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Fiji

The present report is a compilation of the information contained in reports of the treaty bodies and special procedures, including observations and comments by the State concerned, in reports of the United Nations High Commissioner for Human Rights, and in other relevant official United Nations documents. It is presented in a summarized manner owing to word-limit constraints. For the full texts, please refer to the document referenced. The report does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review, and developments during that period.

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I. Background and framework

A. Scope of international obligations¹

International human rights treaties²

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (1973)	CRPD	ICESCR
	CEDAW (1995)	(signature, 2010)	ICCPR
	CRC (1993)		ICCPR-OP 2
	OP-CRC-AC (signature, 2005)		CAT
	OP-CRC-SC (signature, 2005)		OP-CAT
			OP-CRC-AC
		OP-CRC-SC	
		ICRMW	
		CRPD	
		CPED	
<i>Reservations and/or declarations</i>		ICERD (withdrawal of reservations, arts. 2, 3, 4 (a), (b), (c), 5 (c), (d)(v), (e)(v), 6, 15 and 20) (2012)	
<i>Complaints procedures, inquiries and urgent action³</i>		OP-CRPD (signature, 2010)	ICERD, art. 14
			OP-ICESCR
			ICCPR
			ICCPR-OP 1
			OP-CEDAW
			CAT
			OP-CRC-IC
			ICRMW
		OP-CRPD	
		CPED	

Other main relevant international instruments

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide		Palermo Protocol ⁸
	Rome Statute of the International Criminal Court		1961 Convention on the Reduction of Statelessness
	Conventions on refugees and stateless persons, except 1961 convention ⁴		ILO Convention No. 189 ⁹
	Geneva Conventions of 12 August 1949 and Additional Protocols I, II and III ⁵		UNESCO Convention against Discrimination in Education
	ILO fundamental conventions ⁶		
	ILO Convention No. 169 ⁷		

1. The United Nations country team (UNCT), referring to seven recommendations on ratifications accepted during the first universal periodic review (UPR) cycle,¹⁰ emphasized that Fiji considered it was its “obligation to ensure that it ratifies all core human rights conventions” in a “time frame of 10 years”.¹¹ In 2010, Fiji had signed CRPD and OP-CRPD and had indicated that it was moving towards ratification.¹² In 2010, the Committee on the Elimination of Discrimination against Women (CEDAW) noted Fiji’s reluctance to accede to OP-CEDAW and its preference for a strengthening of national laws and institutions to address complaints and claims of discrimination.¹³ CEDAW encouraged Fiji to reconsider its position and accede to OP-CEDAW.¹⁴ Fiji was invited to consider ratifying remaining core human rights treaties, including ICESCR, ICCPR, CAT, ICRMW, CPED and their optional protocols.¹⁵

2. In 2012, the Committee on the Elimination of Racial Discrimination (CERD) welcomed the withdrawal of reservations to articles of ICERD.¹⁶

3. In 2012, in information on follow-up to concluding observations of CEDAW, Fiji indicated that the Cabinet had approved ratification of the Palermo Protocol.¹⁷ The United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged ratification of the Convention against Discrimination in Education.¹⁸ The Office of the United Nations High Commissioner for Refugees (UNHCR) recommended accession to the 1961 Convention on the Reduction of Statelessness.¹⁹

B. Constitutional and legislative framework

4. In January 2012, the United Nations High Commissioner for Human Rights noted that Fiji had committed to lifting the Public Emergency Regulations (PER) during its first UPR²⁰ and had now fulfilled that pledge. She stated that the emergency law had seriously restricted the rights to public assembly and freedom of expression, and had given the authorities broad powers of arrest and detention. She hoped that amendments made to the Public Order Act would be in line with international human rights norms and would not in any way replicate the restrictions in PER.²¹ However, the High Commissioner noted that, on 5 January 2012, the President had issued the Public Order (Amendment) Decree (POAD), which had replicated the PER provisions regarding immunity from prosecution

for the police and army.²² The International Labour Organization (ILO) Committee on Freedom of Association, in 2013, in its recommendations on case 2723, noting that POAD had placed important restrictions on freedom of assembly, again requested the Government of Fiji to consider abrogation or amendment of POAD.²³

5. CEDAW noted the stated intention of Fiji to adopt a new constitution by 2012 and hold elections in 2014, but remained concerned at the delay in those processes and strongly urged Fiji to take immediate steps to adopt a new constitution via a collaborative process involving the full participation of women.²⁴

6. Referring to eleven recommendations from the first UPR, of which eight had been accepted,²⁵ UNCT noted that efforts to restore constitutional order had led to the presentation of a draft constitution, in 2012, to the President of Fiji by the Constitution Commission. The President had requested the Government's legal team to amend that draft. Subsequently, the Government had dissolved the previously announced Constitutional Assembly. Concerns had been raised by some stakeholders at the design and transparency of the consultation and drafting process. The revised 2013 Constitution had been assented to by the President of Fiji on 6 September 2013.²⁶

7. UNCT reported that the 2013 Constitution had introduced a bill of rights with positive elements such as the constitutionally protected number of economic, social and cultural rights, a list enumerating grounds on which discrimination was prohibited, and the inclusion of the rights of the child and the rights of persons with disabilities. The Constitution also guaranteed freedom from human trafficking, freedom of residence, freedom of conscience, and a right to join, form or campaign for a political party. However, concerns remained, as the Constitution provided broad grounds for possible limitations, including to freedoms of expression and opinion, and association and assembly, that went beyond international human rights standards. Furthermore, it granted the State the power to detain persons without charge or trial in times of emergency and gave State officials immunity for a wide range of acts.²⁷

