



**International Human Rights
Instruments**

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Core document forming part of the reports of States parties

Addendum

**Common core document forming part of the reports of States
parties**

Fiji*

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I. Introduction

1. This content is in line with the general guidelines regarding the form and content of periodic reports to be submitted by States parties (HRI/GEN/2/Rev.5)
2. The report is to be taken as an update of the common core document of Fiji that was submitted for the Convention on the Elimination of all Forms of Discrimination against Women (HRI/CORE/FJI/2006). It is to be read with the Universal Periodic Review report of November 2010 and the common core document as part of the 2nd, 3rd and 4th reports of Fiji on the Convention on the Rights of the Child submitted to the secretariat of the Committee on the Rights of the Child in August 2011.

II. Demographic, social and economic characteristics

3. Fiji's total land area of 18,272 square kilometres is spread over more than 300 islands of which some 100 are inhabited. At the time of the 2007 Census of Population and Housing, the population of Fiji was 837,271, comprising 427,176 males (51 per cent) and 410,095 females (49 per cent). The median age was 23.6 years. Fiji's population grew by approximately 0.7 per cent per year between the previous census in 1996 and the 2007 census – a slow growth rate, caused by high rates of emigration and the low fertility rate among the Fijian of Indian origin component of the population.

4. The ethnic composition of Fiji's population as in the 2007 census is tabulated below:

Table: Ethnic composition of the population of Fiji

<i>Ethnicity</i>	<i>Number</i>
Fijian (Indigenous – iTaukei)	475, 739
Fijian (Indian origin)	313, 798
Fijian (of ethnic origin other than the above two)	47, 734

5. The economically active and religious composition of the population of Fiji as in the 2007 Census is tabulated below:

Table: Religious composition of the population of Fiji

<i>Religion</i>	<i>Number</i>
Christian	539,553
Hindu	233,414
Muslim	52,505
Sikh	2,540
Other Religions	2,181
No Religion	7,078

Source: 2007 Population Census, Fiji Bureau of Statistics

Table: Economically active population of Fiji

<i>Number of Persons 15 years & over</i>	<i>Active</i>		<i>Not Active (includes home workers, students, retirees etc)</i>
	<i>Employed</i>	<i>Unemployed</i>	
594,150	326,988	28,014	267,162

Source: 2007 Population Census, Fiji Bureau of Statistics

6. Updated 2010 Population Estimates by the Fiji Bureau of Statistics according to age and other key indicators are as follows:

- Total population: 849,809
- Population density: 46.4 per km²
- Age:
 - 0-14 years: 29.1%
 - 15-64 years: 65.9%
 - 65 years and over: 5.0%
 - Less than 9 years: 168,477
 - 10- 14 years: 78,853
 - 15- 19 years: 79,166
 - 20- 24 years: 74,930
- Rate of natural increase: 1.8%
- Total live births (per 1,000): 22,089
- Crude birth rate (per 1000): 24.7%
- Crude death rate (per 1000): 7.1%
- Infant mortality rate (per 1000 live births): 13.1%
- Perinatal Mortality:
 - Stillbirth and early neonatal deaths /1,000 live births: 14.3
- Neonatal Mortality
 - Deaths 0-28 days)/1000 live births: 8.0
- Post-neonatal Mortality
 - Deaths (1-12 months)/1000 live births: 5.1
- Under 5 mortality rate/1,000 live births: 17.7
- Maternal mortality rate/100,000 Live Birth: 22.6
- Life expectancy at birth: 67.5
 - Male: 65.3
 - Female: 69.6
- Gross fertility rate/1000 CBA: 104.4

7. The annual growth rate for 2008 was 0.2 per cent, following a 1.3 per cent contraction in 2009 and 1.0 per cent growth in 2008. The domestic economy is projected to grow by 2.1 per cent for 2011. The 2012 National Budget estimates total revenue of \$1.943 billion and a total estimated expenditure of \$2.078 billion. The estimated net deficit is \$135.1 million or a net deficit of 1.9 per cent of the nominal GDP at \$7.22 billion. The corporate tax rate has been reduced from 25 per cent to 7 per cent for lower band income earners; 31 per cent to 18 per cent for middle income earners and 31 per cent to 18 per cent for middle income earners and 31 per cent to 20 per cent for the top band.

