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Universal Periodic Review

## Report of the Working Group on the Universal Periodic Review\*

### Fiji

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## Introduction

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its seventh session from 8 to 19 February 2010. The review of Fiji was held at the 7th meeting, on 11 February 2010. The delegation of Fiji was headed by the Permanent Representative of Fiji to the European Union in Brussels, Peceli Vocea. At its 11th meeting, held on 15 February 2010, the Working Group adopted the report on Fiji.
2. On 7 September 2009, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Fiji: Angola, France and Slovenia.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Fiji:
  - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/7/FIJ/1);
  - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR) in accordance with paragraph 15 (b) (A/HRC/WG.6/7/FIJ/2);
  - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/7/FIJ/3).
4. A list of questions prepared in advance by Argentina, Canada, the Czech Republic, Denmark, Germany, Latvia, the Netherlands, Norway, Sweden and the United Kingdom of Great Britain and Northern Ireland was transmitted to Fiji through the troika. Those questions are available on the extranet of the universal periodic review.

## I. Summary of the proceedings of the review process

### A. Presentation by the State under review

5. Fiji emphasized the fact that, in assessing the human rights situation, it was vital to bear in mind that it is a country in political transition and governed under a new legal order.
6. Fiji noted that, in the preparation of the national report, two prominent non-governmental organizations had refused to participate in the consultation process. While Fiji appreciated the efforts of non-governmental organizations and civil society to identify shortfalls, it would have been of great assistance if they could have also identified the capacity-building required as a matter of immediate priority.
7. Fiji indicated that the Government intended to hold democratic elections and to announce any plans that it had for the re-establishment of inclusive political dialogue. On 10 April 2009, in abrogating the 1997 Constitution and ushering in a new legal order for Fiji, the President of Fiji had directed the Government to hold a true democratic and parliamentary election by September 2014 at the latest.
8. Following that presidential directive, on 1 July 2009, the Prime Minister announced the Government's Road Map for Democracy and Sustainable Socio-Economic Development 2009-2014. The Road Map is intended to lead to a new constitution and elections based on equality, equal suffrage, human rights, justice, transparency, modernity and true democratic ideals.
9. Fiji indicated that work on the new constitution would commence by September 2012. The consultations on the new constitution will involve all citizens as well as civil

society groups focusing on electoral reform, the size of the new parliament, the sustainability of a bicameral system, the term of office of the Government and systems for ensuring governmental accountability to the people. Fiji's new constitution will be in place by September 2013. The people will have a year in which to become familiar with its provisions before elections are held in September 2014. The Government intended to commence shortly an inclusive national dialogue process aimed at achieving a sustainable return to democracy and constitutional rule.

10. Fiji urged the international community and requested United Nations Member States to support it in its endeavour to fulfil the Road Map. Fiji noted that the time frame provided not only certainty in terms of a deadline for elections, but also an opportunity for Fiji to address the underlying issues that had led it down the path of political instability.

11. With respect to public emergency decrees, Fiji emphasized that every person had the right to freedom of speech and expression, including the freedom to seek, receive and impart information and ideas and freedom of the press and other media. However, the Public Emergency Regulation 2009 had placed certain limits on those rights in the interest of national security, public safety and public order.

12. Fiji stated that media had not been responsible and balanced in their coverage and had contributed to a confrontational environment. Following the abrogation of the 1997 Constitution, there emerged a need for preventive measures that addressed security concerns that had threatened the nation. Those measures had materialized in the 2009 Public Emergency Regulation. Fiji noted that, since the implementation of the censorship exercise, there had been a marked shift from negative to positive journalism. The Government was currently drafting a media law that would ensure that responsible journalism was practiced, as well as a Freedom of Information Decree that would guarantee public access to Government documents.

13. Fiji emphasized the non-permanent nature of the Public Emergency Regulation and the fact that its extension had come into effect after a careful assessment by the authority concerned. The Government announced that the Public Emergency Regulation would be lifted after the promulgation of the Media Decree.

14. Fiji indicated that, with the abrogation of the 1997 Constitution, all constitutional offices in Fiji, including the Fiji Human Rights Commission, had been abolished. On 12 May 2009, the President had issued Human Rights Commission Decree 2009, which repealed the Human Rights Act 1999. The Decree established the Fiji Human Rights Commission, set out the eligibility criteria for the appointment of commissioners and provided for the functions of the Commission. The Commission has the power to, inter alia, increase general awareness of human rights by making public statements and educating the public and public officials, receive representations from the public on any matter affecting human rights, inquire generally into any procedure or practice, whether governmental or non-governmental, and to make recommendations to the Government concerning legislative, administrative or other action.