C. Institutional and human rights infrastructure and policy measures

8. In relation to five UPR recommendations, four of which had been accepted,²⁸ UNCT noted that the 2013 Constitution provided for the Fiji Human Rights and Anti-Discrimination Commission to continue the functions of the previous Human Rights Commission established under the 2009 Decree,²⁹ which CERD noted had worked without a chairperson and commissioners since its inception, whose selection and appointment was at the discretion of the President of Fiji.³⁰ UNCT recommended that Fiji ensure that the Commission received adequate funding and resources to function independently and in a manner consistent with the Paris Principles.³¹ CERD also encouraged Fiji to take all necessary measures to ensure the independence of the Commission, including revising the selection process in compliance with the Paris Principles.³²

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies³³

9. UNCT indicated that preparation for Fiji's next reporting to CEDAW and CRC was under way.³⁴

1. Reporting status

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CERD	March 2008	2012	August 2012	Twenty-first and twenty-second reports due in 2016
CEDAW	January 2002	2009	July 2010	Fifth report due in July 2014
CRC	May 1998	2011	–	Second to fourth reports pending consideration in September 2014

2. Responses to specific follow-up requests by treaty bodies**Concluding observations**

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
CERD	2013	Participation in public and political life, economic, social and cultural rights of minorities, and rights of indigenous peoples. ³⁵	–
CEDAW	2011 2012	Adopting a new Constitution, reinstating the judiciary and organizing elections. Harassment of human rights defenders, and effects of PER and media decrees on women's rights. ³⁶	2012. ³⁷ Follow-up ongoing in 2012 and 2013. ³⁸

B. Cooperation with special procedures³⁹

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	No	No
<i>Visits undertaken</i>	Mercenaries (2007)	
<i>Visits agreed to in principle</i>	Independence of judges and lawyers	

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Visits requested</i>	Torture	Independence of judges and lawyers (2014) Freedom of peaceful assembly and of association (2011, 2013) Foreign debt (2009, 2010) Arbitrary detention Human rights defenders (2010, 2012) Racism (2013)
<i>Responses to letters of allegation and urgent appeals</i>	During the period under review, 11 communications were sent. The Government did not reply to any communications.	

10. Regarding the implementation of 10 accepted UPR recommendations,⁴⁰ UNCT reported that a number of requests for visits remained to be granted, and recommended that Fiji issue a standing invitation to the special procedures and that it receive those that had requested to visit.⁴¹

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

11. The Office of the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for the Pacific, which covers 16 countries including Fiji, has been based in Suva since 2005.⁴² In support of assessing the implementation of first cycle UPR recommendations, the OHCHR Regional Office funded a national consultant in 2013 to work with the Ministry of Foreign Affairs.⁴³ The Regional Office also trained and mentored civil society actors in Fiji on monitoring and documenting human rights violations.⁴⁴

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

12. While the Constitution had equality provisions, which included protection from direct and indirect discrimination on a list of prohibited grounds, including gender and sex, article 26 (3) stated: “A person must not be unfairly discriminated against...”. UNCT emphasized that, according to international human rights law, non-discrimination was absolute.⁴⁵

13. In the context of follow-up to its concluding observations, CEDAW assessed that its recommendation to incorporate the principle of equality of women and men in the Constitution had not been implemented.⁴⁶ UNCT reported that the 2013 Constitution did not contain specific provisions on the rights of women.⁴⁷

14. CEDAW was concerned at the unequal status of women in public life, decision-making, marriage and family relations, as well as at the persistence of violence against

women owing to traditional practices and attitudes.⁴⁸ CEDAW urged Fiji to put in place, without delay, a comprehensive strategy that would include the review and formulation of legislation and the establishment of goals and timetables, to modify or eliminate stereotypes and patriarchal attitudes and cultural practices; and to periodically review the measures taken in order to assess their impact.⁴⁹ CEDAW called upon Fiji to monitor and assess the implementation of the Family Law Act and amendments, and the Domestic Violence Decree.⁵⁰

15. CEDAW welcomed the new Women's Plan of Action (2010–2019).⁵¹ Identifying a remaining need to empower women, UNCT recommended further measures to ensure equality and non-discrimination between women and men in law and practice, including in access to land, employment, and economic and political participation,⁵² with CEDAW also recommending that special attention be paid to the needs of rural women and women heads of household.⁵³

16. CERD reiterated its recommendation that Fiji adopt comprehensive legislation on the elimination of racial discrimination.⁵⁴

17. Noting reports of institutionalized or de facto racial discrimination, including by law enforcement officials, CERD drew attention to the importance of its recommendation that Fiji assess and address the reasons for the absence of complaints and raise public awareness of national legal remedies.⁵⁵

18. CERD recommended that Fiji assess possible double discrimination that members of ethnic minorities belonging to specific religious groups might face, and that it address the Committee's concern at the publication by some newspapers of advertisements seeking tenants or housemaids of a particular ethnicity or religion.⁵⁶

19. UNCT reported that, in early 2010, Fiji had removed "sodomy" and "unnatural acts" from the Crimes Decree, resulting in the decriminalization of consensual same-sex relationships.⁵⁷

20. UNCT recommended strengthening birth registration⁵⁸ and UNHCR recommended amending the Births, Deaths and Marriages Registration Act, to allow registration after 12 months have expired since the child's birth, without incurring any penalty or fee.⁵⁹