8. Total arrivals, not including resident, totalled 631,868 in 2010 and 563,642 in the first 10 months of 2011.

Inflation

9. In October, 2011 inflation was 9.1 per cent with expectations were that by December that it would be around 6.5 per cent. Inflation in 2012 is forecast at 3.5 per cent based on expectations of further easing in crude oil and food prices, modest domestic economic growth and weakening impact of the higher electricity tariff and VAT rate.

Foreign reserves

10. In 2010, the foreign reserves stood at around \$1.299 billion while bank liquidity was around \$348.4 million. The average foreign reserve for the first 11 months of 2011 stood at around \$1.461 billion while the average bank liquidity for the same period significantly rose to around \$522 million.

III. Constitutional, political and legal structure of the State

Abrogation of the 1997 Constitution

11. His Excellency the then President of Fiji, Ratu Joseva Iloilovatu Uluivuda abrogated the 1997 Constitution on 10 April 2009 after the Court of Appeal ruling created a legal vacuum, a constitutional anomaly which would have also prevented the implementation of the reforms which were earlier mandated by him, to achieve a truly democratic State.

12. On 10 October 2010, Fiji celebrated its 40th year of its independence and the 40th anniversary of its membership of the United Nations. Fijians embraced their independence, full of enthusiasm, excited by the prospect of deciding their own future and believing that their communities as a whole would work together in order to achieve a better life for all.

The road to democracy and parliamentary rule “The Roadmap”

13. The Roadmap for Democracy and Sustainable Socio-Economic Development (RDSSSED) 2009-2014 sets out the framework to achieve sustainable democracy, good and just governance, socio-economic development and national unity.

14. The key foundation of the Roadmap is the People’s Charter for Change Peace and Progress (PCCPP) which was compiled through an unprecedented nationwide consultation process, involving a wide range of stakeholders.

15. The Roadmap is aligned to the mandate handed down by His Excellency, the President in 2007, as well as the Strategic Framework for Change (SFC) announced by the Prime Minister on 1 July 2009. The SFC articulates the formulation of a new Constitution and elections based on equality, equal suffrage, human rights, justice, transparency, modernity and true democratic ideals as mandated by the President.

16. The objective of the Roadmap is to implement policies to achieve the Vision of “A BetterFiji for All”, which is consistent with the People’s Charter. To achieve this vision, the overarching objective is to rebuild Fiji into a non-racial, culturally vibrant and united, well

governed, truly democratic nation that seeks progress and prosperity through merit-based equality of opportunity and peace.

17. The Fijian Government will announce its plans on the formulation of a new Constitution in February 2012. The basis for the new Constitution will be the ideals and principles formulated by the People's Charter for Change, Peace and Progress ("the People's Charter"), a document prepared following widespread consultations with, and input from Fijians. The People's Charter was adopted by the President of Fiji after the endorsement of the majority of Fijians.

18. Consultation on the new Constitution will involve all Fijians including civil society groups focusing on issues such as electoral reform, the size of the new parliament, the sustainability of a bi-cameral system, the term of office of a government and systems of accountability of government to the people. The new Fijian Constitution is to be in place by September 2013. Fijians will have a year to become familiar with its provisions before elections are held in September 2014.

19. The Roadmap clearly articulates Government intentions to commence the political reform agenda in 2012 and carry on with its socio-economic reforms and development programme through to 2014. The report has therefore been prepared at a critical point in Fiji's history. The country is now in transition and the reforms will be the basis of the political dialogue in February 2012 that will be the beginning of a new era for Fiji and all Fijians.

