



# General Assembly

Distr.: General  
26 August 2014

Original: English

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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Twentieth session**  
27 October–7 November 2014

## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Fiji**

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## **I. Introduction**

1. The Government of the Republic of Fiji (“*Government*”) welcomes this opportunity to provide a response to the recommendations made at the first reporting cycle of the Universal Periodic Review and affirms its commitment towards the advancement and protection of fundamental principles and values of universal human rights enshrined in the *Universal Declaration of Human Rights*. The Government is equally committed towards cultivating an ethos of a responsible human rights culture.

2. This National Report (“*Report*”) is drafted with reference to the second cycle of the Universal Periodic Review (“*UPR*”) on the human rights landscape in the Republic of Fiji. This Report is submitted in accordance with Paragraph 5 of the Human Rights Council resolution 16/21.

## **II. Methodology and consultation**

3. This Report is the result of extensive Ministerial and Departmental consultations including the Human Rights and Anti-Discrimination Commission and the Media Industry Development Authority. Initially overseen by the Ministry of Foreign Affairs with the assistance of the Office of the United Nations High Commissioner for Human Rights, the Report was subsequently finalised by the Office of the Attorney-General.

4. The Report outlines the normative and institutional framework and accounts for the promotion and protection of human rights in practice. In the first cycle of the review, 103 recommendations were made, out of which the Government made a commitment to implement 97 recommendations. The Report expounds on the progress made towards the implementation of the recommendations and challenges faced.

## **III. Development of normative and institutional framework for human rights**

### **A. Normative framework**

5. The Constitution of the Republic of Fiji (“*Constitution*”) assented to by His Excellency the President of Fiji on 6 September 2014, is the supreme law of Fiji and forms the foundation for the development of a modern, progressive and inclusive Fiji.

6. The Constitution enshrines non-negotiable principles and values such as a common and equal citizenry; a secular State; the removal of systemic corruption; an independent judiciary; the elimination of discrimination; good and governance; social justice; one person, one vote, one value; the elimination of ethnic voting; proportional representation; and a voting age of 18 years.

7. The Constitution provides for an independent judiciary, equal access to the law and unprecedented rights for every Fijian. Through a comprehensive Bill of Rights Chapter, the Constitution provides for unprecedented conditions of possibility for the realisation of economic rights (in addition to social and political rights) as a human right which the state is legally obligated to advance, protect and promote. It further recognises the rights of the indigenous Fijians (also known as the *iTaukei*) and the ownership and protection of their land, culture, tradition, customs and language.

8. The Bill of Rights Chapter includes inter alia: the right to life; right to personal liberty; freedom from slavery, servitude, forced labour and human trafficking; freedom

from cruel and degrading treatment; freedom from unreasonable search and seizure; rights of arrested and detained persons; rights of accused persons; access to courts or tribunals; executive and administrative justice; freedom of speech, expression and publication; freedom of assembly; freedom of association; employment relations; freedom of movement and residence; freedom of religion, conscience, belief; political rights; right to privacy; access to information; right to equality and freedom from discrimination; freedom from compulsory or arbitrary acquisition of property; rights of protection of *iTaukei*, *Rotuman* and *Banaban Islands*; protection of ownership and interests in land; right of landowners to a fair share of royalties for extraction of minerals; right to education; right to economic participation; right to work and a fair minimum wage; right to reasonable access to transportation; right to housing and sanitation; right to adequate food and water; right to social security schemes; right to health; freedom from arbitrary evictions; environmental rights; rights of children; and the rights of persons with disabilities.

9. The translation of the Constitution into the *iTaukei* and Hindi languages, and its production Government in Braille, following submissions from the visually impaired community, is testament to the Government's commitment in ensuring that the Constitution is accessible to all Fijians.

10. Fundamentally, the Constitution establishes the principle that every Fijian is equal. It does not define or divide Fijians by ethnicity and bestows the title of "Fijian" on every citizen while equally recognising their different cultures.

## **B. Institutional framework**

### **Human Rights and Anti-Discrimination Commission**

11. The Constitution, under Section 45 establishes and sets out the functions of the *Human Rights and Anti-Discrimination Commission* ("*Commission*") as the enforcement body for the Bill of Rights. The Human Rights Commission Decree 2009 further prescribes the powers and duties of the Commission.

12. The Commission consists of a Chairperson, who is qualified to be appointed as a Judge, four other members and is appointed by the President upon the advice of the Constitutional Offices Commission.

(a) The Constitution provides for the independence (including administrative autonomy and control over its own budget and finances) of the Commission in its functions and in the exercise of its authority and powers, in that it is not subject to the direction or control of any person or authority, except by a court of law or as otherwise prescribed by written law. Further, Parliament must provide adequate funding and resources to the Commission for the Commission to effectively exercise its powers and perform its functions and duties.

13. Section 45(4) (e) and (g) of the Constitution, empowers the Commission to enforce and monitor the compliance of human rights instruments ratified by the Government. The Human Rights Commission is constitutionally empowered to bring proceedings before the Courts which are integral to the development of a robust human rights culture.

### **The Electoral Commission and the Fijian Elections Office**

14. Following the promulgation of the Constitution, Fiji's return to a sustainable democracy through Government free, fair and transparent election is a major priority of the Government. A one day national election is scheduled for 17 September, 2014. To ensure that all Fijians have the opportunity to vote, the Government has, for the first time, declared the Election Day as a public holiday.

15. The *Electoral Decree 2014* (“*Decree*”), establishing clear processes and procedures governing the general election, came into effect on 28 March 2014. The Decree sets out the duties and powers of key electoral institutions such as the Electoral Commission, the Supervisor of Elections (“*Supervisor*”) and the Fijian Elections Office. It also ensures members of the Electoral Commission, Supervisor and staff of the Fijian Elections Office remain politically neutral.

16. Responsibilities of the Electoral Commission include oversight of the conduct of elections, registration of political parties, voter education and determine the number of members elected to Parliament in accordance with section 54(2) of the Constitution.

17. The Electoral Commission is an independent body and is not subject to the direction or control of any individual or authority but is subject to decisions made by the courts. The Commission may consult the Minister responsible for elections on any matters.

18. The Supervisor is responsible for the administration and the registration of political parties, voter education, and for ensuring compliance with campaign rules and procedures. The Supervisor also oversees the election of Members of Parliament and such other elections as prescribed under section 154 of the Decree including the conduct of voting, counting and tabulation of election results.

19. The Supervisor is independent and not subject to the direction or control of any person or authority, except the Electoral Commission and decisions by the Courts.