21. UNCT noted that Fiji had been one of the first countries in the Pacific to adopt a National Aging Policy.⁶⁰

B. Right to life, liberty and security of the person

22. UNCT recommended that Fiji abolish the death penalty in the Military Code, noting that Fiji's delegation at the first UPR had submitted that such abolition was "a matter currently under consideration".⁶¹

23. Concerns remained, UNCT reported, at allegations of torture and ill-treatment by officials in the military, police and corrections services, which were violations of international human rights law and inconsistent with article 11 of the 2013 Constitution. The High Commissioner for Human Rights had expressed shock at the content of a 2013 video showing the apparent torture and inhuman and degrading treatment of two handcuffed men. The police authorities had stated that they would seek to establish the facts. However, there had not yet been a public announcement by the police of the outcome of investigations and of steps taken. UNCT recommended that Fiji send a strong public message of zero tolerance by undertaking prompt and impartial investigations of any allegations of torture, ill-treatment and degrading treatment or punishment, making public the findings of investigations, ensuring that perpetrators were brought to justice, and ensuring support and redress for victims.⁶²

24. UNCT stated that the Government, mainly through the military and the police, had maintained pressure against trade unionists. In February 2011, there had been allegations of arbitrary detention and beatings of several union officials. In August 2011, Mr. Daniel Urai, President of the Fiji Trades Union Congress, had been detained under PER and charged with unlawful assembly. In late October 2011, he had been detained again and held for 10 days under the emergency regulations before being charged under the Crimes Decree with urging political violence. On 4 November 2011, the General Secretary of the Fiji Trades Union Congress, Mr. Felix Anthony, had been detained and held for seven days before being released without charge. Both men had just returned from abroad where they had raised concerns about the treatment of unions in Fiji.⁶³ The ILO Committee on Freedom of Association, in its recommendations on case 2723, again urged the Government to conduct ex officio an independent investigation, without delay, into the alleged acts of assault, harassment and intimidation.⁶⁴

25. UNCT reported that Fiji had very high rates of all forms of violence against women, despite policies and legislation instituted to address the problem. UNCT referred to figures released by the Fiji Women's Crisis Centre in 2013, which had revealed that every day 43 women were injured, 1 was permanently disabled and 71 lost consciousness through domestic violence.⁶⁵ CEDAW also expressed concern at the cultural practice of reconciliation and forgiveness ceremonies, such as *bulubulu*, forced on victims of violence so that they would remain in abusive and violent relationships.⁶⁶ In follow-up information to CEDAW, Fiji reported that a common barrier to gender justice was the attitudes of judges, magistrates, police officers, prosecutors and prison officers, in the implementation of laws.⁶⁷ In a 2014 communication, five special procedures raised concerns with regard to an alleged case of abduction and rape of a woman, who had been detained and accused of giving false information after reporting those incidents to the police.⁶⁸

26. UNCT recommended that urgent and decisive steps be taken by the Government to end violence against women by sending a strong public message of zero tolerance; and by prioritizing the handling of cases of violence against women, to bring perpetrators swiftly to justice and to ensure access to justice and redress for survivors. Fiji should effectively implement the national Gender Strategy, evaluate programmes such as the Zero Tolerance Violence-Free Zone initiatives, and work with men and women to break the cycle of violence.⁶⁹ CEDAW urged Fiji to adopt a comprehensive law criminalizing all forms of violence against women.⁷⁰

27. CEDAW strongly urged Fiji to take concrete steps to address its concerns that sex work continued to be criminalized and that sex workers were often victims of violence and were particularly vulnerable to torture and ill-treatment by the police, as well as its concerns about the exploitation of underage girls in commercial sex work.⁷¹

28. Notwithstanding the elaboration of the National Plan of Action to Eradicate Trafficking in Persons⁷² and the recent prosecution of cases, UNCT noted that systems for follow-up on international trafficking had not been adequately addressed. UNCT also recommended the introduction of the draft Adoption Decree, which could curb issues relating to child trafficking.⁷³

29. While noting the setting up of a Child Labour Unit within the labour ministry in 2013, with assistance from ILO,⁷⁴ UNCT recommended stricter enforcement of laws relating to child protection, as well as increased education and awareness about the dangers to children from street begging.⁷⁵ UNCT also recommended a strengthening of specialized abuse/neglect/violence counselling services for children and young people;⁷⁶ and the amendment of relevant laws to explicitly prohibit the use of corporal punishment in schools, alternative care settings and day care, to be consistent with policy changes that had already banned the practice.⁷⁷

C. Administration of justice, including impunity, and the rule of law

30. CEDAW expressed grave concern at the negative impact of the Government's abrogation of the 1997 Constitution and dismissal of the judiciary.⁷⁸ In the context of follow-up, CEDAW noted that, as Fiji had failed to indicate steps taken to fully restore the rule of law and the independence of the judiciary, through, inter alia, the re-establishment of the Judicial Service Commission, it considered that the recommendation had not been implemented.⁷⁹

31. With reference to 10 UPR recommendations, of which nine had been accepted,⁸⁰ UNCT reported that while the 2013 Constitution contained provisions relevant to the independence of the judiciary,⁸¹ it also gave State officials immunity for a wide range of acts.⁸² In practice, concerns remained, as the Government continued to prosecute organizations for contempt of court if they reported discussions questioning judicial independence. Two court cases were referred to, involving the head of the Citizens' Constitutional Forum, the Reverend Akuila Yabaki, and the *Fiji Times*. UNCT recommended further efforts to ensure the independence of the judiciary, and guarantees of fair trial, consistent with international human rights standards.⁸³

