



Human Rights Council
Working Group on the Universal Periodic Review
Thirty-fourth session
4–15 November 2019

Compilation on Fiji

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies^{1, 2}

2. The Office of the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for the Pacific recommended that Fiji ratify the Optional Protocols to the core human rights instruments the State had ratified.³

3. The OHCHR Regional Office for the Pacific recommended that Fiji withdraw its reservations to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, particularly those to articles 1, 14 and 20 relating to the definition of torture, compensation and confidential inquiry procedures.⁴

4. The United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged the State to ratify the Convention against Discrimination in Education.⁵

5. The Committee on the Rights of the Child recommended that the State consider ratifying the Convention on the Reduction of Statelessness.⁶

6. The same Committee recommended that the State ratify the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).⁷

7. The OHCHR Regional Office for the Pacific recommended that Fiji respond positively to the requests for country visits from the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the situation of human rights defenders.⁸



III. National human rights framework⁹

8. The OHCHR Regional Office for the Pacific noted that although article 11 of the Constitution prohibited torture, it did not provide a definition of torture.¹⁰

9. The Committee on the Elimination of Discrimination against Women recommended that the State criminalize statutory rape under all circumstances.¹¹

10. The Committee on the Rights of the Child urged the State to adopt and implement a comprehensive strategy to eliminate de jure and de facto discrimination and enact legislation specifically prohibiting all forms of discrimination based on race, sex, disability and real or perceived HIV/AIDS status.¹²

11. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance reiterated the recommendation made by the Committee on the Elimination of Racial Discrimination that Fiji adopt comprehensive legislation against racism and racial and ethnic discrimination, including a national action plan, and establish racial/ethnic motives as aggravating circumstances in the criminal legislation.¹³

12. The Committee on the Elimination of Discrimination against Women recommended that the State bring the Human Rights and Anti-Discrimination Commission fully into line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and modify the rules governing the nomination and dismissal of its members, thereby enabling the Commission to carry out its mandate independently.¹⁴

13. The Special Rapporteur on racism noted that the law prohibited the Human Rights and Anti-Discrimination Commission from investigating any human rights and discrimination cases relating to the 2006 coup and the 2009 abrogation of the Constitution in force at the time.¹⁵

14. The Committee on the Elimination of Discrimination against Women recommended that the State vest the Commission with the authority necessary to receive and investigate complaints about alleged violations of human rights, in particular women's rights, including with regard to legislation adopted between 2006 and 2013. The OHCHR Regional Office for the Pacific made a similar recommendation.¹⁶

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

A. Cross-cutting issues

1. Equality and non-discrimination¹⁷

15. The Special Rapporteur on racism was concerned that the space and opportunities to constructively discuss issues of ethnicity and race within society at large remained quite limited.¹⁸

16. The Special Rapporteur on the right to education stated that following the elimination of single-ethnicity schools and the mandating of compulsory teaching of Vosa Vaka-Viti and Fiji Hindi at a conversational level in schools, measures aimed at promoting respect for cultural diversity and mutual respect must be intensified, as cultural diversity was inseparable from linguistic diversity in a multicultural society.¹⁹

17. The Committee on the Rights of the Child regretted that children with disabilities were often faced with extreme poverty, and that insufficient measures were taken by the State to ensure the effective access of children with disabilities to health, education and social services, and to facilitate their full inclusion into society.²⁰

18. The Independent Expert on the enjoyment of human rights by persons with albinism stated that during her country visit she had received accounts of discrimination in access to

and maintenance of employment, disregard for the needs of pupils with albinism in school settings, leading to early school dropout, discrimination in access to social welfare, and abandonment of children and cases of divorce as a result of the birth of children with albinism.²¹

19. The OHCHR Regional Office for the Pacific noted that despite the constitutional prohibition on discrimination based on sexual orientation, equality for lesbian, gay, bisexual, transgender and intersex persons was still a debated topic in Fiji and that members of the lesbian, gay, bisexual, transgender and intersex community had been subjected to violence and discrimination.²²