20. The Decree ensures transparency in the electoral process. The Supervisor must adopt Standing Orders outlining all aspects of the internal operations of the Fijian Elections Office. The Fijian Elections Office must also publish and make public all laws, rules, procedures and instructions that govern the elections; and the Electoral Commission and the Supervisor must submit a joint post elections report within 3 months of the date of elections on the conduct of the general elections.

#### **The Legal Aid Commission**

21. The Constitution mandates that all Fijians, particularly those geographically dispersed and those with limited or no access to social mobility, must have access to justice. The expansion of the services of the *Legal Aid Commission* through the provision of FJD 4 million in the 2014 budget reaffirms the Government’s commitment that all Fijians, particularly those in underserved and underprivileged communities, are able to access the legal infrastructure. This constitutes a substantial increase from an allocation of FJD 400,000 in 2006.

22. Furthermore, the Government has established 5 additional Legal Aid Commission offices since 2006, and is scheduled to open more offices before the end of 2014. The total number of Legal Aid Commission offices will increase to 15 substantially increasing access to justice and free legal aid services for all Fijians.

#### **Media Industry Development Authority**

23. A free, responsible and robust media is critical in cultivating a culture of deep and deliberative democracy. Section 17(1) (*Freedom of speech, expression and publication*) of the Constitution, provides that every person has the right to freedom of speech, expression, thought, opinion and publication including the freedom: to seek, receive and impart information, knowledge and ideas of the press, including print, electronic, and other media; of imagination and creativity; and academic freedom and freedom in scientific research.

24. The Government is committed to enforcing internationally recognised media standards and has consequently promulgated a law for the regulation, registration and conduct of media organisations. The *Media Industry Development Decree 2010* ensures

that the media industry operating in Fiji adheres to international norms and standards of ethical and responsible journalism.

25. Subsequently, the *Media Industry Development Authority* (MIDA), established under Section 3 of the Decree. A Media Tribunal, established under the Decree, is chaired by a sitting High Court judge, adjudicates on complaints regarding the media industry. The chairperson is appointed by the President on the advice of the Attorney General and must be a person who is qualified to be a judge. The Tribunal is an independent body which in the performance of its functions or the exercise of its powers is not subject to the directions or control of any individual or authority. However the Minister for Communications may create policies, administrative and financial guidelines for the Tribunal, which the latter must adhere to.

26. For the first time, the right to protect sources is acknowledged in the Decree, with a provision that the Media Authority in exercising its powers of investigation has no power to demand information about a source or the identification of a source. It can only apply to the Media Tribunal for the disclosure of a source under Section 28 of the Decree, and must show cause as to why a source should be disclosed. This provision accords with the decisions of the European Court of Human Rights on whether disclosure of sources by the media is in breach of Article 10 of the Freedom of Expression provision in the European Convention of Human Rights.

27. Section 7(1) of the Constitution states:

*7.—(1) In addition to complying with section 3, when interpreting and applying this Chapter, a court, tribunal or other authority—*

*(a) must promote the values that underlie a democratic society based on human dignity, equality and freedom; and*

*(b) may, if relevant, consider international law, applicable to the protection of the rights and freedoms in this Chapter”.*

28. The interpretation of rights and limitations in the Bill of Rights under section 17, are likely to be interpreted by international jurisprudence. The jurisprudence of the European Court of Human Rights, therefore, constitutes a useful guiding tool for Fijian judges.

29. Section 80 of the Decree has attracted criticism that it allows the Minister to censor the media. It is imperative to note that this section has never been used since the Decree was promulgated, and that the Minister only has these powers in an emergency.

### **Judiciary**

30. The doctrine of separation of powers is enshrined in the Constitution. The Judiciary and all judicial officers are independent of the Legislative and Executive branches of Government and are to the Constitution. The Constitution further prohibits any unreasonable interference with the judicial or the administrative functioning of the Judiciary. The Fijian Parliament and Cabinet are obliged through Legislative and other measures, to protect and ensure the independence, impartiality, accessibility and effectiveness of the Judiciary. The Constitution requires the Fijian Parliament to ensure that the Judiciary has adequate financial and other resources in the performance and exercise of its powers. Crucially, the Judiciary has control of its own budget and finances.

31. Section 98 of the Constitution is modelled on the United Nations Basic Principles on the Independence of the Judiciary. The Constitution protects security of tenure, contains a declaration of the independence of the Judiciary, and ensures that the training of judges is the responsibility of the Judicial Services Commission; sets up a tribunal process for removal, and provides for administrative autonomy. The Judicial Services Commission, for

the first time, includes a lay member of the community. At present that position is held by a woman. She is the first woman to sit on the Commission responsible for the appointing of judges.

32. The Chief Justice is the head of the Judiciary and also the President of the Supreme Court and is appointed by the President on the advice of Prime Minister after consulting the Attorney-General. Pursuant to section 106 of the Constitution, the President appoints Judges of the Supreme Court, Justices of Appeal and Judges of the High Court following recommendations from the Judicial Services Commission and consultations with the Attorney-General.

33. Pursuant to section 111 of the Constitution, the Chief Justice and the President of the Court of Appeal can only be removed by a Tribunal or Medical Board which is appointed by the President. The Tribunal consists of a chairperson and two other members selected from persons who hold or have held high judicial office positions.

34. All other judicial officers are appointed by the Judicial Services Commission and may be removed from office for inability to perform the functions of his or her office whether arising from an infirmity of body or mind.

35. The procedures and processes followed in removing judicial officers is similar to that of the removal of the Chief Justice and the President of the Court of Appeal except that when removing judicial officers, the President acts on the advice of the Judicial Services Commission to institute investigations by a Tribunal or Medical Board.

36. With regards to judicial officers such as the Chief Justice and the President of the Court of Appeal, remuneration is determined by the President on the advice of the Prime Minister after consulting the Attorney-General. With respect to all other judicial officers appointed by the Judicial Services Commission, remuneration is determined by the Judicial Services Commission following consultations with the Prime Minister and the Attorney-General.

## **IV. Promotion and protection of human rights on the ground**

### **The right to religion in a secular state**

37. Religious freedom, liberty and the manifestation of faith in both the public and private spheres are protected and promoted in the Bill of Rights chapter of the Constitution. The Constitution also provides that Religion and the State are separate. While recognising religious pluralism, the State and ancillary statutory bodies must remain religiously neutral and cannot advance or privilege the agenda of one belief system over others.

38. Whilst section 4 of the Constitution expressly provides that the State and religion are separate, this does not preclude schools and educational institutions from conducting prayers and devotion classes for their students. Section 22(2) of the Constitution clearly states that all people have the right to manifest and practice their religion or belief in public or in private.