15. Fiji noted that the promulgation of the Fiji Human Rights Decree 2009 had demonstrated the Government's commitment to complying with the Paris Principles. The Government was actively pursuing the identification of individuals to serve as members of the Fiji Human Rights Commission.

16. Fiji indicated that, within the first 10 months following the abrogation of the Constitution, the Government had already promulgated 64 decrees, all of which formed basic laws under the new legal order. The Crime Decree 2009 had brought Fiji into conformity with the Rome Statute, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women.

17. Fiji acknowledged that, although successive Governments had had a policy of ensuring at least a 30 per cent representation of women since 2003, their representation in decision-making bodies in the public sector continued to be a major challenge.

18. Fiji has implemented the Domestic Violence Decree and established Zero-Tolerance Violence-Free communities to address the issue of violence against women and children.

19. Fiji criminalized the trafficking in persons and people-smuggling through the Immigration Act 2003 and the Crimes Decree 2009. Under part 5 of the Immigration Act, a victim of trafficking or smuggling is not liable to criminal prosecution. Fiji was making every effort to strengthen prevention, protection and prosecution efforts to effectively combat the trafficking in persons.

20. Fiji noted that the Employment Relations Promulgation 2007 had introduced a framework for the conduct of employment relations, which covers such matters as the fundamental principles and rights at work, the Employment Relations Advisory Board, collective bargaining, strikes and lockouts, essential services and dispute resolution institutions.

21. Fiji has established the National Employment Centre Decree to actively engage the unemployed in meaningful economic activities and to boost employment creation and productivity in both the formal and informal sectors, locally and overseas.

22. Fiji stated that, since 1994, the Department of Social Welfare had been administering the poverty alleviation programme, designed to assist beneficiaries of the family assistance scheme.

23. Fiji noted that, under the Juvenile Act, children under the age of 17 years deemed to be at risk had been placed under the care of the Director of Social Welfare. The Department of Social Welfare administers cash grants for families and guardians supporting children other than their own.

24. Fiji further noted that the Family Assistance Scheme supports disadvantaged individuals and families through direct financial assistance. This assistance supports families who do not have sufficient money for their daily needs.

25. Fiji also indicated that a new initiative was being pursued in 2010 to provide food vouchers to families eligible under the Family Assistance Allowance and who fall under the category of chronically ill, permanently disabled or elderly.

26. Fiji further noted its determination to eliminate abuse against children and its introduction of the zero-tolerance policy concerning child abusers. Teachers implicated in such incidents had been disciplined or prosecuted. Fiji had also introduced free bus fares for children of underprivileged families and provided free textbooks to schools throughout Fiji.

## **B. Interactive dialogue and responses by the State under review**

27. During the interactive dialogue, statements were made by 31 delegations. A number of delegations welcomed Fiji's engagement in the review, in the presentation of the national report and in its answers to advance questions. Recommendations made during the interactive dialogue are listed in chapter II of the present report.

28. As had other States concerned at the developments in the political situation of Fiji since the events of December 2006, Algeria echoed the Secretary-General's call for the reinstatement of the legitimate authority in Fiji. Algeria welcomed the statement recently made about the return to democracy and constitutional rule. Algeria noted that Fiji had ratified three out of nine core human rights instruments and that the Fiji Human Rights Commission, accredited with "A" status in 2000, had been restructured in 2009 in

compliance with the Paris Principles. Algeria also mentioned the fact that poverty had become a national issue of increasing urgency. Algeria made recommendations.

29. New Zealand expressed its deep concern that the legitimate Government should be restored through a credible process. It also expressed concerns at the civil and political rights situation and the serious deterioration in the human rights situation since the state of emergency had been established under the Public Emergency Regulation 2009, including in particular the dismissal of the judiciary, the abrogation of the Constitution and limits on the rights to freedom of assembly and expression. It highlighted the militarization of the police and public service and the lack of independence of the judiciary and lawyers. It called on the Fiji interim Government to respect the right of the people to self-determination. Further, it condemned the ongoing harassment and intimidation of human rights defenders. New Zealand also expressed concern about religious discrimination within the police force. New Zealand made recommendations.