20. The Committee on the Elimination of Discrimination against Women recommended that the State make the necessary legislative changes and implement a policy to eliminate discrimination, hate speech and violence against lesbians and bisexual and transgender women, including by prosecuting and adequately punishing perpetrators, and conduct awareness-raising activities to address stigma within society. It also recommended that the State allow changes in gender to be recorded on birth certificates.²³

21. The Special Rapporteur on racism noted that there was a lack of disaggregated data, especially regarding the socioeconomic situation of members of the different ethnic groups and gender analysis, in relation to the different policies and programmes the current Government had put in place.²⁴

22. The Independent Expert on albinism recommended that the State ensure the systematic collection of data on disabilities that followed the methodology of the Washington Group on Disability Statistics, and include albinism as a category in that methodology and in population censuses and other surveys.²⁵

23. UNESCO encouraged the State to promote access to and participation in cultural heritage and creative expressions, giving due consideration to the participation of communities, practitioners, cultural actors and non-governmental organizations (NGOs) from civil society as well as vulnerable groups, including minorities, indigenous peoples, migrants, refugees, young people and people with disabilities, and ensuring that equal opportunities were given to women and girls to address gender disparities.²⁶

2. Development, the environment, and business and human rights²⁷

24. The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment noted high levels of littering, dumping and burning of garbage, causing air, water and soil pollution and posing health risks. He noted that improving solid waste management services would be a good investment for the State.²⁸

25. The same Special Rapporteur noted that landowners had reported that extensive mineral exploration activities were affecting their lands, without consultations having been held and prior to the completion of any environmental assessment.²⁹

26. The Committee on the Elimination of Discrimination against Women recommended that the State protect rural women from land grabbing and ensure that their prior informed consent and adequate benefit-sharing arrangements were required in any decisions regarding agreements on the lease or sale of land.³⁰

27. The same Committee recommended that the State set up public funds to support families in the wake of disasters and create a system for the immediate supply of basic necessities, including water and sanitation, food and urgently needed medication, in case of emergency.³¹

28. The Committee recommended that the State ensure that women participated in the drafting of plans and strategies for disaster preparedness, and that it ensure that disaster preparedness plans included provision for setting up women-only shelters, where women could report cases of gender-based violence and obtain access to redress and rehabilitation.³²

B. Civil and political rights

1. Right to life, liberty and security of person³³

29. The OHCHR Regional Office for the Pacific stated that incidents of torture and ill-treatment continued to occur. It remained concerned about conditions of detention and violations and abuses reported at corrections facilities. It recommended that Fiji provide prison officers with guidance on the lawful treatment of criminal suspects in custody and convicted prisoners.³⁴

30. The Committee on the Rights of the Child urged the State to ensure that detention conditions were compliant with international standards, including with regard to access to education and health services.³⁵

31. The same Committee urged the State to promote alternative measures to detention, such as diversion, probation, mediation, counselling or community service, wherever possible, and ensure that detention was used as a last resort and for the shortest possible period of time, and that it was reviewed on a regular basis with a view to withdrawing it.³⁶

2. Administration of justice, including impunity, and the rule of law³⁷

32. The Committee on the Elimination of Discrimination against Women recommended that the State repeal provisions under section 6 (5) of the Constitution for limiting guaranteed rights, and comply with international human rights law prohibiting immunity for those responsible for serious human rights violations, bring perpetrators to justice and repeal the legal prohibition on challenging decisions of the interim military Government.³⁸

33. The Committee on the Rights of the Child recommended that the State amend legislation and establish awareness-raising campaigns to ensure that traditional apologies such as *bulubulu* were neither used as a mitigating factor, nor as reparation for sexual abuse and exploitation of children, and further strengthen implementation of the no-drop policy.³⁹

34. The same Committee urged the State to raise the minimum age of criminal responsibility to an internationally accepted level, establish additional specialized juvenile court facilities and designate specialized judges for children, and ensure that those judges received appropriate education and training. It also urged the State to ensure that no life sentences were imposed on children.⁴⁰

3. Fundamental freedoms and the right to participate in public and political life⁴¹

35. The Committee on the Elimination of Discrimination against Women remained concerned about the possibility under the Constitution, the Public Order (Amendment) Decree of 2012 and the Media Industry Development Decree of 2010 of restricting freedom of expression, assembly and association and, moreover, the fact that such restrictions might be intensified under the parliamentary powers and privileges bill of 2016.⁴²