### **Right to political participation**

39. The promulgation of Electoral (Registration of Voters) Decree 2012 (*“Electoral Decree”*) and the Political Parties (Registration, Conduct, Funding and Disclosures) Decree 2013 (*“Political Parties Decree”*) details the rules and procedures for the registration of

political parties and voters. The Political Parties Decree ensures the transparency of operations and funding of political parties.

40. The Political Parties Decree sets out the requirements for registration of all political parties such as names of all political parties must be in the English, political parties must fulfil the registration requirement of procuring at least 5000 signatures by members of the public.

41. The Political Parties Decree prohibits public officers from joining a political party registered under the Decree or a proposed political party, engaging in political activities and publicly supporting opposing a political party.

42. The Political Parties Decree also stipulates that all funds received by a political party from its members or supporters including donations must be disclosed. The income and expenditure, assets and liabilities of the political party must be provided to the Registrar of Political Parties who will then have the information published in the Gazette and in the media.

43. Section 24 of this Decree requires that any person appointed as office holder or is a registered officer of a political party must disclose inter alia, his or her income, expenditure, assets and liabilities to the Registrar of Political Parties. The Decree further provides that any person who is nominated by a political party as a candidate or an independent candidate for elections must disclose inter alia, his or her income, expenditure, assets and liabilities to the Registrar of Political Parties.

44. The Electoral Decree also provides for the conduct of political parties regulating the behaviour of members and office holders, candidates and aspiring candidates promoting good governance and curbing political malpractice.

45. The Electoral Decree states that every political party must respond to the interests, concerns and needs of all Fijians and must respect and uphold democratic values and principles process while competing for political power.

46. Moreover, political parties must not engage in or encourage violence by its members or supporters; engage in bribery or any form of corruption; accept or use illicit or illegal money; neither accept nor use public resources other than those properly allocated to the political party or advocate hatred that constitutes ethnic or religious incitement or vilification of others.

## **Freedom of association**

47. The Government is committed to creating an environment that promotes sustainable economic growth while ensuring that the rights and welfare of its workers are protected. To harmonise these concepts, the Government introduced the *Essential National Industries (Employment) Decree 2011*. The intention of this Decree is to ensure the viability and sustainability of select industries deemed vital to the economy. The Decree and its Regulations set requirements for both employers and worker representatives to create long term viability for industries essential to Fijians, therefore protecting jobs and fundamental workers' rights. The Decree upholds fundamental rights of workers in essential national industries to form and join a trade union of their choice. It also upholds other widely recognised fundamental workers' rights including the right to:

- (a) vote in a secret ballot election;
- (b) strike;
- (c) collectively bargain and enable corporations and labour unions to renegotiate bargaining agreements in good faith;

- (d) maintaining a well-defined dispute resolution process and;
- (e) overtime pay.

48. It is imperative to note that the Decree does not prohibit workers from joining trade unions and that trade unions continue to be recognised for the purposes of collective bargaining should workers feel the need to do so.

49. The *Public Emergency Regulations 2009* (“PER”) was promulgated to provide stability when implementing various reforms and changes for the benefit of society. The PER was revoked on 5 January 2012 to facilitate constructive dialogue in the creation of the Constitution, and support the democratisation process.

50. To ensure that public order and public safety was maintained and safeguarded, the *Public Order Act* (“Act”) was amended in 2012 to effectively prosecute breaches by imposing severe penalties for offences against public order. For the first time, terrorism was also included as an offense in line with Fiji’s commitment to its international obligations.

51. Since the amendment of the Act, no organisation has been refused permits for public meetings or assemblies. In December 2012, the NGO Coalition for Human Rights was granted a permit to march through the streets in the capital city to celebrate International Human Rights Day. In February 2013, the organising committee for the One Billion Raising Campaign was given a permit to march through the capital city in order to address violence against women and girls.

52. The Act was reviewed in 2014 enabling citizens to judicially review the decisions of the Commissioner of Police including the Divisional Police Commander in relation to the granting of permits.

53. A permit was granted in May 2014 to celebrate the International Day against Homophobia and Transphobia (IDAHOT).

### **The rights of persons living with disabilities**

54. The Government is committed to addressing disability needs in Fiji and developing a more inclusive society. The Government with the Fiji National Council for Disabled Persons has formulated *A National Policy on Persons Living With Disabilities 2008-2018* (hereafter the “Policy”). The Policy lists the key pillars of development needed to cultivate an inclusive society such as:

- (a) Advocacy, awareness, empowerment;
- (b) Prevention, Early Detection, Identification, Intervention, Rehabilitation and Health;
- (c) Effective Education Services and Programmes;
- (d) Training and Employment;
- (e) Promoting the Rights of Women and Children with Disabilities; and
- (f) Access to Information Communication Technology.

55. A total of 11,402 persons with disability in Fiji. The Government provides monthly social welfare assistance to those living with disabilities, and also provides public transportation subsidies and concessions.

56. The Office of the Attorney-General is currently considering a draft Disability Decree which is modelled on the United Nations Convention of the Rights of Persons Living with Disabilities.



## Social and economic rights of the elderly

57. The Government is committed to providing an inclusive society for senior citizens. In ensuring the representation of their rights and interests, the National Council for Older Persons, spearheaded by the Ministry of Social Welfare, has been established under the National Council for Older Persons Decree 2012. The Council aims to create an inclusive, protective, healthy and supportive environment for older persons by strengthening the partnership and collaboration between the Government, families, community based organisations, and other stakeholders. The Council received a budgetary allocation of FJD 200,000 to carry out its plans within the framework of Fiji's Ageing Policy (2011–2015). The Government introduction of a bus fare subsidy program has assisted over 38,000 elderly persons and approximately 1400 persons living with disabilities. Furthermore, the Government has committed FJD 4 million towards a food voucher scheme to assist senior citizens.

### The Right to housing

58. As a constitutionally protected right, Fijians now have greater access to affordable housing. The Government introduction of a Social Housing Policy in 2011 absolved the loans of families with low incomes, facing genuine constraints due to unemployment, retirement, those medically unfit to work, and the physically or mentally disabled persons enabling them to retain ownership of their homes. The Government has reaffirmed their commitment to this Policy by allocating a further FJD1 million to the 2014 budget towards this purpose.

59. In order to promote access to adequate housing and sanitation for the marginalised, the Government has offered a 150 percent tax deduction for all cash contributions up to FJD \$50, 000 towards various projects for squatter settlements. From June 2014, a Government Grant of Government FJD 10million is given to Fijians who intend to build or buy their first residential home.