30. Hungary expressed deep concern about the ability of the interim Administration to guarantee the full enjoyment of human rights, calling for the restoration of constitutional order and asking about the reasons behind the postponement of democratic elections. Hungary raised questions concerning specific actions taken or planned to fulfil Fiji's commitment to eradicating all forms of racial and ethnic discrimination in law, as to whether the ratification of any core human rights treaty was under consideration, and regarding concrete actions planned to address the problem of the sexual abuse and exploitation of children. Hungary noted the reportedly increasing number of violations of the freedom of expression. Hungary made recommendations.

31. France asked about the process of formulating a new constitution, in particular with regard to the composition of the Commission in charge of that process and its schedule. France expressed concern about the paralysis of judicial organs and asked about measures to be taken to re-establish the Supreme Court of Justice. France made recommendations.

32. Canada expressed grave concerns regarding the independence of the judiciary, the interference of the interim Government with the functioning of the Fiji National Human Rights Commission, and the ongoing public emergency regulations that had effectively imposed media censorship and limited freedom of speech. Canada made recommendations.

33. The Republic of Korea noted with appreciation that Fiji was a party to international human rights instruments against slavery, human trafficking and terrorism. However, Fiji was not yet a party to other essential international human rights treaties. It noted that the abrogation of the Constitution could represent a gap in the protection of human rights, and that that should therefore be addressed as a priority. It also noted that the Public Emergency Regulation 2009 had been broadly questioned regarding its compatibility with international human rights standards, which require states of emergency and related measures to be limited in time and scope. It asked what concrete measures were being considered by the Government to address that concern of the international community. The Republic of Korea made recommendations.

34. Australia strongly condemned the widespread human rights abuses that had been committed since the December 2006 coup, noting that the situation had deteriorated since the purported abrogation of Fiji's Constitution and imposition of public emergency regulations. Australia was deeply concerned that Fiji was being ruled by administrative fiat and by an interim Government headed by the Commander of Fiji's military. It noted that the Constitution would not be reinstated until 2013 and that elections would not be held for another four years, which, in its view, was an unnecessarily long delay and prevented the legal protection of human rights. It expressed concern at the extent to which the rule of law and the independence of the judiciary had been undermined, noting that, under post-abrogated decrees, all judicial appointments had been revoked and the interim President had

been granted the sole power to appoint and remove judges. Courts had been prohibited from hearing cases challenging decisions made by the interim Government. Media continued to be censored and journalists harassed. Recent incidents involving the intimidation and persecution of critics of the interim Government, including church leaders, human rights activists, lawyers and judges, had demonstrated a total disregard for human rights. Australia made recommendations.

35. The Russian Federation expressed appreciation for Fiji's participation in the universal periodic review process and considered it as a sign of the country's readiness for dialogue and cooperation with the international community. Given the situation in Fiji, the Russian Federation did not consider it appropriate to go into details, but spoke generally in favour of the restoration of democracy on the basis of a constructive dialogue among the leading political forces and the free expression of public opinion.

36. The United States of America was deeply concerned about the interim Government's decision to abrogate the Constitution and about the removal of the judiciary, noting that on 9 April 2009, the Fiji Court of Appeal had declared the coup and the interim Government unlawful. On 10 April 2009, the Government had abrogated the Constitution, imposed a state of emergency and ruled by decree. The Government had dismissed all members of the judiciary and replaced them with its own appointees. The United States also remained deeply concerned about increased censorship and intimidation of the media in Fiji: the public emergency regulations, which had curbed the freedoms of speech, the press and assembly, remained in place. Media censorship had begun immediately after the abrogation of the Constitution. Journalists who had refused to adhere to the public emergency regulations were being detained, threatened and intimidated by Government and security officials, as media outlets were banned from criticizing the interim Government. The United States made recommendations.

37. Germany shared the deep concerns expressed by most other speakers addressing the Working Group with regard to the dismissal of the judiciary and the heavy restrictions placed on the media in Fiji after the issuance of the Public Emergency Regulations. Germany asked about the measures that had been or would be undertaken to restore the independence of justice and the freedom of opinion and expression. Germany made recommendations.

38. Slovenia commended Fiji for having adopted a plan of action on human rights education and for having established institutional mechanisms for the promotion of gender equality. Slovenia was concerned about the Public Emergency Regulations and reports concerning the detention of human rights defenders. It requested information about measures taken to guarantee the enjoyment of their rights. It expressed concerns about reports concerning gender-based discrimination against women, requesting information about measures taken to eliminate violence against women. Slovenia made recommendations.