36. The OHCHR Regional Office for the Pacific stated that the sedition provisions of the Crimes Act 2009 had been used to target the media and dissenting voices.⁴³

37. UNESCO encouraged the State to revise the Penal Code to remove sedition charges for acts of speech, in line with international standards.⁴⁴

38. The OHCHR Regional Office for the Pacific stated that overly broad legislation had been used to prosecute journalists whose work was deemed to be against the “public interest or public order”, with violations punishable by fines of up to F\$1,000 or imprisonment of up to two years under the Media Industry Development Decree of 2010. It also noted that media organizations could be fined up to F\$100,000 for breaching the Act.⁴⁵

39. The Special Rapporteur on racism recalled that the lack of a proper definition of what constituted racist or hate speech gave wide-ranging discretionary powers to the Media Industry Development Authority and the executive to prohibit the publication of certain content by the media.⁴⁶

40. The Special Rapporteur on environment noted concerns expressed by environmentalists and human rights activists about being threatened. Some had mentioned government actions that had made them feel intimidated.⁴⁷

41. The OHCHR Regional Office for the Pacific stated that in May 2018, Fiji had introduced the Online Safety Act with a view to promoting safe online culture and behaviours and addressing cyberbullying, cyberstalking, Internet trolling and exposure to offensive or harmful content, particularly in respect of children. It noted that one of the key concerns raised was the use of the term “harm” in the Act, defined as “serious emotional distress”, and stated that the definition was too vague and broad and left the entire concept open to abuse.⁴⁸

42. The Special Rapporteur on racism recommended that measures to address racial and ethnic incitement on the Internet and social media be designed and implemented from a multi-stakeholder approach, while keeping within the provisions of international human rights law and, in particular, the protection of freedom of expression and opinion.⁴⁹

43. UNESCO encouraged the State to assess the system for issuing broadcast licences in order to ensure that the process was transparent and independent.⁵⁰

44. The Committee on the Elimination of Discrimination against Women recommended that the State ease registration requirements for NGOs. It also recommended that the State review the Public Order (Amendment) Decree of 2012 and repeal the undue restrictions placed on civil society and the press, thereby ensuring that NGOs, including women’s rights organizations, women human rights defenders and journalists, could carry out their work effectively.⁵¹

45. With regard to the practical application of the Public Order (Amendment) Decree, the ILO Committee of Experts on the Application of Conventions and Recommendations noted the allegations of the Fiji Trades Union Congress that permission for union meetings and public gatherings continued to be arbitrarily refused.⁵²

46. The ILO Committee of Experts observed that the Political Parties Decree was unduly restrictive in prohibiting membership in a political party or any expression of political support or opposition by officers of employers’ or workers’ organizations.⁵³

4. Prohibition of all forms of slavery⁵⁴

47. The ILO Committee of Experts requested the Government to continue its efforts to ensure that thorough investigations and prosecutions were carried out against perpetrators of trafficking in persons. It also requested the Government to take the necessary measures to ensure the effective implementation of the National Action Plan for the Eradication of Human Trafficking.⁵⁵

48. The Committee on the Elimination of Discrimination against Women recommended that the State strengthen mechanisms to identify, protect and assist victims of trafficking and sexual exploitation and to provide them with legal support.⁵⁶

49. The ILO Committee of Experts observed that sections 65 (2) and 67 (b), (c) and (d) of the Crimes Decree and sections 10 and 13 of the Public Order (Amendment) Decree were formulated in such general terms that they might lead to the imposition of penalties involving compulsory labour as a punishment for the peaceful expression of views or of opposition to the established political, social or economic system.⁵⁷

50. The ILO Committee of Experts reminded the Government that no sanctions involving compulsory labour could be imposed for the mere fact of organizing or peacefully participating in strikes, both in legislation and in practice.⁵⁸

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work⁵⁹

51. The Committee on the Rights of the Child was concerned that the education system was not being well adapted to the needs of the community and labour force, with a significant number of the State's school leavers being unable to find employment.⁶⁰