60. Fiji's superannuation fund the Fiji National Provident Fund ("*FNPF*") provides for housing assistance. The FNPF has developed its own Housing Assistance Policy enabling FNPF members, who live in *iTaukei* villages to withdraw funds to renovate, extend or construct dwelling houses in their villages. In 2014, the *iTaukei* Affairs Regulations was promulgated to give legal effect to this policy allowing transparency and accessibility of funds to members of the public.

### The Right to education

61. The right to education is enshrined under section 31 of the Constitution. Pursuant to this section, the State must use all measures within its means and resources to achieve the right to free early childhood, primary, secondary and further education. The onus to prove that it does not have the resources to implement this right rests with the State.

62. In 2013 the Government announced its intention to provide free education for primary and secondary school students. This investment in the education of Fijian children ensures a competent and competitive Fijian workforce. Over 900 schools in Fiji have received education grants.

63. In addition to the provision of free education at Primary and Secondary level, the Government has also made a commitment to the education of tertiary students. In line with theme of 'Building a Smarter Fiji', the Government has announced a number of initiatives ensuring the youth of Fiji access to tertiary education, one of which is a low interest loan to

any Fijian student who is accepted at any of the tertiary institutions in Fiji. The Tertiary Education Loan Scheme (TELS) covers the cost of tuition and will not be repaid until after a student has graduated and entered employment. The Government has allocated 600 scholarships for tertiary students who achieve the highest marks in the Fiji Seventh Form Examination under the National Toppers Scheme.

64. The Ministry of Education has also made transportation accessible to students through bus fare assistance schemes and free transportation using a zoning policy.

### **The right to access information communication technology**

65. Fiji has made great progress in developing Information and Communication Technology (“ICT”) as a catalyst for social transformation. Fiji has achieved 95% mobile coverage, including 3G, concluded one of the region’s first open auctions for 4G spectrum, and is implementing a number of initiatives to increase affordable access and improved ICT services, including services to the most remote parts of the country.

66. The Government has implemented the Universal Service Access Programme through which subsidies will be provided to develop mobile broadband infrastructure to non-commercial rural areas. In order to increase accessibility of ICT services, the Government has reduced duties on the import of ICT equipment like smart phones and dongles to make devices more affordable to consumers.

67. The Government has also implemented the Government Community Telecentre Project using schools as community hubs, establishing centres in 25 locations across the country. These centres provide free ICT services such as internet, emails, Skype, printing, copying and scanning to these communities. To date, more than 85,000 Fijians have accessed these telecentres.

68. In 2013, Fiji was recognised and awarded for its progress in the ICT sector by the United Nations International Organisation for South-South Cooperation.

## **V. Follow-up and implementation of recommendations and commitments undertaken in the previous review**

### **Recommendations related to the ratification and long term step-by-step plan for the ratification of core international human rights instruments (recommendations 1–7)**

69. The Government has made it an obligation to ensure that it ratifies all core human rights conventions to safeguard the rights of its citizens and it has therefore accepted recommendations 1–7. Fiji has set itself a timeframe of 10 years where it will endeavour to ratify all core human rights conventions. In June 2010, the Government made an undertaking to facilitate a transition to a constitutional and electoral democracy before ratification of core instruments ensuring that it meaningfully participates and fulfils all of its obligations. A Constitution, with a robust Bill of Rights is now in place and a one day general election will be conducted on September 17, 2014. It is envisaged that the democratically elected Fijian Parliament will work towards full ratification of the human rights instruments. The Government is also in the process of ratifying the United Nations Convention against Torture.

**Recommendations relating to torture, and other cruel, inhumane or degrading treatment or punishment including the abolition of death penalty (recommendations 8–9, 57–59)**

70. The Government has removed the Death Penalty from its Criminal Code. It must be noted that even though the Death Penalty does appear in the Military Code, this has never been enforced. On-going discussions between the Government and the Fiji Military Forces are taking place with the aim of removing the Death Penalty from the Military Code. The Government acknowledges that there have been instances of police brutality and to address this issue, the Constitution expressly provides under Section 11 for “Freedom from cruel and degrading treatment”. Section 13 provides for the “Rights of arrested and detained persons”. Furthermore, judges have in certain cases deemed confessions made by detained persons in custody as inadmissible.

71. In 2012, the Fiji Police Force introduced a pilot scheme for the video taping of police interviews. Police officers are currently being trained to conduct such interviews. The introduction of taped interviews will lead to greater transparency and fairness in police procedures. A review of the Police Act is also planned for 2015. This review will suggest stricter procedures for custody at the police station, and better guidelines for conducting interviews.

72. Section 13 of the Constitution sets out specific rights of persons who are arrested or detained at the police station. The words “or detained” protect persons who are in informal detention. These rights include the right to remain silent, the right to be informed of this right, the right to counsel, the right to be told of the reasons for arrest and the right to see family members, counsellors or social workers. Section 14(2)(j) provides that accused persons have the right to remain silent and the right not to have adverse inferences drawn when the right has been exercised. This section, in effect will prevent legislation in the future from making inroads into the right to remain silent.

**Recommendations relating to children’s rights particularly in regards to access to education and health services (recommendation 10)**

73. The Government, through the Bill of Rights is committed to the preservation of child rights and the right to education. A policy creating inclusive education in Fiji was formulated to ensure all children are given the opportunity to learn regardless of difficulties, disabilities or differences, (Refer to Part IV, Right to Education of this report). The current curriculum has been modified to provide for students with special needs, for example, the training of braille teachers and increasing the number of braille publications. Disability friendly school facilities have been improved in certain schools, the Ministry of Health works in collaboration with Ministry of Education in making health services accessible to children. Health screenings are facilitated periodically for all primary schools to ensure immunisation and dental care for school children.

**Recommendations relating to the restoration of constitutional rule and return to democracy through free and fair elections, independence of the judiciary, independence of the Human Rights Commission (recommendations 11–12, 15–16, 18–21)**

74. On 6 September 2013, the Constitution of the Government was promulgated. The Constitution Review Commission received over 7,000 submissions. The Government held a series of consultations and received over a thousand submissions orally and through various media platforms. The Constitution is the embodiment of the will of the Fijian people from a cross section of communities.

75. The Electoral Decree 2014 sets out the requirements, processes and procedures for a free, fair and transparent one day general election scheduled for 17 September 2014. These requirements are given detailed consideration under Part III (B) of this report.

76. The Constitution provides for judicial independence from the Legislative and Executive branches of government pursuant to section 97. As discussed in detail under the Institutional Framework section of this Report, some members of the Judiciary are appointed by the President upon the advice of the Prime Minister in consultation with the Attorney-General while others are appointed by the Judicial Services Commission.