39. Slovakia was concerned about the Public Emergency Regulations, which had restricted freedom of expression, assembly and movement, had allowed security personnel to use excessive force such as torture and arbitrary detention, and had promoted a culture of impunity incompatible with international standards concerning states of emergency. It was also concerned about reports concerning the sexual abuse and exploitation of children. It referred to the request by the Committee on the Rights of the Child and the ILO Committee of Experts for the elimination of the worst forms of child labour and for the implementation of rehabilitation and reintegration programmes. It also referred to the fact that civil society was an important element of the national human rights mechanism. It made recommendations.

40. Brazil asked about the difficulties faced in the preparation of the national report. It highlighted Fiji's submission of reports to three treaty bodies and encouraged the country to accede to other core human rights treaties. Brazil regretted the fact that democracy had not yet been restored, noting that the situation had given rise to acts of physical and psychological abuse against political dissidents and to the arbitrary detention of human rights defenders. It considered the Poverty Alleviation Programme and the National AIDS Strategy as encouraging evidence of the realization of the right to health. It commended the Government's campaigns aimed at combating discrimination against people living with HIV. While welcoming the adoption of the women's plan of action, it noted the indication of the Committee on the Elimination of Discrimination against Women that the levels of the domestic and sexual abuse of girls and women remained high. It asked about actions taken to implement the Committee's recommendation that laws on domestic violence and sexual offences and measures for the rehabilitation of the victims of such violence be adopted. Brazil made recommendations.

41. Norway expressed grave concern about the human rights situation and was deeply concerned at the extensive restrictions on the media. It also expressed concern about the precarious working conditions of human rights defenders, partly as a result of the Public Emergency Regulations. While welcoming the fact that Fiji was a State party to the Convention on the Elimination of All Forms of Discrimination against Women and commending the recent submittal of reports - although overdue - it expressed concern about reports concerning high levels of violence and sexual abuse aimed at girls and women. Norway made recommendations.

42. The Philippines understood Fiji's challenges in the area of climate change and requested information about its impact on the enjoyment of human rights, as well as on capacity-building measures required. It noted that Fiji would need the continued support of the international community regarding the provision of free education and health services and public infrastructure. It also noted the Road Map for Democracy and Sustainable Development. It congratulated the country on having ratified the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination. It welcomed the establishment of institutional mechanisms for the promotion of gender equality. It made recommendations.

43. Spain considered that democratic and constitutional order should be re-established, with guarantees of political participation and the holding of democratic elections. It noted with satisfaction that the death penalty was no longer applicable to civilians. It was concerned at the persistence of the state of emergency and at its implied risks concerning the enjoyment of human rights. It regretted the arbitrary denial of pensions to individuals for simply having expressed an opinion against the Government. Spain made recommendations.

44. Italy inquired when Fiji would ratify the International Covenant on Civil and Political rights and the International Covenant on Economic, Social and Cultural Rights. It expressed concerns about the censorship of media and about reported violations such as the intimidation, arbitrary arrest and deportation of journalists and the torture and ill treatment of detainees. Italy noted that the abrogation of the Constitution in 2009 could negatively affect the full enjoyment of freedom of religion or belief. Italy welcomed the abolition of the death penalty for ordinary crimes. Italy made recommendations.

45. China expressed sympathy to the people of Fiji, who had suffered from the effects of a severe hurricane the previous year. China encouraged the Government's Road Map for Democracy and Social Development and its women's plan of action. China noted that poverty and the unstable situation represented the main obstacles in the area of human rights, and called on the international community to continue to follow the situation closely,



to show understanding with regard to Fiji's practical difficulties and to provide the necessary financial and technical support. China hoped that Fiji would continue its cooperation and communication with the Human Rights Council in order to maintain stability.

46. Sweden noted that persons expressing their views or seeking to participate in the political process had been detained and harassed. It referred to reports concerning substantial interference in the legal and justice system. It asked about measures taken to ensure the right of all persons to participate in the Government and to receive a fair trial. It referred to reports indicating restrictions on freedom of expression, including media censorship, and asked about measures to ensure that freedom of expression would be respected. Sweden made recommendations.