32. While welcoming the Legal Aid Commission's announcement of the allocation to it of further resources and the expansion of its operations, UNCT recommended an evaluation of the current legal aid system that would identify challenges and priorities hampering effective access to justice.⁸⁴ In information on follow-up to CEDAW, Fiji reported that equitable access to justice was a challenge, particularly because there were significant numbers of cases of gender-based violence in rural areas; that in 2010, the Supreme Court had held that although Fiji had not ratified ICCPR, the rights contained in it applied to Fiji by virtue of the Covenant's incorporation in the 2009 Crimes Decree;⁸⁵ and that prosecutors had had training on all the international conventions relevant to justice and the law.⁸⁶

33. CERD urged Fiji to provide interpreters in court proceedings for members of minorities who were not speakers of the three common languages, in order to guarantee the right to a fair trial.⁸⁷

34. While reporting on improved hearings of children's evidence pursuant to the Child Welfare and Domestic Violence Decrees, UNCT recommended that the Government adopt the draft community-based corrections and child justice decrees.⁸⁸

35. UNCT indicated that the Constitution had established a new Accountability and Transparency Commission, tasked with holding public office holders accountable.⁸⁹

D. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

36. In 2012, the High Commissioner for Human Rights expressed concern at developments whereby critics of the Government had faced criminal charges, arbitrary detention or other forms of intimidation; she stated that the silencing of criticism with such heavy-handed measures was in breach of international human rights standards. She urged the Government to ensure that the rule of law was fully respected and that there was space for civil society to operate without fear.⁹⁰ Highlighting Fiji's support of UPR recommendation 71.75,⁹¹ UNCT recommended that Fiji ensure the protection of journalists, human rights defenders, and critics, and promptly investigate incidents against them.⁹²

37. Referring to eight accepted UPR recommendations,⁹³ UNCT signalled as an improvement the removal both of PER and of the blanket censorship of the Fijian media by Ministry of Information censors. However, overt media censorship could be reimposed

under section 80 of the Media Industry Development Decree 2010 (Media Decree).⁹⁴ UNCT stated that recent history, combined with the provisions of the Media Decree and continued reports of self-censorship and intimidation among media stakeholders in Fiji, had had a chilling effect on the country's news media.⁹⁵ In a communication issued in 2010, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression noted that the Media Decree stipulated that the media could not publish material that threatened public interest or order, was against the national interest, or created communal discord (in article 22).⁹⁶ He also noted allegations that the Media Decree had established the Fiji Media Industry Development Authority, which would have wide powers of investigation over journalists and media outlets, including powers of search and seizure, and the power to refer any complaint received to the Media Tribunal.⁹⁷ Additionally, under article 26 of the Decree, journalists would be forced to reveal their sources to the Fiji Media Industry Development Authority.⁹⁸ UNCT recommended that Fiji take further measures to ensure respect for media freedom, freedom of expression, and the protection of journalists.⁹⁹ UNESCO also encouraged Fiji to reform the Media Decree¹⁰⁰ and to introduce a freedom of information law that accorded with international standards.¹⁰¹

38. UNCT noted that POAD required permits for public gatherings, and allowed the Government to refuse applications for permits for marches and meetings and to regulate the use of any public place by three or more persons. Furthermore, it precluded the possibility of a legal challenge to such a refusal. In regard to celebrating International Women's Day in 2013, a permit for the Fiji Women's Crisis Centre had been refused by the police on the grounds of security, whereas in 2014 the permit had been granted by the police. The withdrawal by the authorities of a permit for a march in Suva in 2012 to commemorate International Day Against Homophobia and Transphobia had reportedly raised questions about the human rights enjoyed by the lesbian, gay, bisexual, transgender and intersex community and individuals in Fiji.¹⁰² UNCT stated that members of the military had allegedly intimidated and threatened trade union members and that trade unionists had been arrested for demonstrating against the new Constitution.¹⁰³ Related concerns were raised by special procedure mandate holders in 2011¹⁰⁴ and 2012.¹⁰⁵ In 2013, the Special Rapporteur on the rights to freedom of peaceful assembly and of association again urged the authorities to ensure that no individual was criminalized for the peaceful exercise of his fundamental freedoms.¹⁰⁶

39. In 2012, CEDAW recommended that Fiji provide additional information on steps taken to ensure that the POAD, adopted in 2012, and the Media Decree, did not infringe upon the rights of women, including women human rights defenders, and their right to freedom of expression.¹⁰⁷

40. While noting the data provided by Fiji on the representation of various groups in public administration, the police and the army, and the argument that recruitment was merit-based, CERD recommended that Fiji pay particular attention to the underrepresentation of minorities in the public service and that it take special measures to improve their level of participation in public administration and politics.¹⁰⁸

41. In follow-up information to CEDAW, Fiji indicated that it had identified barriers to democracy, including reserved seats for different racial groups and voting on ethnic bases as was required by the 1997 Constitution,¹⁰⁹ and was planning their removal.¹¹⁰

42. Noting that the participation of women continued to be a major challenge, CEDAW recommended that Fiji ensure their participation, including in the upcoming electoral processes, that it include temporary special measures in the new Constitution and that it carefully monitor the effectiveness of measures taken and results achieved.¹¹¹ In 2013, CEDAW assessed that, with the adoption by the Office of the Supervisor of Elections of a gender mainstreaming policy, its recommendation had been partially implemented.