77. The Constitution, pursuant to section 45 provides for the independence the Human Rights and Anti-Discrimination Commission and outlines its responsibilities. The Human Rights Commission Decree 2009 further prescribes the powers and duties of the Commission.

**Recommendation relating to an open and inclusive national dialogue leading to early and credible elections (recommendation 22)**

78. In the process of eliciting submissions on the Constitution, Fijians from diverse backgrounds including those from geographically disperse communities, civil society organisations, and various political actors including representatives of political parties made submissions on the electoral and democratisation process. These were reflected, where applicable, in the Electoral Decree 2014.

79. The Government is committed to create an environment which is free of fear and intimidation and is one that is conducive to debate and dialogue on national political processes. It is important to note in the lead up to the General Elections no persons in the Fijian community has been banned from campaigning, convening political rallies or political forums.

**Recommendations pertaining to free and fair election (recommendation 23, 25–26)**

80. Holding a fair, transparent and credible election is a major objective of the Government. For the first time, the voting age has been reduced from 21 to 18. The Electoral Decree stipulates that each Fijian will have one vote which will weigh equally in value across Fiji. Fijians will no longer be voting according to ethnic or communal lines but can now vote for whichever candidate they wish to in a single constituency through the Proportional Representation (PR) System of voting. The Elections Office has conducted widespread voter education programmes in Fiji and has introduced an Electronic Voter Registration (EVR) System to register voters. Overseas voter registration was carried out allowing Fijians living outside Fiji to vote.

81. Section 115 of the Electoral Decree explicitly prohibits any person, entity or organisation that receives funding or assistance from a foreign government, inter-governmental or non-governmental organization or multilateral agency to engage in, participate in or conduct any campaign (including organising debates, public forum, meetings, interviews, panel discussions, or publishing any material) which is related to the election subject to the approval by the Supervisor of Elections. Civil society organizations such as FemLink Pacific – Media Initiatives for Women have been granted permission to carry out voter education. This provision does not prevent any university from organising public forums or panel discussions that are related to the General Election.

82. The Government continues its engagement with the international community. Election experts from the Commonwealth, New Zealand and European Commission have conducted a Gap Analysis/Needs Assessment on the Elections Office which will assist the international community and development partners to identify the ways in which they can

support the elections to ensure that they are fair, transparent and credible. The Government has invited the international community to form a multinational observer group.

**Recommendations relating to the lifting of the Public Emergency Regulation, allowing for the freedom of expression, assembly and democratic dialogue (recommendations 27–35)**

83. Refer to paragraphs 49–53 for detailed discussion on the Public Emergency Regulations.

**Recommendations relating to the independence of the national human rights institution (recommendations 37–41)**

84. Section 45 (1) of the Constitution states that the Human Rights Commission established under the Human Rights Commission Decree 2009 continues as the Human Rights and Anti-Discrimination Commission (*'Commission'*).

85. The Commission consists of a Chairperson who is qualified to be appointed as a Judge and four other members, appointed by the President upon the advice of the Constitutional Offices Commission.

86. The Commission is responsible for:

- (a) Promoting the protection and observance of, and respect for, human rights in public and private institutions, and to develop a human rights culture in Fiji;
- (b) Education on the rights and freedoms recognised in the Constitution including other internationally recognised rights and freedoms;
- (c) Monitoring, investigating and reporting on the observance of human rights in both the public and the private sphere;
- (d) Making recommendations to government upon matters affecting the rights and freedoms as recognised in the Constitution, including existing or proposed laws;
- (e) Receiving and investigating complaints on alleged abuses of human rights and seek appropriate redress if human rights have been violated, such as applications to court or other forms of relief or remedies;
- (f) Investigating or researching, upon its own initiative or on the basis of a complaint, any matter involving human rights, and providing recommendations so as to improve the functioning of public or private entities; and
- (g) Monitoring compliance by the State with obligations under treaties and conventions relevant to human rights.

87. Under the Constitution citizens have the right to lodge complaints with the Commission, if it is alleged that a right or freedom recognised under the Constitution has been denied, violated, infringed, or is threatened. Section 45(7) of the Constitution provides for the independence of the Commission in that it is not subject to the direction or control of any individual or authority except by a court of law or as otherwise prescribed by written law.

88. As a constitutional requirement, Parliament must ensure availability of adequate funding and resources to enable the Commission to effectively and independently exercise its powers and perform its functions and duties. The Constitution also provides that the Commission will have autonomy over its budget and finances, as approved by Parliament.

**Recommendations related to review, enhancement and implementation of medium and long-term strategies of 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 (recommendation 42)**

89. Government's *Strategic Development Plan for 2009-2014* concentrates on three issues: good governance, macro-economic stability and social development. Progress in the area of good governance includes a just and fair constitution, the strengthening of law and justice sectors, enhancing public sector efficiency and service delivery, strengthening public accountability and transparency and ensuring effective leadership.

90. The financial and economic recession experienced globally and the prevalence of natural disasters had adversely affected Fiji's economy between 2007 and 2009. In 2010, the economy started to recover and GDP growth in 2013 was forecasted at 3.2% largely attributable to robust consumption and investment. Government has adopted pro-growth and pro-poor measures aimed at raising exports, enhancing domestic production and increasing private sector investment. Priorities for maintaining macro-economic stability include: macro-economic management, increasing investment and private sector development, infrastructure development, increasing exports and food security, land reforms, and labour market reforms.

91. Strategic priorities for social development include: reducing poverty; improving health services; making Fiji a knowledge based society through the alignment of the education policy with the nation's development objective of ensuring education for all, based on principles of accessibility, quality; affordable and decent housing; rural and outer island development; climate change and disaster risk reduction; gender equality and employment, training, education and protection for children and the youth.

92. The Government together with the Fiji National Council for Disabled Persons has created *A National Policy on Persons Living With Disabilities 2008-2018 ('Policy')* outlining the key pillars of development required to cultivate an enabling and an inclusive society.

93. Government intends to expand training centres and facilities for persons living with disabilities. It has also provided financial assistance of FJD 200,000 to seventeen non-government organizations (NGOs) coordinating programs for persons living with disabilities. Persons with disabled family members are also given special consideration when applying for social welfare. To date, over 1300 persons living with disability are beneficiaries of the Government's bus fare concession scheme. Government has also embarked on programs that enable able bodied women to work alongside women living with disabilities.