47. Morocco welcomed the efforts related to the Road Map for Democracy and Social Development, aimed at establishing a new Constitution and fair and transparent elections. Morocco appreciated the establishment of a human rights commission that would, *inter alia*, educate the public and advise the Government concerning human rights. Morocco asked for additional information about the composition of the Commission, its functioning and compliance with the Paris Principles. Morocco also expressed its interest about Fiji's efforts in the area of human rights education and training. Fiji expressed its appreciation for the views expressed and for members who had commended the Government's efforts. Those sentiments reflected an understanding of the realities of the situation in a country experiencing a period of political transition. Morocco made recommendations.

48. Fiji stated that it had yet to accede to and ratify 14 of the 17 core universal human rights treaties. That did not reflect any intention to deliberately circumvent or delay the implementation of some or all of those conventions. Fiji expressed the assurance that assessments were being made in the light of its capacities with a view to joining the remaining 14 treaties. Fiji noted that, given its ability, the task of fully complying with every reporting and implementing obligation required under those instruments could be insurmountable. Fiji further acknowledged that if it did sign them, it would need assistance in building its capacity.

49. Fiji referred to the concerns raised with respect to the right to life, liberty and security of persons, as well as specific references to allegations involving the deaths of persons in police or military custody. Fiji stated that all cases involving the deaths of individuals in custody had been addressed by the courts. All perpetrators of the human rights breaches involved in those cases had been charged, prosecuted and convicted.

50. Fiji reported that the police and military forces were now actively engaging in a training campaign aimed at teaching their respective members about best practices in the area of human rights, including conduct during emergency situations.

51. Fiji referred to concerns regarding alleged incidents involving the arbitrary arrest and detention of human rights defenders and pro-democracy activists. Information gathered by the Government had confirmed that authorities entrusted with the responsibilities of receiving complaints of that nature and conducting investigations into them had not officially received any such complaints.

52. Fiji took seriously the allegations involving sexual abuse, child abuse and trafficking. The Government had promulgated the Crimes Decree 2009, which had imposed the penalty of life imprisonment for the crime of rape. Offences related to prostitution, such as the selling and buying of minors for immoral purposes, carried a 12-year term of imprisonment. Prostitution and the keeping and managing of brothels were also crimes.

53. Fiji noted that the Crimes Decree 2009 also dealt with offences against international order, which covered crimes of genocide and crimes against humanity. The Decree also

contained provisions criminalizing the trafficking in persons and children, which carried a penalty of 12 years of imprisonment.

54. Fiji stated that the Government viewed the allegation that the judiciary lacked independence as being premised primarily on the belief that the old constitutional order remained in existence. That was no longer the case, and the judicial machinery was functioning independently. The Administration of Justice Decree 2009 had set out the criteria for appointments to the bench, established the hierarchy of the courts and set boundaries for their respective jurisdictions.

55. Fiji highlighted the fact that the appointment of judges to the courts remained a challenge, owing to the reluctance of possible candidates to take up appointments for fear of being subjected to travel restrictions and other sanctions imposed by neighbouring countries. Fiji appealed to the countries concerned to revisit their sanctions policies with a view to lifting them.

56. Fiji also indicated that the Legal Practitioners Decree 2009 had regulated the practice, conduct and roles of lawyers. The Decree also contained provisions concerning, inter alia, the payment of practicing fees, the role of the Law Society and the procedure by which members of the public could file complaints against legal practitioners.

57. Switzerland regretted the fact that the interim Government had not considered holding elections within a reasonable period of time, as requested by the international community, and that judges and magistrates had been dismissed. Switzerland made recommendations.

58. Argentina asked about the results achieved in the implementation of measures aimed at promoting gender equality. It made recommendations.

59. Mexico indicated that it was aware of the political situation, as well as of major challenges and their implications for the enjoyment of human rights. Mexico hoped that constitutional order would be restored as soon as possible through an open and participatory national dialogue, and that the state of emergency would be lifted. It asked about measures taken to ensure that restrictions imposed on freedom of expression and freedom of the press under the Public Emergency Regulations were compatible with international standards, and about measures taken to strengthen the fight against gender-based violence, domestic violence and the sexual abuse of girls and women, as recommended by the Committee on the Elimination of Discrimination against Women. It made recommendations.

60. Israel noted the concerns regarding the deterioration of the human rights situation in Fiji as a result of policies that were interfering with the enjoyment of human rights. It made recommendations.