Additional information had been requested on ensuring women's participation in the 2014 elections, which should be free and fair.¹¹²

43. With reference to four recommendations, three of which had been accepted,¹¹³ UNCT reported that in February 2013, the Political Parties Decree had introduced a new code of conduct for parties, with new registration requirements as well as a requirement for the disclosure of donors and assets. The Political Parties Decree had been amended, introducing fines and/or prison sentences of up to five years for media organizations that referred to associations or organizations that had been deregistered, had their registration pending, or were not registered, as political parties.¹¹⁴ The Electoral (Registration of Voters) Decree 2012 had been gazetted on 28 March 2014. Noting some concerns,¹¹⁵ UNCT recommended that Fiji provide an enabling framework for political parties to enjoy a level playing field, particularly in their ability to access funding, and to exercise their rights to freedom of expression, including through peaceful demonstrations and access to the media.¹¹⁶

E. Right to work and to just and favourable conditions of work

44. Concerned that women earned significantly less than men, especially in the garment and fisheries industries and in agriculture and craftwork, CEDAW recommended that Fiji regulate the informal sector to ensure that women were not exploited and provide social security and other benefits, and enact specific legal provisions to prohibit sexual harassment in the workplace.¹¹⁷ CEDAW also recommended that Fiji ensure proper and fair compensation for civil servants forced into early retirement.¹¹⁸

45. UNCT reported that ILO had been continuing to consider the situation of serious violations of trade union and labour rights brought about through the issuance of several decrees.¹¹⁹ UNCT noted that the Essential National Industries (Employment) Decree (ENID) had disallowed professional unions from operating in certain industries. ENID had raised concerns that the human rights to freedom of association, including the right to form and join trade unions for the protection of workers' rights, could be illegitimately restricted. The new decrees limited the powers of trade unions in Fiji to act in the interest of workers.¹²⁰ The ILO Committee on Freedom of Association urged the Government to bring ENID into conformity with ratified Conventions Nos. 87 and 98.¹²¹

46. In March 2014, the ILO Governing Body decided that if the direct contacts mission did not take place in time for a report to the 322nd session of the Governing Body being held in November 2014, then that session should appoint a commission of inquiry under article 26 of the ILO Constitution.¹²² Attention was drawn by UNCT to ILO's governing body repeatedly stressing that the Government should immediately allow the return to the country of the direct contacts mission. The Government responded that any return of a direct contacts mission should only take place after the national elections in 2014.¹²³

F. Right to social security and to an adequate standard of living

47. While Fiji's 2013 Constitution provided for the right to social justice, UNCT noted that halving poverty (recommendations 96–99 of the first UPR cycle) remained a challenge,¹²⁴ and recommended that Fiji increase efforts to improve livelihoods.¹²⁵

48. UNCT reported that, in 2011, Fiji had endorsed its first National Housing Policy, which emphasized improving the quality of life of people living in over 200 informal settlements nationwide, protecting the right to housing and sanitation, and ensuring freedom from arbitrary evictions.¹²⁶ Concern was also expressed that the most vulnerable of the

households targeted for support under the new 2013 Disaster Rehabilitation Housing Policy would be ineligible for that support if proof of security of tenure could not be provided.¹²⁷

49. Notwithstanding the enshrining in the 2013 Constitution of landowners' interests and rights to a fair share of royalties for the extraction of minerals, UNCT noted that existing customary practices could allow for exclusion of women, and recommended strengthening efforts to ensure women's equal access to housing, land and property,¹²⁸ with CEDAW encouraging measures to eliminate discrimination, including against older women, with respect to ownership and inheritance of land.¹²⁹

G. Right to health

50. While noting significant progress in improving the health and well-being of women and children, UNCT called attention to the need to reduce the unmet need for contraceptives. UNCT recommended strengthening the legal and policy framework for the protection of the right to health, ensuring that marginalized segments of the population, including young persons, had access to sexual and reproductive health services.¹³⁰

51. When reporting on recent positive measures taken,¹³¹ UNCT noted that reversing the spread of HIV/AIDS and other diseases by 2015 remained a challenge.¹³² UNCT recommended shifting the focus to targeted interventions, including for young key affected populations,¹³³ and further expansion of prevention activities and testing for sexually transmitted infections.¹³⁴

H. Right to education

52. Reporting on a significant increase in resources (27 per cent) for education in the 2014 budget, and noting that no school was allowed to charge any kind of school fees or school levies starting from 2014, UNCT recommended that assistance be increased for early childhood education in rural areas and outer islands and that disadvantaged small rural and remote school should get an equitable share of the Tuition Fees Free Grant.¹³⁵ CERD encouraged Fiji to evaluate its policies aimed at eliminating racial discrimination in access to education, such as school zoning.¹³⁶ While UNCT indicated that gender balance in school enrolments had improved,¹³⁷ CEDAW urged Fiji to take steps to overcome obstacles to girls' and women's education.¹³⁸

53. With reference to an accepted recommendation,¹³⁹ UNESCO indicated that Fiji had not reported on specific measures to integrate the subject of human rights into the curriculum.¹⁴⁰ CERD encouraged Fiji to integrate ethnic, cultural and religious diversity into the school curriculum to promote interethnic friendship and solidarity.¹⁴¹