94. Fiji has established a legal and social framework protecting the rights of persons with HIV/AIDS. In 2011, Government promulgated the HIV/AIDS Decree to provide human rights-based measures to assist in HIV prevention, care and support. The Decree is based on the principles set out in the United Nations International Guidelines and Declaration of Commitment. The Decree makes it unlawful to discriminate against a person having HIV/AIDS or affected by HIV/AIDS including at the work place. It is unlawful to force or require a person to undergo a HIV test, or to stigmatise a person on the grounds that the person is HIV positive. The Decree is in line with international jurisprudence and human rights in that it prohibits unfair and unlawful discrimination, and safeguards privacy and rights of persons with HIV/AIDS including confidentiality of personal information. The Decree also lifts all travel restrictions on HIV positive persons and protects all them from mandatory testing by way of informed consent.

95. The Ministry of Education has a policy in place to ensure that students and school personnel living with HIV & AIDS are treated in a just, humane and life affirming way, ensuring students living with HIV & AIDS have the right to education.

**Recommendation related to the integration of human rights education and training into education system (recommendation 43)**

96. Basic components of human rights and civic education have been integrated in the Social Science curriculum and taught at Primary and Secondary levels.

**Recommendations related to cooperation with human rights mechanisms and special procedures of the Human Rights Council (recommendations 44–47)**

97. The Government is receptive and currently giving consideration to extending an invitation to Special Rapporteurs to visit and assist with human rights reforms.

**Recommendation related to requests for visit of Special Rapporteurs on torture, independence of the judges and lawyers (recommendations 48–54)**

98. The Government is receptive towards inviting Special Rapporteurs specialising in the independence of judges, lawyers, and human rights defenders in the promotion and protection of the freedom of opinion and expression.

**Recommendation relating to measures to combat discrimination against women in all sectors of society (recommendation 55)**

99. The Constitution, through its Bill of Rights, has an equality provision which includes protection from discrimination on the basis of gender. In 2014, Government launched the Fiji National Gender Policy to promote gender equality, social justice and sustainable development. This Policy aims to improve the quality of life at all levels of Fijian society through the promotion of gender equality. The Policy reinforces the inextricable links between gender equality and sustainable development goals in the nation's development and ensures gender equality in the public and private spheres.

100. The Policy also promotes the development of women's human rights in accordance with Fiji's obligations under Convention on the Elimination of all forms of Discrimination against Women (CEDAW), and all other conventions and international laws relevant to women.

101. The strategies for the implementation of this Policy include:

- (a) Sensitisation and training on gender issues at all levels;
- (b) Promoting an approach that is grounded in research, based on age and sex disaggregated data collection, and a gender analysis of roles and social relations of women and men;
- (c) Promoting women's economic empowerment and gender equity in Government, in relation to the environment, in the education system, and within civil society, focussing on sustainable development;
- (d) Establishing gender responsiveness, monitoring and evaluation mechanisms within government and other agencies;
- (e) Promoting the use of gender-sensitive language in legislation, government documents and educational material; and
- (f) Increase participation of women in the decision making processes.

**Recommendation relating to the adoption of a code of ethics for investors, including tax free zones and to address violence against women (recommendation 56)**

102. Government has laws and measures protecting all Fijians against gender based violence. This is discussed in detail under recommendations 66–69. Government is committed to establishing a code of ethics for investors.

**Recommendations relating to the protection of human right defenders against threats, harassment, intimidation and arbitrary arrests, effective investigation and prosecution of complaints concerning harassment, intimidation and arbitrary arrest of human rights defenders and creation of a conducive environment for a stronger civil society (recommendations 60–65)**

103. With the revocation of the Public Emergency Regulations 2009, amendments to the Public Order Act and the promulgation of the Constitution, human rights activists enjoy greater freedom of speech and freedom of association. The NGO coalition on Human Rights has been extremely vocal on Fiji's democratisation processes and procedures. The Government has continued to engage with non-state actors to foster dialogue on issues of national interest such as the Constitution and the Electoral Decree.

104. All allegations made against the State are investigated independently by the office of the Director of Public Prosecutions. Since the last reporting cycle, no proceedings have been instituted against the State for harassment, intimidation and arbitrary arrests of human rights defenders. Non state actors continue to enjoy media access and remain vocal.

105. The Bill of Rights provides for the right to personal liberty including the rights of arrested and detained persons. Every person who is arrested or detained has the right to be informed in a language that he or she understands of the reason for the arrest or detention, nature of any charges that are or may be brought against that person; the right to remain silent and the consequences of remaining silent; the right to communicate with a legal practitioner of his or her choice in private in the place where he or she is detained and to be informed of that right promptly. If he or she does not have the sufficient means to engage a lawyer, be given the services of a lawyer under the Legal Aid Scheme.

106. An accused person has the right to make confession if they wish to. If the accused person during trial shows to the court that the confession was obtained against their will, the confession is deemed inadmissible and cannot be used as evidence in court. All accused persons must be brought before a court as soon as possible but no later than 48 hours after the time of the arrest. All arrested or detained persons have the right to conditions of detention which are humane and the State has to provide adequate accommodation, nutrition and medical treatment. These constitutional rights also apply to human rights defenders and the police are legally bound by the Constitution to protect, promote and respect these rights.

107. Since the last reporting cycle there has been no evidence of threats, harassment, intimidation and arbitrary arrests of human rights defenders.

**Recommendations relating to proposed laws on domestic violence, sexual offences against women, measures to provide free legal and psychological assistance to victims of domestic and sexual violence, measures to prevent sexual abuse and exploitation of children and implementation of actions as requested by ILO Committee of Experts on combating sexual abuse and exploitation of children (recommendations 66–69)**

108. The Government has ratified CEDAW and undertakes to protect women from gender based violence. The Domestic Violence Decree of 2009 provides women with protection from domestic violence, introducing domestic violence restraining orders and other measures to promote the well-being of victims. Under the Decree, there is no



discretion given to the courts to encourage reconciliation. There is a legal obligation on the police, prosecutors and judicial officers to implement the provisions of the Decree. The Government recognises the critical role played by non-state actors for the provision of free counselling services to women who have suffered abuse and violence. The Judiciary, police force and prosecutors have all been trained and continue to be trained on the Domestic Violence Decree, which includes training on gender sensitivity.

109. The Child Welfare Decree 2010 ensures mandatory reporting of cases of possible, likely or actual harm in relation to events discovered by a professional affecting the health and welfare of children. It emphasises the duty of care of the professional handling cases of possible child abuse and lists the reporting requirements in such cases to protect the confidentiality and integrity of such cases. Section 41(d) of the Constitution provides that every child has the right to be protected from abuse, neglect, harmful cultural practices, any form of violence, inhumane treatment and punishment, and hazardous or exploitative labour. Section 41(e) further stipulates that no child must be detained except as a measure of last resort, and while detained, to be held only for such period of time as necessary; to be kept separate from adults, and in such conditions that take account of the child's sex and age. Section 41(2) states that the best interest of a child is the most important consideration in this matrix.