People's Charter for Change, Peace and Progress

20. The very basis of Fiji's current Roadmap is the People's Charter, which highlights the 11 pillars which have been integrated into all development plans and is the basis of understanding the socio-political context in Fiji.

21. The 11 pillars of the Charter are an outcome of a comprehensive, facts-based, diagnostic, forward-looking Report of the State of the Nation and Economy (the SNE Report) which provided a list of recommendations for changes to the system of government, the Constitution, laws, economic and resources development policies, leadership values, community relations and institutional reforms.

22. Launched in 2008, the 11 pillars recognized as critical factors for rebuilding Fiji are:

- Pillar 1: Ensuring Sustainable Democracy and Good and Just Governance
- Pillar 2: Developing a Common National Identity and Building Social Cohesion
- Pillar 3: Ensuring Effective, Enlightened and Accountable Leadership
- Pillar 4: Enhancing Public Sector Efficiency, Performance Effectiveness and Service Delivery
- Pillar 5: Achieving Higher Economic Growth While Ensuring Sustainability
- Pillar 6 : Making More Land Available for Productive and Social Purposes
- Pillar 7: Developing an Integrated Development Structure at the Divisional Level
- Pillar 8 : Reducing Poverty to a Negligible Level by 2015
- Pillar 9: Making Fiji a Knowledge Based Society
- Pillar 10: Improving Health Service Delivery
- Pillar 11: Enhancing Global Integration and International Relations

23. Under each pillar are the identification of critical problems and issues highlighting the way forward incorporating amendments in domestic laws and relevant policies. A key

component is the implementation of initiatives that will bring about “A Better Fiji for All” unleashing its economic potential for the benefit of all citizens.

IV. International human rights in Fiji

24. Fiji is a party to the following human rights and related instruments: The Slavery Convention (1926); the Protocol amending the Slavery Convention (1953); the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956); the International Convention against the Taking of Hostages (1979); the International Convention for the Suppression of Terrorist Bombings (1997); the International Convention for the Suppression of the Financing of Terrorism, the International Convention for the Suppression of Acts of Nuclear Terrorism (2005); the United Nations Convention against Transnational Organized Crime (2000); the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000).

25. Fiji is also party to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime 2000; the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (2001); the Rome Statute of the International Criminal Court (1998); the United Nations Convention against Corruption (2003); the Convention on the Prevention and Punishment of the Crime of Genocide (1948); the International Convention on the Elimination of All Forms of Racial Discrimination (1966); the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child and its optional protocols on the the sale of children, child prostitution and child pornography and the involvement of children in armed conflict; and the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

26. Fiji is a member of the following international organizations and for the purpose of carrying and meeting its international treaty and human rights obligations liaises closely with: the United Nations, UNESCO, WHO, ILO, UNIFEM, UNDP, UNESCAP, UNHCR, Asian Productivity Organization (APO) the Commonwealth, the Secretariat of the Pacific Community (SPC) and the Pacific Islands Forum.

V. Protection of human rights

27. The abrogation of the 1997 Constitution does not affect the respect for and enjoyment of fundamental human rights in Fiji nor does it affect the observance of the rule of law. Despite the absence of a Constitution and the lack of published set of codified rules identifying and guaranteeing specific elements of human rights and freedom, Fiji submits that common law, existing laws, decrees and the protection of those rights under international law and international humanitarian laws to which Fiji is a party continue to be applicable and are enforceable.

VI. Promotion of human rights

A. Existing laws

28. The President on 10 April, 2009, issued the “Existing Law Decree 2009” stipulating that all “Existing Laws in force immediately before the 10th day of April 2009 shall continue in force....” “Existing Laws” means all written laws other than the Constitution

Amendment Act 1997. This decree guarantees the continued existence of all human rights related local laws existing in Fiji during and including the time of the abrogation of the Constitution.