I. Persons with disabilities

54. UNCT reported that the Government had drafted a disability decree in 2013.¹⁴² Lack of awareness and understanding of the challenges and needs of persons with disabilities in Fiji meant that they reportedly faced prejudice, discrimination and rejection, and often extreme poverty.¹⁴³ UNCT recommended regular trainings and awareness programmes for teachers on protecting the human rights of children with disabilities in the school system,¹⁴⁴ and the upgrading of training for community-based rehabilitation assistants, with special funding from the Government, to better identify and rehabilitate persons with disabilities.¹⁴⁵

J. Minorities and indigenous peoples

55. According to UNCT, indigenous Fijians, officially known since 2010 as iTaukei, made up 57.3 per cent of the population, Indo-Fijians accounted for 37.6 per cent, and the remaining 5.1 per cent belonged to the European, Chinese, Rotuman and other Pacific Island communities.¹⁴⁶

56. While regretting the paucity of information on the economic, social and cultural rights of persons belonging to the smaller minority groups, CERD noted Fiji's commitment to assessing the situation of the most vulnerable groups in need of specific assistance, in order for it to take measures to allocate resources and design appropriate programmes for their benefit.¹⁴⁷

57. UNCT reported that specific protection of the ownership of iTaukei, Rotuman and Banaban lands, as well as protection of ownership and interests in land, was provided for in the 2013 Constitution. According to UNCT, the State Lands Act had provided for the abuse and alienation of iTaukei land by first converting it into State land and then into private freehold land. That Act was amended in 2013 to ensure that any iTaukei land that was converted to State land could not be further converted into private freehold land.¹⁴⁸

58. CERD, in 2012, requested follow-up information¹⁴⁹ on its recommendation urging Fiji to address concerns at reportedly insufficient consultation with and participation by indigenous people with regard to issues affecting them, such as equitable rent for the use of their lands and the dissolution of the Great Council of Chiefs without prior consultation.¹⁵⁰

K. Migrants, refugees and asylum seekers

59. UNHCR made recommendations to Fiji, including that it amend its nationality laws to ensure that a child born on the territory of Fiji who was otherwise stateless acquired Fijian nationality.¹⁵¹

L. Right to development, and environmental issues

60. UNCT reported that a review of Fiji's Mineral Bill was ongoing and could provide opportunities for clarity in relation to rights to participation, health, and possible displacement, and address the risks of abuse and corruption by authorities. UNCT recommended that the Guiding Principles on Business and Human Rights be used for relevant legislative and policy development.¹⁵²

61. UNCT reported that the United Nations Development Assistance Framework for the Pacific 2013–2017 addressed five thematic areas: environment and disaster management, gender equality, inclusive economic growth/poverty reduction, basic services, and governance and human rights. The OHCHR Regional Office for the Pacific, and other United Nations system and regional partners, stood ready to continue to support national efforts to further the promotion and protection of human rights in Fiji.¹⁵³

62. In 2012, Fiji had launched its national climate change policy and was finalizing guidelines on internal relocation within the context of climate change.¹⁵⁴

Notes

- ¹ Unless indicated otherwise, the status of ratification of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on Fiji from the previous cycle (A/HRC/WG.6/7/FJI/2).
- ² The following abbreviations have been used in the present document:
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| ICERD | International Convention on the Elimination of All Forms of Racial Discrimination |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| OP-ICESCR | Optional Protocol to ICESCR |
| ICCPR | International Covenant on Civil and Political Rights |
| ICCPR-OP 1 | Optional Protocol to ICCPR |
| ICCPR-OP 2 | Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| OP-CEDAW | Optional Protocol to CEDAW |
| CAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| OP-CAT | Optional Protocol to CAT |
| CRC | Convention on the Rights of the Child |
| OP-CRC-AC | Optional Protocol to CRC on the involvement of children in armed conflict |
| OP-CRC-SC | Optional Protocol to CRC on the sale of children, child prostitution and child pornography |
| OP-CRC-IC | Optional Protocol to CRC on a communications procedure |
| ICRMW | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| CRPD | Convention on the Rights of Persons with Disabilities |
| OP-CRPD | Optional Protocol to CRPD |
| CPED | International Convention for the Protection of All Persons from Enforced Disappearance |
- ³ Individual complaints: ICCPR-OP 1, art. 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and CPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; CPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; CPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: CPED, art. 30.
- ⁴ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and 1954 Convention relating to the Status of Stateless Persons
- ⁵ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.
- ⁶ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention

- No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ⁷ International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.
- ⁸ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ⁹ International Labour Organization Convention No. 189 concerning Decent Work for Domestic Workers.
- ¹⁰ A/HRC/14/8, paras. 71.1 to 71.7 and A/HRC/14/8/Add.1, p.2.
- ¹¹ UNCT submission to the UPR on Fiji, para. 3, referring to A/HRC/14/8/Add.1, p. 2.
- ¹² UNCT Fiji, submission to the UPR on Fiji, para. 3.
- ¹³ CEDAW/C/FJI/CO/4, para. 42.
- ¹⁴ Ibid., para. 43.
- ¹⁵ UNCT Fiji, submission to the UPR on Fiji, para. 4; CEDAW/C/FJI/CO/4, para. 48; and CERD/C/FJI/CO/18-20, para. 17.
- ¹⁶ CERD/C/FJI/CO/18-20, para. 4.
- ¹⁷ CEDAW/C/FJI/CO/4/Add.1, para. 5.20 (p).
- ¹⁸ UNESCO, submission to the UPR on Fiji, para. 25.
- ¹⁹ UNHCR, submission to the UPR on Fiji, p. 3.
- ²⁰ A/HRC/14/8, paras. 71.27–71.35 and A/HRC/14/8/Add.1, p. 3.
- ²¹ United Nations High Commissioner for Human Rights, press release, 9 January 2012, available from <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11753&LangID=E>, and UNCT Fiji, submission to the UPR on Fiji, para. 6.
- ²² Ibid.
- ²³ ILO Committee on Freedom of Association, 370th report, para. 444 (c).
- ²⁴ CEDAW/C/FJI/CO/4, paras. 10 and 11. See also CERD/C/FJI/CO/18-20, para. 6.
- ²⁵ A/HRC/14/8, paras. 71.11–71.21 and A/HRC/14/8/Add.1, pp. 2–3.
- ²⁶ UNCT Fiji, submission to the UPR on Fiji, para. 7.
- ²⁷ Ibid., para. 8.
- ²⁸ A/HRC/14/8, paras. 71.36–71.40 and A/HRC/14/8/Add.1, p. 3.
- ²⁹ UNCT Fiji, submission to the UPR on Fiji, para. 10.
- ³⁰ CERD/C/FJI/CO/18-20, para. 11. See also CEDAW/C/FJI/CO/4, para. 14.
- ³¹ UNCT Fiji, submission to the UPR on Fiji, para. 10. See also CERD/C/FJI/CO/18-20, para. 11.
- ³² CERD/C/FJI/CO/18-20, para. 11. See also, CEDAW/C/FJI/CO/4, para. 14.
- ³³ The following abbreviations have been used in the present document:
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| CERD | Committee on the Elimination of Racial Discrimination; |
| CEDAW | Committee on the Elimination of Discrimination against Women; |
| CRC | Committee on the Rights of the Child. |
- ³⁴ UNCT Fiji, submission to the UPR on Fiji, para. 15.
- ³⁵ CERD/C/FJI/CO/18-20, para. 21.
- ³⁶ CEDAW/C/FJI/CO/4, para. 49.
- ³⁷ CEDAW/C/FJI/CO/4/Add.1.
- ³⁸ Letter dated 27 November 2012, from CEDAW to the Permanent Mission, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/FJI/INT_CEDAW_FUL_FJI_13494_E.pdf; and letter dated 15 November 2013, from CEDAW to the Permanent Mission, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/FJI/INT_CEDAW_FUL_FJI_15774_E.pdf.
- ³⁹ For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx.
- ⁴⁰ A/HRC/14/8, paras. 71.45–71.54 and A/HRC/14/8/Add.1, p.4.
- ⁴¹ UNCT Fiji, submission to the UPR on Fiji, para. 16.
- ⁴² See <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/PacificSummary.aspx>.
- ⁴³ OHCHR Annual Report 2012, p. 243.

- 44 OHCHR Annual Report 2011, p. 316.
- 45 UNCT Fiji, submission to the UPR on Fiji, para. 17.
- 46 Letter of 27 November 2012 from CEDAW on follow-up on concluding observations, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/FJI/INT_CEDAW_FUL_FJI_13494_E.pdf.
- 47 UNCT Fiji, submission to the UPR on Fiji, para. 8.
- 48 CEDAW/C/FJI/CO/4, paras. 20 and 38.
- 49 Ibid., para. 21.
- 50 Ibid., para. 39.
- 51 Ibid., para. 6.
- 52 UNCT Fiji, submission to the UPR on Fiji, para. 18.
- 53 CEDAW/C/FJI/CO/4, para. 35.
- 54 CERD/C/FJI/CO/18-20, para. 9.
- 55 Ibid., paras. 10 and 22.
- 56 Ibid., para. 15.
- 57 UNCT Fiji, submission to the UPR on Fiji, para. 19.
- 58 Ibid., para. 20.
- 59 UNHCR, submission to the UPR on Fiji, p. 4.
- 60 UNCT Fiji, submission to the UPR on Fiji, para. 22.
- 61 Ibid., para. 23.
- 62 UNCT Fiji, submission to the UPR on Fiji, para. 24.
- 63 Ibid., para. 40.
- 64 ILO Committee on Freedom of Association, 370th report, para. 444 (a).
- 65 UNCT Fiji, submission to the UPR on Fiji, para. 25.
- 66 CEDAW/C/FJI/CO/4, para. 20.
- 67 CEDAW/C/FJI/CO/4/Add.1, para. 5.16.
- 68 A/HRC/26/21, p. 42.
- 69 UNCT Fiji, submission to the UPR on Fiji, para. 25.
- 70 CEDAW/C/FJI/CO/4, para. 23.
- 71 Ibid., paras. 24 and 25.
- 72 UNCT Fiji, submission to the UPR on Fiji, para. 13.
- 73 Ibid., para. 29.
- 74 Ibid., para. 27.
- 75 Ibid., para. 28.
- 76 Ibid., para. 31.
- 77 Ibid., para. 30.
- 78 CEDAW/C/FJI/CO/4, para. 10.
- 79 Letter of 27 November 2012 from CEDAW on follow-up on concluding observations, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/FJI/INT_CEDAW_FUL_FJI_13494_E.pdf.
- 80 A/HRC/14/8, para. 71.84–71.92 and 71.95, and A/HRC/14/8/Add.1, p.5.
- 81 UNCT Fiji, submission to the UPR on Fiji, para. 32.
- 82 Ibid., para. 8.
- 83 Ibid., para. 33.
- 84 Ibid., para. 34.
- 85 CEDAW/C/FJI/CO/4/Add.1, para. 5.7.
- 86 Ibid., para. 5.19.
- 87 CERD/C/FJI/CO/18-20, para. 10.
- 88 UNCT Fiji, submission to the UPR on Fiji, para. 35.
- 89 Ibid., para. 11.
- 90 Ibid., para. 36.
- 91 A/HRC/14/8, para. 71.75 and A/HRC/14/8/Add.1, p.5.
- 92 UNCT Fiji, submission to the UPR on Fiji, para. 40.
- 93 A/HRC/14/8, para. 71.75–71.82 and A/HRC/14/8/Add.1, p.5.
- 94 UNCT Fiji, submission to the UPR on Fiji, para. 38.
- 95 Ibid., para. 38.