61. The United Kingdom of Great Britain and Northern Ireland was deeply concerned at the military authorities' denial of basic human rights. While recognizing the challenges faced, it noted that these did not justify the delay of free elections. It called on the authorities to ensure an open and inclusive national dialogue leading to early and credible elections and an early return to democracy. It stated that the re-establishment of a fully independent judiciary should be a priority. It was concerned by reports of the arbitrary detention, intimidation and harassment of human rights defenders and political opponents, and called for thorough investigation into these incidents, with no immunity from prosecution for police or military members. It requested information about how Fiji would address reports of gender-based violence, as well as reports of sacrilege in non-Christian places of worship. It made recommendations.

62. Chile stated that it was following with concern the human rights situation in Fiji. It mentioned the following factors as important for achieving the full enjoyment of human rights: independence of the judiciary, a limited scope for emergency legislation, adequate

protection of human rights defenders and political opponents, and the effective guarantee of freedom of expression and respect for freedom of movement. It made recommendations.

63. Japan stated that, since the abrogation of the Constitution in April 2009, it had been concerned about the constraints on fundamental human rights, including freedom of expression and freedom of peaceful assembly. Japan had been encouraging Fiji to return to democracy since the 2006 coup. It hoped that Fiji would make steadfast progress towards democracy and that fair elections would be held with a view to a return to democracy as soon as possible. Japan made recommendations.

64. The Netherlands was concerned about the human rights situation and the Public Emergency Regulation of 2009, which had imposed restrictions on the freedoms of association, movement and expression. It noted that the Senate and the House of Representatives had been disbanded in 2006 and that the judiciary had been dismissed in 2009. It asked how the interim Government would ensure the free and fair election of a new parliament and the re-establishment of an independent judiciary. Welcoming the visit of the Rapporteur for the Working Group on the use of mercenaries, who had enjoyed good cooperation, it stated that a number of other requests deserved immediate attention, including the requests for visits by the Special Rapporteur on the independence of judges and lawyers and by the Special Rapporteur on torture. It noted serious concerns at the situation of human rights defenders. The Netherlands made recommendations.

65. Maldives strongly encouraged Fiji to implement, speedily and fully, the reforms that it itself had admitted were necessary. While noting the reasons behind the delaying of the elections until 2014, and while understanding the concerns regarding stability, Maldives highlighted the fact that, without democracy, the constitutional reform process would be severely impeded. Maldives noted that the lack of trust both within Fiji and between Fiji and the international community was a major barrier to progress, stating that special procedures should not be seen not as a threat, but as a means of creating better understanding about the challenges faced by Fiji and of channelling international support. Maldives noted that, instead of condemning, the international community must lend assistance and work with Fijians to bring about the reforms. Maldives made recommendations.

66. Malaysia considered that continuous constructive engagement between Fiji and the international community was vital in order to facilitate the process of restoring democracy in Fiji. Malaysia supported the Government's commitment to engaging all levels of society in the restoration of democracy and national reconciliation. Malaysia made recommendations.

67. Latvia noted with appreciation Fiji's open spirit with regard to addressing human rights challenges. It referred to the country's previous cooperation with special procedures mandate holders and made a recommendation.

68. Fiji thanked all delegations that had made interventions and noted that it had witnessed the extending of helping hands to assist and provide helpful advice and recommendations.

69. Fiji also stated that the Ministry for Foreign Affairs chaired the Fiji National Universal Periodic Review Committee, comprising representatives of Government ministries and departments. In addition, Fiji's national report reflected the views of non-governmental organizations and members of civil society that had participated. The Government fully respected the right of those non-governmental organizations that had expressed reluctance to be part of this important process.

70. Fiji reiterated that the Government, in its resolve to return the country to a truly sustainable parliamentary democracy by September 2014, intended to convene a national

dialogue forum shortly. The Government strongly believed that the interests of the country as a whole and its socio-economic and political future, rather than the interests of sections of the community, were paramount.

## **II. Conclusions and/or recommendations**

**71. The following recommendations will be examined by Fiji, which will provide responses in due course. The response of Fiji to the recommendations will be included in the outcome report adopted by the Human Rights Council at its fourteenth session:**

