maritime schools.
6. Submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably on the Convention against Discrimination in Education.
7. Share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education.²³

B. Freedom of opinion and expression

15. The Government is encouraged to align with international standards and accordingly revise the Penal Code to remove sedition charges for acts of speech in line with international standards.

16. The Government is encouraged to review the appointment system and functions of the Fiji Media Industry Development Authority and place these in line with international standards.

17. The Government is encouraged to assess the system for issuing broadcast licenses in order to ensure that this process is transparent and independent.

C. Cultural rights

18. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)²⁴ and the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)²⁵, Fiji is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Fiji is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

²³ <http://www.unesco.org/education/edurights/index.php?action=home&lng=en>

²⁴ Periodic Report available at: <http://whc.unesco.org/document/116967>

²⁵ Periodic Report not available

19. Fiji is also encouraged to ratify the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) as a means to promote access to and participation in creative expressions and as such contribute to implementing the right to take part in cultural life.

**D. Freedom of scientific research and
the right to benefit from scientific progress and its applications**

20. **Fiji** did not submit its National Report on the implementation of the Recommendation on the Status of Scientific Researchers (1974) for the Second Consultation covering the period from 2013 to 2016 (<http://unesdoc.unesco.org/images/0025/002592/259256e.pdf>). Therefore **Fiji** is encouraged to report to UNESCO in future on the implementation of the newly adopted Recommendation on Science and Scientific Researchers (2017), which supersedes the 1974 Recommendation, on any legislative or other steps undertaken by it to ensure the application of this international standard-setting instrument, paying particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers, as well as human rights obligations related to science, the principle of non-discrimination, including urging active promotion of women and girls entering scientific careers, as well as the scientists' rights of autonomy, freedom of research, expression and publication.