52. The Committee urged the State to complement the Employment Relations Promulgation by including a definition and a list of hazardous work that were consistent with international standards. It also urged the State to employ and train sufficient labour inspectors, and to ensure that thorough investigations and robust prosecutions of persons violating labour laws were carried out and that sufficiently effective and dissuasive sanctions were imposed in practice.⁶¹

53. The ILO Committee of Experts noted with concern the allegations raised by the Fiji Trades Union Congress that harassment and intimidation of trade unionists continued. It also noted that, according to the Fiji Trades Union Congress, legitimate union activities like organizing demonstrations, holding meetings and resolving disputes had become difficult, if not impossible.⁶²

54. The Committee on the Elimination of Discrimination against Women recommended that the State adopt and implement policies, with time-bound targets and indicators, to increase opportunities for women in formal employment, eliminate occupational segregation and achieve substantive equality in the labour market.⁶³

55. The Committee recommended that the State redouble efforts to enforce the prohibition of dismissal of pregnant women, ensure that women in all industries had a right to paid maternity leave and amend legislation to regulate the provision of maternity leave benefits, whether through compulsory social insurance or a fund to avoid the employer's liability for their payment. It also recommended that the State amend legislation to allow for paternity leave.⁶⁴

56. The ILO Committee of Experts urged the Government to make the necessary changes to section 78 of the Employment Relations Promulgation so as to give full legislative expression to the principle of equal remuneration for men and women for work of equal value.⁶⁵

2. Right to social security

57. The Committee on the Rights of the Child recommended that the State strengthen social protection systems to ensure that children and families affected by climate change would receive sufficient and adequate support.⁶⁶

58. The Committee on the Elimination of Discrimination against Women noted with concern that the early age of retirement might increase women's risk of old-age poverty, and recommended that the State set up a public fund to pay pension contributions for women while they took leave to raise their children, and revise the current age of retirement for women to allow for accrued pension benefits.⁶⁷

3. Right to an adequate standard of living⁶⁸

59. The Committee on the Rights of the Child recommended that the State take all the necessary measures to provide support and material assistance to economically disadvantaged families and undertake structural changes in order to address child poverty. It stated that a particular focus should be placed on ensuring priority access to services for all families and children at risk, paying particular attention to children from Indo-Fijian communities and children with disabilities.⁶⁹

60. The United Nations Human Settlements Programme (UN-Habitat) stated that rapid urban growth had increased the demand for quality and reasonable housing at affordable prices, and that the internal migration had put increasing pressure on urban centres, their infrastructure and their surrounding environment.⁷⁰

61. The Special Rapporteur on environment stated that some informal settlements and rural areas still lacked access to safe water sources. Most people in informal settlements, including children, lacked access to adequate sanitation. The State also had much work to do in connecting more households to public wastewater collection and treatment systems.⁷¹

62. The Committee on the Rights of the Child recommended that the State finalize and implement national legislation and policies for sustainable safe water supplies and sanitation, with a view to increasing access to sufficient safe drinking water and providing adequate sanitation, in particular on the outer islands.⁷²

63. The Committee on the Elimination of Discrimination against Women noted with concern that women, in particular those living in rural areas and in squatter settlements in urban areas, were exposed to high levels of poverty, gender-based violence and harassment and had limited access to food, water, sanitation and electricity.⁷³

4. Right to health⁷⁴

64. The Committee on the Elimination of Discrimination against Women noted with concern that health facilities in the State were insufficiently equipped and that services were poorly coordinated. It recommended that the State allocate the resources necessary to increase the availability of good-quality and sustainable health services.⁷⁵

65. The Committee on the Rights of the Child recommended that the State pay particular attention to the urban/rural divide and ensure that all children enjoy the same access to and quality of health services, including in remote and rural areas, and take specific measures to reduce the disparity in service access.⁷⁶

66. The same Committee recommended that the State strengthen its efforts to further reduce the under-5 and infant mortality rates, in particular by focusing on preventive measures and treatment, including immunization and improved nutrition and sanitary conditions, in particular in remote areas.⁷⁷

67. The Committee urged the State to ensure that all children, in particular children in remote areas, children living in poverty, children in street situations, children who were out of school and children being cared for out of the home, had equal access to social workers and psychological counselling services. It recommended that, in taking those measures, the State place particular attention on children from Indo-Fijian communities.⁷⁸