B. Human rights legislation

The Human Rights Commission Decree 2009

29. On 12 May 2009, the then President issued the Human Rights Commission Decree 2009 which repealed the Human Rights Act 1999. This Decree established the Fiji Human Rights Commission (FHRC), sets out the criteria for eligibility for appointment of Commissioners and gives the powers and functions of the FHRC. In addition to such other functions as are conferred on it by the Decree or any written law, the role of the FHRC is to educate the public about the nature and content of human rights, advise Government on matters affecting compliance with human rights and promote and protect the human rights of all persons in Fiji.

30. The FHRC has the powers and duties to increase general awareness of human rights by making public statements and educating the public and public officials, to coordinate human rights programs and act as a source of human rights information, receive representations from members of the public on any matter affecting human rights, inquire generally into any procedure or practice, whether Governmental or non-Governmental, if it appears that human rights are, or may be, infringed, make recommendations to the Government on the desirability of legislative, administrative or other action so as to give better protection to human rights; promote better compliance with standards laid down in international instruments on human rights; encourage the ratification of international human rights instruments and, where appropriate, recommend the withdrawal of reservations entered to those instruments.

31. The other functions of FHRC include advising Government on its reporting obligations under international human rights instruments and, without derogating from the primacy of the Government's responsibility for preparing those reports, advise on the content of the reports; make recommendations on the implications of any proposed law or any proposed policy of the Government that may affect human rights. The FHRC also investigates allegations of contraventions of human rights and allegations of unfair discrimination, of its own motion or on complaint by individuals, groups or institutions on their own behalf or on behalf of others; resolves complaints by conciliation and refers unresolved complaints to the courts for decision. It renders advice on any human rights matter referred to it by the Government having regard to the available resources and priorities of the Commission; publishes guidelines for the avoidance of acts or practices that maybe inconsistent with or contrary to human rights; takes part in international meetings and other activities on human rights; and co-operates with other national, regional and international human rights bodies.

C. Implementation of international human rights obligations

(a) Cooperation with treaty bodies

32. Fiji is fully cognizant of its obligation to cooperate with human rights treaty bodies and special procedures, and in that respect it supports the work of OHCHR. Fiji continues within its capacity to fulfill its treaty body reporting obligations and submitted its reports to the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination in 2008.

(b) *Equality and non-discrimination*

(i) Equality before the Law

33. Common Law and International Laws to which Fiji is a party guarantees Fiji citizens the right to equality before the law. They are guaranteed the right not to be unfairly discriminated against, either directly or indirectly, or on the ground of their actual or supposed personal characteristics of circumstances, including race, ethnic origin, colour, place of origin, gender, sexual orientation, birth, primary language, economic status, age or disability; or opinions or beliefs, except to the extent that those opinions or beliefs involve harm to others or the diminution of the rights or freedoms of others.

(ii) The Human Rights Commission Decree 2009

34. Part 3 of the Human Rights Commission Decree 2009 sets out the areas where unfair discrimination is prohibited in Fiji. These include the making of an application for employment, or procuring employees for an employer, or procuring employment for other persons. The Decree also prohibits unfair discrimination in employment; participation in, or the making of an application for participation in a partnership; the provision of an approval, authorization or qualification that is needed for any trade, calling or profession; the provision of training, or facilities or opportunities for training, to help fit a person for any employment;

35. The Decree also prohibits discrimination in membership, or the making of an application for membership, of an employers' organization, an employees' organization or an organization that exists for members of a particular trade, calling or profession (but does not apply to access to membership of a private club or to the provision of services or facilities to members of a private club). It also prohibits unfair discrimination in the provision of goods, services or facilities, including facilities by way of banking or insurance or for grants, loans, credit or finance; access by the public to any place, vehicle, vessel, aircraft or hovercraft which members of the public are entitled or allowed to enter or use; the provision of land, housing or other accommodation; access to, and participation in, education.