110. The Labour Ministry has trained a total of 40 labour inspectors and officers in investigating and conducting inspections in the area of child labour. The Child Labour Unit in the Ministry of Labour has visited 192 schools in 2012 and has trained 347 teachers on the prevention of child abuse and child labour. The Unit has also gazetted a hazardous workplace list which came into effect on 28 May 2013. The Unit also established and trained the Districts Inter-Agency Committee at a grass roots level in providing reports of child labour and child abuse.

111. Pursuant to section 295 of the Criminal Procedure Decree prosecutors before the commencement of a trial may make an application before a judge or magistrate for directions as to the presentation of evidence from vulnerable witnesses at trial. In order to protect their safety and welfare a judge or magistrate may allow the witness to give evidence in some of the following ways:

- (a) through videotape;
- (b) outside the courtroom from a suitable location, with the evidence being transmitted to the courtroom by means of closed circuit television or such similar quality secure audio visual electronic means;
- (c) have a screen or one way glass, be placed so that the witness cannot see the accused but the judge or magistrate and counsel for the accused can see the person;
- (d) witness be placed behind a wall or partition constructed in such a manner to enable those in the courtroom to see the witness while preventing the witness from seeing those in the courtroom; and/or
- (e) evidence be given only in the presence of the judge or magistrate, counsels, the accused and any other such person the judge or magistrate finds suitable.

112. The Child Protection Division's ("CPD") main role is to conduct criminal proceedings against sexual and other serious offences committed against children or matters where children are the primary witnesses.

113. The Child Protection Guidelines of 2009 set out the operations of the CPD such as steps taken in building rapport with the child victim, decisions on whether to oppose bail for the accused and considerations relating to pre-trial applications (witness protection applications). There are also witness protection applications which the CPD makes in Court

in relation to name suppression, closed court mentions and hearings, and screen applications.

114. One of the core objectives of the CPD is to create a child-friendly environment to ensure child victims are comfortable in engaging with prosecutors. It also helps explain Fijian criminal justice system to victims, witnesses and their families to help them understand judicial processes. Witness Conferencing is also conducted with victims and witnesses to help familiarise them with court proceedings and procedure.

**Recommendations relating to 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 (recommendations 70 and 93)**

115. The Constitution provides that persons who consider their rights in the Bill of Rights impinged, may seek redress from the High Court. All persons have the right to lodge a complaint with the Human Rights and Anti-Discrimination Commission alleging that a right or freedom under the Constitution has been denied, violated or infringed, or is threatened. Given that the Human Rights and Anti-Discrimination Commission is not subject to the direction or control of any person or authority, investigations into these allegations of breach of the Bill of Rights will be independent.

**Recommendations relating to the right to freedom of religion (recommendations 71 and 72)**

116. The Constitution guarantees freedom of religion, conscience and belief. Every person has the right, either individually or communally with others, in private or in public, to manifest and practice their religion or belief, in worship, observance, practice or teaching and that no one can be compelled to act in a manner which is contrary to the person's religion or belief or be required to express a belief that the person does not hold.

117. All Fijians have the right to manifest their religion in public or private. There are no reported cases of Fijians being persecuted for holding a particular religious value.

**Recommendations relating to freedom of opinion, expression and assembly including the freedom of the press (recommendations 73–82)**

118. Whilst guaranteeing freedom of expression and thought, opinion and publication, the Constitution explicitly prohibits any speech, opinions or expressions, that tantamount to propaganda of war; incitement of violence or insurrection against the Constitution or advocates hatred or discrimination against a person's actual or supposed personal characteristics including race, culture, ethnic or social origin, sex, gender, sexual orientation and gender identity, language, economic, social or health status, disability, age, and/or religion.

119. The State is constitutionally obliged under Section 17(3) (h) to make provisions for the enforcement of media standards and the regulation, registration and conduct of media organisations. The *Media Industry Development Decree 2010* (Decree) was promulgated to ensure that the media industry operating in Fiji adheres to international norms and standards of ethical and responsible journalism.

120. The *Media Industry Development Authority* ("MIDA") was established under Section 3 of the Decree to encourage, promote and facilitate the development of media organizations and services in Fiji; advise and make recommendations to the Minister of Communication; facilitate the provision of quality media services; ensure that media reports are accurate, balanced and fair in its content and that journalists uphold the media code of ethics prescribed in the Decree. MIDA also ensures that that the content of media reports are not against public interest, order, national interest, or offensive, discriminatory and has

the capacity to create communal discord. The Decree also provides for a media tribunal, presided by a High Court Judge, to adjudicate on actions for breach of media codes or matters relating to media dispute.

121. Since its establishment, MIDA has called for balanced, accurate and evidence based responsible reporting. MIDA has investigated, amongst others, news reports giving unfettered prominence to hate speech, inaccurate and anachronistic accounts on political developments in Fiji, and media advertising demeaning those with indeterminate sexual orientation.

122. Rather than imposing hefty fines or imprisonment terms, MIDA has consistently called for retraction and the exercise of self-regulation to uphold the media code of ethics in consonance with UNESCO's call for "strengthening national legislative framework, the training of journalists to build capacity and to advance media and information literacy" and "support media independence by promoting professional standards and self-regulation" in its recent report on *World Trends in Freedom of Expression and Media Development*. MIDA's calls are also consistent with the law on justifiable limitations to free speech under the ICCPR and the European Convention. As a development authority, MIDA has conducted several workshops on the Media Code of Ethics, the Constitution, the Electoral Decree and covering the national elections. MIDA is also in the process of seeking membership with the Global Forum on Media Development.

123. The mainstream media reports public opinions and views including those which are critical of the Government. MIDA encourages dialogue, critical thinking and self-regulation. Furthermore, there are no reported cases of journalists being arrested, intimidated or detained for critical reporting of the Government.

124. The Government encourages the presence of the international media to cover the General Election in September. International media organisations have registered with MIDA to cover the General Election.

125. Government endeavours to enact the Freedom of Information Bill. Access to information will not only ensure an empowered citizenry and but will strengthen accountability, transparency and governance mechanisms within government departments, institutions and the private sector.

**Recommendations relating to the independence of the Judiciary and the right to a fair trial (recommendations 83–89, 91–95)**

126. The Constitution expressly provides for the independence of the Judiciary by ensuring the separation of powers between the Judiciary, Legislative and Executive branches of Government. By providing the Judiciary control over its own budget, the State ensures that the institutional independence of the Judiciary is not compromised by a lack of financial autonomy. The independence of the Judiciary has been discussed in detail under the Legislative Framework section of this report.