68. The Committee on the Elimination of Discrimination against Women noted that the confidentiality of female patients was often not respected, that health personnel often sought the husband's consent before providing treatment to a married woman and that a considerable number of women believed that they required their partner's permission to seek access to health services.⁷⁹

69. The Committee on the Rights of the Child recommended that the State enforce its efforts to improve prenatal care and further reduce maternal mortality, including by increasing the training of midwives and ensuring the generalization of specific actions to prevent post-partum bleeding and other major causes of maternal death.⁸⁰

70. UNESCO encouraged the State to include comprehensive sexuality and reproductive health education into the curriculum to reduce high rates of early pregnancy.⁸¹

71. The Committee on the Elimination of Discrimination against Women recommended that the State also legalize abortion in cases of rape, incest or severe fetal impairment, decriminalize it in all other cases and ensure access to safe abortion and post-abortion care.⁸²

5. Right to education⁸³

72. The Special Rapporteur on education noted that disparities between rural and urban students and between iTaukei and other students remained.⁸⁴

73. The same Special Rapporteur stated that disparities in wealth among communities perpetuated differences in the quality of education, but noted that government programmes aimed at poor children were improving the situation.⁸⁵

74. The Committee on the Rights of the Child noted that indirect costs, such as for uniforms, books and transport, partly remained in place, leading to children dropping out of school as their families could not afford those costs.⁸⁶

75. The Special Rapporteur on education stated that the Education Act of 1978 needed to be updated, as it contained provisions on school fees that were not in consonance with the 2013 Constitution or the Education Sector Strategic Development Plan for the period 2015–2018 with respect to providing education free of cost.⁸⁷

76. The Committee on the Rights of the Child recommended that the State further increase schooling opportunities in remote areas, as well as transportation services.⁸⁸

77. UNESCO encouraged the State to ensure that financial resources were distributed to ensure that the quality of education was equitable between schools in urban areas and those in rural and maritime areas.⁸⁹

78. The Committee on the Rights of the Child was concerned about rural schools being frequently faced with a lack of access to water, electricity or means of communication.⁹⁰

79. The Committee on the Elimination of Discrimination against Women recommended that the State ensure that schools that had been destroyed or affected by disasters were renovated or rebuilt speedily in conformity with disaster resilience standards and provided appropriate hygiene and sanitation facilities.⁹¹

80. The Special Rapporteur on education noted that teachers were reluctant to be posted to schools on small outlying islands and in remote areas because of poor living conditions and lack of proper infrastructure and utilities.⁹²

81. UNESCO encouraged the State to strengthen further the teaching profession and improve financial incentives, especially to encourage teachers to work in remote and maritime schools.⁹³

82. The Committee on the Rights of the Child was concerned about adolescent pregnant girls or adolescent mothers being frequently forced to drop out of school. The Committee on the Elimination of Discrimination against Women recommended that the State ensure that no pressure was placed on pregnant teenage girls to leave school or change courses and establish a reintegration policy for teenage mothers.⁹⁴

83. The Special Rapporteur on education noted that there was an urgent need for a public information campaign to deal with social stigma and to educate teachers, parents and children to promote the right to education for children with disabilities.⁹⁵

84. The Independent Expert on albinism noted that secondary education dropout rates for pupils with disabilities remained high, mainly due to a lack of reasonable accommodation and assistive devices.⁹⁶

85. The Committee on the Rights of the Child recommended that the State ensure that the development of inclusive education was given priority over special schooling and train teachers accordingly, as well as provide full access for children with disabilities to secondary education.⁹⁷

86. The Committee on the Elimination of Discrimination against Women recommended that the State adopt an anti-bullying policy and introduce adequate awareness-raising measures in educational institutions to prevent all forms of harassment and violence against students, including lesbian, bisexual and transgender students.⁹⁸

D. Rights of specific persons or groups

1. Women⁹⁹

87. The Committee on the Elimination of Discrimination against Women noted with concern that rural women bore an unequal burden of family responsibilities and that traditional attitudes compelled them to perform unpaid work and to provide food for their families.¹⁰⁰