36. The Fijian Government has moved to erase the requirements of references to race or ethnicity from the names of public institutions, public documents and application forms. This includes Immigration documents and other official documents requiring the filling of personal particulars and information.

D. Independence of Judiciary

37. Fiji has a functioning independent judiciary. The Administration of Justice Decree 2009 came into force on 10 April 2009 and established the following Courts: the Supreme Court, which is the final appellate Court; the Court of Appeal; the High Court; and such other Courts as may be established by law.

38. The President has the power to appoint to the following Judicial Offices: Judge of the High Court; Justice of Appeal of the Court of Appeal; Judge of the Supreme Court; Master of the High Court; Chief Magistrate; Resident Magistrates; and such other judicial offices as the President may deem fit.

E. Jurisdiction of the High Courts

39. The High Court of Fiji has unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other as is conferred on it under the *Administration of Justice Decree* or any other law. The High Court has jurisdiction (subject to the conferral by written law of rights of appeal and to such requirements as may be

prescribed by law), to hear and determine appeals from all judgments of subordinate courts. The High Court also has jurisdiction to supervise any civil or criminal proceedings before a subordinate court and may, on an application duly made to it, make such orders, issue such writs and give such directions as it considers appropriate to ensure that justice is duly administered by the subordinate court.

F. Jurisdiction of Court of Appeal

40. The Court of Appeal has jurisdiction to hear and determine appeals from all judgments of the High Court, and has such other jurisdiction as is conferred by law. Appeals lie to the Court of Appeal, as of right or with leave, from other judgments of the High Court in accordance with such requirements as prescribed by law.

G. Jurisdiction of Supreme Court

41. The Supreme Court has exclusive jurisdiction to hear and determine appeals from all final judgments of the Court of Appeal. An appeal may not be brought from a final judgment of the Court of Appeal unless: the Court of Appeal gives leave to appeal on a question certified by it to be of significant public importance; or the Supreme Court gives special leave to appeal. In the exercise of its appellate jurisdiction, the Supreme Court has power to review, vary, set aside or affirm decisions or orders of the Court of Appeal and may make such orders (including an order for a new trial and an order for award of costs) as are necessary for the administration of justice.

H. Fundamental human rights under the law

42. The abrogation of the 1997 Constitution does not affect the respect for and enjoyment of fundamental human rights in Fiji nor does it affect the observance of the rule of law. Despite the absence of a Constitution and the lack of a published set of codified rules identifying and guaranteeing specific elements of human rights and freedom, Fiji submits that common law, existing laws, decrees and the protection of those rights under international law and international humanitarian laws to which Fiji is a party, continue to be applicable and are enforceable.

43. The Government has also passed the following new laws/decrees to ensure continued compliance with the obligations of Fiji under the CRC, including the *Crimes Decree 2009* which contains, amongst the other offences, the following:

- Crime against humanity – sexual violence;
- Slavery offences;
- Trafficking of children;
- Selling or buying minors for immoral purposes;
- Defilement of a child under 13 or between 13 and 16;
- Assault with attempt to rape and
- Incest by any relative.

44. All of the above may be charged as “aggravated offences” if the victim is a person under the age of 18. The current Fiji Human Rights Commission is a corporate body established under the Human Rights Commission Decree No. 11 of 2009 (this decree repealed the Human Rights Act 1999). The Commission is responsible for playing a lead role in the protection and promotion of human rights so that the human rights culture is strengthened in Fiji. The Commission is also mandated to educate the public about human rights, make recommendations to the Government about matters affecting human rights,

investigate complaints and perform such other functions prescribed by the President by decree. The decree defines human rights as those embodied in United Nations covenants and conventions on human rights which are ratified by the State of Fiji and the rights and freedoms as may be prescribed by the President by Decree. These include the Universal Declaration of Human Rights, adopted in 1948, and the Convention on the Rights of the Child, ratified in 1993.