- 1. To consider the possibility of ratifying other human rights core instruments (Algeria); to consider acceding to the major human rights conventions as a sign of intent and as a confidence-building measure (Maldives);**
- 2. To favourably (Republic of Korea)/positively (Mexico) consider ratifying, inter alia (Republic of Korea), the International Covenant on Civil and Political Rights (Brazil, Mexico, Philippines, Republic of Korea), Optional Protocol 1 to the International Covenant on Civil and Political Rights (Republic of Korea), the International Covenant on Economic, Social and Cultural Rights (Brazil, Mexico, Philippines, Republic of Korea), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Brazil, Philippines, Republic of Korea) and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Republic of Korea), as a further step aimed at the full implementation of its commitment to promoting and protecting human rights in the country (Republic of Korea), as well as the main human rights treaties to which Fiji is not yet a State party (Mexico);**
- 3. To 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 (Slovenia);**
- 4. To ratify those core human rights treaties to which Fiji is not yet a party and draw up a timetable for doing so (Hungary);**
- 5. To sign and ratify (Germany, Spain)/sign and/or ratify (Argentina) the International Covenant on Economic, Social and Cultural Rights (Germany) and its Optional Protocol (Argentina, Spain), the International Covenant on Civil and Political Rights (Germany) and its Optional Protocol (Spain)/its two Optional Protocols (Argentina), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Germany) and its Optional Protocol (Argentina, Spain), the International Convention for the Protection of all Persons from Enforced Disappearance (Argentina, Spain), the Convention on the Rights of Persons with Disabilities and its Optional Protocol (Argentina, Spain), the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Argentina, Spain) and the Optional Protocols to the Convention on the Rights of the Child (Argentina, Spain);**

6. To 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 (Norway);
7. To ratify those human rights treaties pending ratification (Chile)/ratify the major international human rights treaties, including (Japan)/in particular (Chile) the International Covenant on Civil and Political Rights (Canada, Chile, Japan, Netherlands, Switzerland) and its two Optional Protocols (Chile), the International Covenant on Economic, Social and Cultural Rights (Chile, Japan, Netherlands, Switzerland) in a timely fashion (Japan), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Chile, Switzerland), the Optional Protocols to those respective treaties (Switzerland) and the two Protocols to the Convention on the Rights of the Child (Chile);
8. To 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 (Spain);
9. To align domestic legislation with international standards on detention, and to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Italy);
10. To 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 (Slovenia);
11. To make every effort to achieve a sustainable return to democracy and constitutional rule at the earliest time possible (Republic of Korea);
12. To uphold the rule of law, including human rights in domestic law, by immediately reinstating the 1997 Constitution (Israel);
13. To 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);
14. To 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);
15. To ensure that human rights are afforded full legal and constitutional protection in Fiji (Australia);
16. To accord the utmost importance, in the formulation of the new Constitution, to the promotion and protection of human rights and fundamental freedoms (Philippines);
17. To 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 of America);
18. To strive to move forward its reform programme in order to restore democracy as soon as possible (Maldives);
19. To 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 (Australia);

20. To 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 (Slovakia);

21. To 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 (Norway);

22. To instigate an open and inclusive national dialogue leading to early and credible elections (United Kingdom);

23. To hold free elections, given the importance of democracy for the full realization of human rights (Brazil);

24. To take immediate steps towards holding democratic elections before the end of 2010, in order to restore democratic institutions and processes in Fiji (Canada);

25. To take immediate steps towards holding democratic elections and returning Fiji to constitutional rule (New Zealand);

26. To 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 (Spain);

27. To 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 (Mexico);

28. To 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 (United Kingdom);

29. To put an end to the state of emergency in force since 2009 (Chile);

30. To rescind the Public Emergency Regulations 2009 and not replace them with equivalent measures (New Zealand);

31. To repeal immediately the Public Emergency Regulations in force since 10 April 2009 (United States);

32. To 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 (France);

33. To 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 (Canada);

34. To 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 (Australia);
35. To lift the state of emergency and to take the measures necessary to re-establish a constitutional order complying with the rule of law, before the date indicated recently by the Government (Switzerland);
36. To 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);
37. To 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 (Canada);
38. To provide the national human rights institution with a framework for independent functioning in accordance with the Paris Principles (Germany);
39. To bring the functioning of the Fiji Human Rights Commission into conformity with the Paris Principles (Philippines);
40. To 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 (Israel);
41. Take effective measures to guarantee the human rights and fundamental freedoms of the people of Fiji (Japan);
42. To 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 (Malaysia);
43. To integrate the component of human rights education and training into its education system (Morocco);
44. To cooperate fully with the United Nations human rights mechanisms (Switzerland);
45. To consider extending (Latvia)/extend (Chile, Slovenia) a standing invitation to all special procedures of the Human Rights Council;
46. To consider extending a standing invitation to special procedures to visit and help with the reforms (Maldives);
47. To allow and facilitate the visit of special procedures mandate holders who have asked for it (Slovenia); to give a positive response to requests for visits made by the special procedures (Spain);
48. To 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 (Norway);