88. The same Committee noted with concern the persistent perception among law enforcement officials that domestic violence was a private matter, the intimidation of victims by the police, reluctance to adhere to the “no-drop” policy or to issue domestic violence restraining orders, and the fact that victims were encouraged, despite the policy of zero tolerance, to resort to traditional apology and reconciliation procedures. It also noted with concern that perpetrators of gender-based violence against women frequently enjoyed impunity or received lenient sentences owing to gender stereotypes among the judiciary.¹⁰¹

89. The Committee on the Rights of the Child urged the State to strengthen and fully implement legislation punishing domestic violence, and ensure that traditional apologies were under no circumstances accepted as a mitigating factor. It urged the State to take all the necessary measures, including awareness-raising campaigns, to change attitudes and encourage girls and women to report domestic violence. The Committee also urged the State to establish sufficient shelters for women and children, with integrated counselling services, including in remote areas, and provide those with sufficient human, technical and financial resources, to continue close cooperation with civil society organizations providing shelters for women and children, and to ensure that women who had fled from an abusive partner who was the family’s breadwinner had access to financial support for their children and themselves.¹⁰²

90. The ILO Committee of Experts requested the Government to continue taking measures to promote awareness of sexual harassment in the workplace.¹⁰³

91. The Committee on the Elimination of Discrimination against Women recommended that the State adopt temporary special measures, including a minimum quota of at least 30 per cent of women candidates on the electoral lists of political parties, and recruit, support financially and train women candidates for public office, in particular at the decision-making level.¹⁰⁴

2. Children

92. The Committee on the Rights of the Child noted with serious concern that corporal punishment was not explicitly prohibited in the home, alternative care settings and day care and reiterated its recommendation to comprehensively prohibit corporal punishment by law.¹⁰⁵

93. The same Committee was gravely concerned about the high number of children engaged in child labour, most of them working in informal ways for families as domestic workers, labourers or farm workers, and that child labour was being exacerbated by factors such as urban migration, poverty, homelessness and children living away from parents.¹⁰⁶

94. The ILO Committee of Experts urged the Government to take effective and time-bound measures to remove children from the worst forms of child labour, taking into account the special situation of girls.¹⁰⁷

95. The Committee on the Rights of the Child urged the State to take every necessary measure to tackle the root causes of child labour while at the same time implementing and further strengthening its legal framework to eradicate child labour, including in the informal and private sectors.¹⁰⁸

96. The Committee noted with deep concern that sexual exploitation and abuse of children was prevalent in the country, including through organized child prostitution networks and brothels. It regretted that children with disabilities, particularly girls, were more vulnerable to sexual exploitation and violence, including prostitution.¹⁰⁹

97. The Committee on the Elimination of Discrimination against Women recommended that the State enforce the prohibition of child marriage, prohibit all forms of pressure on victims of rape to marry perpetrators and increase efforts to prosecute and punish perpetrators and accomplices in cases of child marriage.¹¹⁰

98. The Committee on the Rights of the Child recommended that the State ensure periodic review of the placement of children in foster care and institutions, and monitor the quality of care therein, including by providing accessible channels for reporting, monitoring

and remedying the maltreatment of children, while making sure that residential homes were allocated adequate human, technical and financial resources.¹¹¹

99. The same Committee recommended that the State take all the necessary measures to ensure that birth registration fees, including fees for late registration, were permanently abolished. It also recommended that it place particular focus on groups of children whose birth registration remained a serious concern, including continuing to develop measures to increase birth registration in remote areas, and among children from minority groups.¹¹²

3. Persons with disabilities¹¹³

100. The OHCHR Regional Office for the Pacific recommended that Fiji effectively implement the Rights of Persons with Disabilities Act 2018 and, in particular, design and implement specific psychosocial support programmes aimed at effectively addressing the accumulated experiences of discrimination and stigmatization faced by persons with disabilities, with a view to providing a space for expression, the building of self-confidence and empowerment.¹¹⁴

101. The Committee on the Elimination of Discrimination against Women was concerned about the high rates of discrimination against women with disabilities in the State, and recommended that the State promote a positive image of women and girls with disabilities and ensure that they had effective access to justice, political participation, education, employment and health care, including sexual and reproductive health-care services.¹¹⁵