127. The Bill of Rights provides anyone charged with an offence with the right to a fair trial. By expressly allowing a person charged with an offence the opportunity to provide evidence, to have the matter heard in open court and to have the hearing in a language that he or she understands, the State is guaranteeing the right to a fair trial. To date there has been no evidence of any person being denied the right to a fair trial or evidence as a result of State interference in matters brought before the court.

**Recommendations relating to the right to investigate alleged acts of brutality in detention, to hold to account the persons responsible, and for the removal of immunity of Police and Military (recommendation 94)**

128. The Government acknowledges there have been a series of allegations pertaining to police brutality and the torture of detained persons. Such incidents have occurred for as long as the Police Force has been in existence. However, it is prudent to note that the Fiji Police Force has instituted internal investigations addressing such matters. Police officers alleged to have been involved in incidents such as these, have been brought before an internal tribunal for further determination. The Fiji Police Force and the Republic of Fiji Military Forces are not immune from investigations into alleged acts of brutality. The Bill of Rights binds the Government at all levels to ensure the protection and promotion of humans rights of all Fijians. Furthermore, all criminal allegations are investigated independently by the office of the Director of Public Prosecutions who then decides the next course of legal action.

129. The Constitution also provides the Right to “Freedom from Cruel and Degrading Treatment” and the “Rights of Arrested and Detained Persons”. Judges have in many cases deemed confessions made by detained persons who have faced police brutality while in custody to be inadmissible.

**Recommendations relating to the alleviation of poverty and assurance of adequate standard of living for all Fijians (recommendation 96)**

130. Poverty alleviation has been a priority for the Government. Government continuously reviews the social protection programs in Fiji and has identified the determinants of poverty and has accordingly devised effective strategies towards economically empowering the poorest in the poor category and those living destitute. Government provides targeted social protection programmes and services such as Poverty Benefit Schemes, Food Voucher programs, Squatter Upgrading Programme, Transportation Assistance Schemes and Social Pension Schemes for the Elderly. To date there are approximately 22,000 people under the social welfare assistance schemes.

131. In empowering the poor, abled-bodied recipients will also be identified and provided training opportunities to transition them from the welfare system to the workfare. It is envisaged that the increased gainful employment of the poor will improve the standard of living in Fiji.

**Recommendations on the restoration of pensions (recommendation 97)**

132. The Regulation of Pensions and Retirement Allowances Decree 2009 has never been invoked and all persons who are entitled to receive pensions have continued to do so without any State interference.

**Recommendations relating to the request of support and technical assistance to the Office of the United Nations High Commissioner for Human Rights in relation to compliance with the Paris Principles (recommendation 98)**

133. The Government has requested the assistance of the Office of the United Nations High Commissioner for Human Rights. Discussions between the Government and the OHCHR include capacity assessment of the Fiji Human Rights and Anti-Discrimination Commission, with the view of strengthening the Fiji Human Rights and Anti-Discrimination Commission and ensuring further compliance with the Paris Principles.

**Recommendation relating to the request for aid and assistance from International Organisations, Communities and States in capacity building, to continue with its reforms as set out in the Roadmap for Democracy and adapting to climate change (recommendations 99–103)**

134. The Government has sought the support of developmental assistance which will contribute to the economic and social wellbeing of the people of Fiji. The Government has formalised relations with major development partners including financial assistance from the Overseas Development Assistance and technical and development assistance from the South Pacific Community to support the socio-economic development of Fiji's strategic development plan on the Roadmap for Democracy and Sustainable Socio-Economic Development.

135. Fiji has entered into Agreements (both bilateral and trilateral) that support South-South cooperation which have been entered into with the Japan International Cooperation Agency (JICA) and with other G77 countries in order to support exchanges that promotes socio-economic development.

136. As a Small Island Developing State (SIDS), Fiji has seen a significant increase in the frequency and intensity of flash floods and tropical cyclones in the last 5 years. Fiji is committed to reducing carbon emissions through renewable energy (hydro power and bio fuels) and to adapt to climate change particularly to reduce disaster risks. Since year 2000, national strategies, policies and programmes have been directed to achieve the Millennium Development Goals, the Barbados Programme of Action, and the Mauritius Strategy. These include climate change adaption and disaster risk reduction which have been incorporated into successive national strategic development plans including the RDSSSED 2009-2014.

137. The Fiji National Assessment Report on Progress on Addressing Vulnerabilities of Small Islands Developing States Through Implementation of the Mauritius Strategy for Further Implementation (MSI) of the Barbados Programme of Action (BPOA) was produced in May 2013 and highlights national initiatives combined with support from development partners. As a developing nation with scarce resources and competing obligations, Fiji remains reliant on foreign aid and assistance to finance 'environment' projects. Some donors directly fund the Government through Government agencies, while a bulk of the funds are directed to partners (especially NGOs) which implement climate change projects. The Government through the Climate Change Unit has already carried out a number of projects.

138. Fiji is considering specific initiatives to mitigate the impact of climate change on the community include receiving assistance to improve land use practices through a National Rural Land Use Policy and to improving the management of watersheds.

139. Fiji has received assistance, and continues to receive assistance, from a number of States in terms of capacity building in a wide range of areas of development in Policy, Agriculture, International Trade and Economics, rural development Management and Renewal Energy. Officials have also been trained in parliamentary procedures.

140. Fiji has received assistance in terms of resource in the drafting of key laws and procedures relating to the General Elections and Parliamentary Procedures.

## **VI. Achievement and challenges**

141. Significant progress has been made by the Government since the first review cycle in 2010, the most important tool has been the promulgation of the Constitution along with a robust and internationally recognised Bill of Rights.

142. The Government has created legal infrastructure to transition Fiji to a sustainable democracy through free, fair and credible elections. Over the years, Fiji has also been increasingly receptive to critically engaging with the international community and has continued to engage international stakeholders and partners.

143. The Government has made progressive steps to secure civil and political rights for all Fijians and must be recognised as one of the few countries that have made significant strides through Constitutional reform to secure third generation rights which are social and economic rights (*hereafter “subsistence rights”*).

144. As a developing nation and a transitional democracy, one of the major challenges faced by Fiji, is the sustainability of these subsistence rights and ensuring that these rights are strengthened by the Government especially given the constraints on state resources and the competing demands of civil and political rights.

145. It is therefore critical that Fiji must find a balance in recognising the indivisibility of these rights without according greater privilege to one set of rights over the other.

## **VII. Conclusion**

146. In the first review cycle, 103 recommendations were made to Fiji where Fiji committed itself to implementing 97 of those recommendations. This report highlights the tangible efforts made by the Government through legislative reforms to implement these recommendations in order to advance and protect the human rights of all Fijians.

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