- ⁹⁶ A/HRC/17/27/Add.1, para. 778.
- ⁹⁷ Ibid., para. 779.
- ⁹⁸ Ibid., para. 781.
- ⁹⁹ UNCT Fiji, submission to the UPR on Fiji, para. 38.
- ¹⁰⁰ UNESCO, submission to the UPR on Fiji, para. 30.
- ¹⁰¹ Ibid., para. 31.
- ¹⁰² UNCT Fiji, submission to the UPR on Fiji, para. 37. See also A/HRC/23/39/Add.2, para. 147.
- ¹⁰³ UNCT Fiji, submission to the UPR on Fiji, para. 26.
- ¹⁰⁴ A/HRC/17/27/Add.1, para. 783.
- ¹⁰⁵ A/HRC/19/55/Add.2, para. 136.
- ¹⁰⁶ A/HRC/23/39/Add.2, para. 149.
- ¹⁰⁷ Letter of 27 November 2012 from CEDAW on follow-up on concluding observations, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/FJI/INT_CEDAW_FUL_FJI_13494_E.pdf.
- ¹⁰⁸ CERD/C/FJI/CO/18-20, paras. 12 and 21.
- ¹⁰⁹ CEDAW/C/FJI/CO/4/Add.1, para. 11.1.
- ¹¹⁰ Ibid., para. 11.4. See also para. 11.5.
- ¹¹¹ CEDAW/C/FJI/CO/4, paras. 26 and 27.
- ¹¹² Letter of 27 November 2012 from CEDAW on follow-up on concluding observations, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/FJI/INT_CEDAW_FUL_FJI_13494_E.pdf. See also letter of 15 November 2013 from CEDAW on follow-up on concluding observations, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/FJI/INT_CEDAW_FUL_FJI_15774_E.pdf.
- ¹¹³ A/HRC/14/8, para. 71.23–71.26 and A/HRC/14/8/Add.1, p.3.
- ¹¹⁴ UNCT Fiji, submission to the UPR on Fiji, para. 39.
- ¹¹⁵ Ibid., para. 9.
- ¹¹⁶ Ibid., para. 39.
- ¹¹⁷ CEDAW/C/FJI/CO/4, paras. 30 and 31.
- ¹¹⁸ Ibid., para. 31.
- ¹¹⁹ UNCT Fiji, submission to the UPR on Fiji, para. 41.
- ¹²⁰ Ibid., para. 42.
- ¹²¹ ILO Committee on Freedom of Association, 370th report, para. 444 (d).
- ¹²² Decision on the eleventh item on the agenda: Complaint concerning non-observance by Fiji of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 102nd Session (2013) of the International Labour Conference under article 26 of the ILO Constitution, on 27 March 2014, available at http://www.ilo.org/gb/decisions/GB320-decision/WCMS_239834/lang--en/index.htm.
- ¹²³ UNCT Fiji, submission to the UPR on Fiji, para. 43.
- ¹²⁴ Ibid., para. 44.
- ¹²⁵ Ibid., para. 45.
- ¹²⁶ Ibid., para. 45.
- ¹²⁷ Ibid., para. 46.
- ¹²⁸ Ibid., para. 47.
- ¹²⁹ CEDAW/C/FJI/CO/4, para. 35.
- ¹³⁰ UNCT Fiji, submission to the UPR on Fiji, para. 51.
- ¹³¹ Ibid., para. 21.
- ¹³² Ibid., para. 44.
- ¹³³ Ibid., para. 53.
- ¹³⁴ Ibid., para. 54.
- ¹³⁵ Ibid., para. 58.
- ¹³⁶ CERD/C/FJI/CO/18-20, para. 16.
- ¹³⁷ UNCT Fiji, submission to the UPR on Fiji, para. 18.
- ¹³⁸ CEDAW/C/FJI/CO/4, para. 29.
- ¹³⁹ A/HRC/14/8, para. 71.43 and A/HRC/14/8/Add.1, p.4.
- ¹⁴⁰ UNESCO, submission to the UPR on Fiji, para. 24.

- ¹⁴¹ CERD/C/FJI/CO/18-20, para. 16.
¹⁴² UNCT Fiji, submission to the UPR on Fiji, para. 14.
¹⁴³ Ibid., para. 59.
¹⁴⁴ Ibid., para. 59.
¹⁴⁵ Ibid., para. 60.
¹⁴⁶ Ibid., para. 61.
¹⁴⁷ CERD/C/FJI/CO/18-20, para. 13.
¹⁴⁸ UNCT Fiji, submission to the UPR on Fiji, para. 62.
¹⁴⁹ CERD/C/FJI/CO/18-20, para. 21.
¹⁵⁰ Ibid., para. 14.
¹⁵¹ UNHCR, submission to the UPR on Fiji, p. 4.
¹⁵² UNCT Fiji, submission to the UPR on Fiji, para. 49.
¹⁵³ Ibid., para. 63.
¹⁵⁴ Ibid., para. 48.
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