102. The Committee on the Rights of the Child regretted that the number of well-trained professionals working with and for children with disabilities was insufficient, and that there were no speech therapists in the country.¹¹⁶

103. The Independent Expert on albinism noted with concern that the 2011 National Housing Policy did not include specific sections and policies on the housing needs of persons with disabilities, including persons with albinism, with regard to the required standards of building construction and maintenance, or to programmes for the development of accessible and adequate housing.¹¹⁷

104. The same Independent Expert noted that persons with albinism, in particular women, who had been neglected by their families and their local communities, and who were without support or strong social ties, found themselves in a particularly vulnerable situation, fighting prejudice and the challenges of their health condition, and trying to financially provide for themselves.¹¹⁸

105. The Independent Expert recommended that the State further develop health-care measures, including services specifically dedicated to skin and eye treatment for persons with albinism, and ensure sustainable financial support for those services, including through international cooperation.¹¹⁹

106. The Independent Expert noted that the Ministry of Employment, Productivity and Industrial Relations did not collect data on the number of businesses that hired persons with disabilities, or on the total number of persons with disabilities employed in the public and private sectors.¹²⁰

4. Minorities and indigenous peoples¹²¹

107. The Special Rapporteur on racism had been made aware of the underrepresentation of Fijians of Indian descent in the Government; in the private sector, where businesses were mainly split on ethnic lines, iTaukei persons were underrepresented. The division along ethnic lines was particularly striking in the police and the armed forces, which were more than 90 per cent iTaukei.¹²²

108. The same Special Rapporteur stated that the issue of landownership had been an ongoing source of contention between the iTaukei and Fijians of Indian descent. The iTaukei held approximately 87 per cent of all land, the Government 4 per cent and the remaining land was freehold land, which private individuals or companies held. It was estimated that Fijians of Indian descent owned about 3 per cent of the freehold land.¹²³

109. The Special Rapporteur stated that most of the cash-crop farmers were Fijians of Indian descent, the majority of whom were the descendants of Indian indentured labourers. Almost all leased their land from iTaukei landowners. Concerns had been raised that the limits placed on their ability to own land, and their consequent dependency on the iTaukei, constituted de facto discrimination.¹²⁴

110. The Committee on the Elimination of Discrimination against Women noted with concern that article 28 of the Constitution, under which Fijians of Indian descent were allowed only to lease land, was a violation of the guarantee of equal treatment and placed rural Fijian women of Indian descent in a particularly vulnerable situation.¹²⁵

5. Migrants, refugees and asylum seekers

111. The Committee on the Rights of the Child recommended that the State amend part 6 of the Immigration Act in order to provide for special provisions protecting accompanied and unaccompanied refugee and asylum-seeking children, and introduce provisions on family reunification into the Immigration Act.¹²⁶

6. Stateless persons

112. The Committee on the Rights of the Child took note of article 7 of the Citizens Decree, which stipulated that any infant found abandoned in Fiji was deemed to have been born in Fiji unless there was evidence to the contrary. The Committee was concerned that the stipulation might carry a risk of statelessness for children of whom it could be proven that they had not been born in Fiji, but whose nationality could nevertheless not be established.¹²⁷