49. To 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 (Mexico);
50. To 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 (United Kingdom);
51. To 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);
52. To invite and facilitate a visit by the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture (Germany);
53. To 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 (Israel);
54. To facilitate a visit to Fiji by the Special Rapporteur on the independence of judges and lawyers (New Zealand);
55. To enhance measures to combat discrimination against women in all sectors of society (Philippines);
56. To 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 (Algeria);
57. To consider abolishing the death penalty under any circumstance (Italy);
58. To do away with the death penalty (Brazil);
59. To abolish the death penalty with respect to all forms of crime (Argentina);
60. To take steps to protect human rights defenders from harassment and intimidation (New Zealand);
61. To guarantee the safety and security of human rights defenders, and to ensure that all crimes against them are fully and independently investigated (Netherlands);
62. To effectively investigate and prosecute complaints concerning the harassment, intimidation and arbitrary arrest of human rights defenders, and to punish those responsible (Norway);
63. To prevent, investigate and punish the excessive use of force, arbitrary detention, threats and harassment directed against human rights defenders by security forces (Spain);
64. To put an end to criminal prosecutions against human rights defenders (Spain);
65. To 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 (Slovakia);

66. To adopt, in the near future, the proposed laws on domestic violence and sexual offences, thereby prohibiting practices that legalize violence against women (Norway);

67. To take appropriate measures to provide free legal and psychological assistance to victims of domestic and sexual violence (Brazil);

68. To take further measures to prevent and combat the sexual exploitation of children (Brazil);

69. To expeditiously implement actions requested by the International Labour Organization Committee of Experts aimed at combating the sexual abuse and exploitation of children (Slovakia);

70. To 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 (New Zealand);

71. To 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 (Italy);

72. To provide its police force with training to ensure respect for the right to freedom of religion (New Zealand);

73. To take the measures necessary to ensure respect for freedom of opinion, expression and assembly, as well as freedom of the press (Switzerland);

74. To take immediate actions to fully guarantee the right to freedom of expression for everyone (Hungary);

75. To 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 (Sweden);

76. To 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 (Netherlands);

77. To put an end to arbitrary restrictions on freedom of expression and to prior censorship of national and foreign media (Spain);

78. To enforce a legal framework enabling media to operate freely and independently (Norway);

79. To 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 (Switzerland);

80. To protect the free exercise of the media by guaranteeing freedom of expression and putting an end to repressive measures against journalists (France);

81. To 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 (United States);

82. To 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 (Italy);
83. To hold free and fair elections guaranteeing for all persons the right to participate in the country's Government (Sweden);
84. To take all measures necessary to ensure the independence of the judiciary (Switzerland);
85. To 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 (Netherlands);
86. To re-establish, as quickly as possible, the conditions guaranteeing an independent and impartial judiciary (France);
87. To guarantee the independence of the judiciary (Chile);
88. To ensure an independent judiciary in order to guarantee the right to a fair trial (Sweden);
89. To 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 (Israel);
90. To revoke any decree that prevents the courts from considering the legality of Government actions, and to abide by future judicial decisions (Canada);
91. To immediately cease its interference in the judiciary, and to ensure that judges are appointed and dismissed by means of an open and transparent process (Australia);
92. To implement the Basic Principles on the Independence of the Judiciary and the Role of Lawyers (New Zealand);
93. To investigate all alleged human rights violations and to bring all those responsible to justice (Canada);
94. To 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 (United Kingdom);
95. To take further steps to strengthen the rule of law and democratic governance (Philippines);
96. To 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);
97. To restore the right to receive pensions for those deprived of it merely because they had expressed an opinion against the Government (Spain);
98. To seek the support and technical assistance of OHCHR to ensure effective compliance by the Fiji Human Rights Commission with the Paris Principles (Algeria);

99. To 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);
100. To 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);
101. To 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);
102. To 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 (Malaysia);
103. To 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 (Philippines).
72. All conclusions and/or recommendations set out in the present report reflect the positions of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.

## **Annex**

### **Composition of the delegation**

The delegation of Fiji was headed by Peceli Vocea, Permanent Representative of Fiji to the European Union in Brussels, and was composed of two members:

- Sainivalati Navoti, Director, Political and Treaties Division, Ministry for Foreign Affairs, International Cooperation and Civil Aviation of Fiji;
  - Vanessa Chang, Legal Officer, Office of the Solicitor General.
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