Notes

- ¹ Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Fiji will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/FJIndex.aspx.
- ² For relevant recommendations, see A/HRC/28/8, paras. 99.1–99.16, 99.27–99.31, 100.1, 101.1–101.9, 101.13 and 101.15–101.29.
- ³ OHCHR Regional Office for the Pacific submission for the universal periodic review of Fiji, fourth page. See also CRC/C/FJI/CO/2-4, para. 73; CEDAW/C/FJI/CO/5, para. 10.
- ⁴ OHCHR Regional Office for the Pacific submission, sixth page.
- ⁵ UNESCO submission for the universal periodic review of Fiji, para. 14 (1). See also A/HRC/32/37/Add.1, para. 109; A/HRC/35/41/Add.3, para. 63 (a).
- ⁶ CRC/C/FJI/CO/2-4, para. 27.
- ⁷ *Ibid.*, para. 66 (e).
- ⁸ OHCHR Regional Office for the Pacific submission, fourth page.
- ⁹ For relevant recommendations, see A/HRC/28/8, paras. 99.17–99.25, 100.2–100.3, 101.10–101.12 and 101.14.
- ¹⁰ OHCHR Regional Office for the Pacific submission, para. 11.
- ¹¹ CEDAW/C/FJI/CO/5, para. 30 (a).
- ¹² CRC/C/FJI/CO/2-4, para. 23 (a). See also CEDAW/C/FJI/CO/5, para. 14.
- ¹³ A/HRC/35/41/Add.3, para. 54.
- ¹⁴ CEDAW/C/FJI/CO/5, para. 20. See also OHCHR Regional Office for the Pacific submission, ninth page; A/HRC/32/37/Add.1, paras. 101 and 117; A/HRC/35/41/Add.3, para. 63 (b); A/HRC/40/62/Add.1, para. 79 (d).
- ¹⁵ A/HRC/35/41/Add.3, para. 33.
- ¹⁶ CEDAW/C/FJI/CO/5, para. 20; OHCHR Regional Office for the Pacific submission, ninth page.
- ¹⁷ For relevant recommendations, see A/HRC/28/8, paras. 99.49–99.51.
- ¹⁸ A/HRC/35/41/Add.3, para. 58.
- ¹⁹ A/HRC/32/37/Add.1, para. 123.
- ²⁰ CRC/C/FJI/CO/2-4, para. 39 (a).
- ²¹ A/HRC/40/62/Add.1, para. 34.
- ²² OHCHR Regional Office for the Pacific, para. 13.
- ²³ CEDAW/C/FJI/CO/5, para. 52.
- ²⁴ A/HRC/35/41/Add.3, para. 52.

- 25 A/HRC/40/62/Add.1, para. 81 (a).
- 26 UNESCO submission, para. 18.
- 27 For relevant recommendations, see A/HRC/28/8, para. 99.26.
- 28 End of mission statement, 17 December 2018,
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- 29 Ibid.
- 30 CEDAW/C/FJI/CO/5, paras. 49 (g) and 50 (e).
- 31 Ibid., para. 54 (a).
- 32 Ibid., para. 54.
- 33 For relevant recommendations, see A/HRC/28/8, paras. 99.52–99.55, 99.57–99.58 and 100.5.
- 34 OHCHR Regional Office for the Pacific submission, sixth page.
- 35 CRC/C/FJI/CO/2-4, para. 72 (e).
- 36 Ibid., para. 72 (d).
- 37 For relevant recommendations, see A/HRC/28/8, paras. 99.59–99.60, 99.56, 100.6–100.8 and 101.31.
- 38 CEDAW/C/FJI/CO/5, para. 16 (a) and (b).
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- 40 Ibid., para. 72 (a)–(c).
- 41 For relevant recommendations, see A/HRC/28/8, paras. 99.64–99.74, 100.10–100.12 and 101.33–101.40.
- 42 CEDAW/C/FJI/CO/5, para. 21 (b).
- 43 OHCHR Regional Office for the Pacific submission, para. 6.
- 44 UNESCO submission, para. 15.
- 45 OHCHR Regional Office for the Pacific submission, para. 5.
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- 48 OHCHR Regional Office for the Pacific submission, para. 7.
- 49 A/HRC/35/41/Add.3, para. 63 (c).
- 50 UNESCO submission, para. 17.
- 51 CEDAW/C/FJI/CO/5, para. 22.
- 52 See
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- 54 For relevant recommendations, see A/HRC/28/8, paras. 99.47–99.48.
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- 68 For relevant recommendations, see A/HRC/28/8, paras. 99.75–99.78.
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- 87 A/HRC/32/37/Add.1, para. 97.
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- 108 CRC/C/FJI/CO/2-4, para. 66.
- 109 Ibid., paras. 32 and 39 (b).
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- 113 For relevant recommendations, see A/HRC/28/8, paras. 99.85–99.86.
- 114 OHCHR Regional Office for the Pacific submission, seventh page.
- 115 CEDAW/C/FJI/CO/5, paras. 57–58.
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- 121 For relevant recommendations, see A/HRC/28/8, para. 101.30.
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