



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**  
**Eighty-first session**

**Summary record of the 2181st meeting**

Held at the Palais Wilson, Geneva, on Wednesday, 15 August 2012, at 3 p.m.

*Chairperson:* Mr. Avtonomov

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*The meeting was called to order at 3 p.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** *(continued)*

*Eighteenth to twentieth periodic reports of Fiji* (continued) (CERD/C/FJI/18-20; CERD/C/FJI/Q/18-20)

1. *At the invitation of the Chairperson, the delegation of Fiji took places at the Committee table.*
2. **Mr. Vocea** (Fiji) said that all citizens of Fiji would henceforth be called Fijians and recognized under the law as such, a development which attested to the determination of his Government to develop a common national identity and strengthen social cohesion. Ethnic origin was no longer mentioned on official forms and documents; however, the iTaukei (indigenous Fijians) represented 60 per cent of the population, Fijians of Indian origin 34 per cent, and Fijians of other origins 6 per cent. Since the consideration of the previous report, the State party had made significant progress in implementing the Convention. In October 2008, the President had adopted the People's Charter for Change, Peace and Progress, which aimed to make Fiji a true democracy based on a sense of common and equal citizenship. The State party had also adopted a strategic framework for change, with the aim of implementing the People's Charter, as well as a "road map for democracy and sustainable socioeconomic development 2009–2014", which set forth strategies and programmes for creating a sustainable democracy and ensuring good governance and national unity. Fiji based its efforts on several guiding principles that conformed to the Convention, including the equality and dignity of citizens; respect for cultural, religious and philosophical diversity; equal access to the fruits of development; and equality of opportunity based on merit.
3. His country had withdrawn its reservations to articles 2, 3, 4, 5, 6, 15 and 20 of the Convention, deeming them no longer necessary, particularly in view of the reforms to the electoral, land tenure and education systems. He referred to the imminent adoption of the new Constitution of Fiji, the legal framework for common and equal citizenship, and in particular, the People's Charter, which would protect and promote the rights of all Fijians. A constituent assembly would be convened, with representation by the different sectors of Fijian society, to debate the draft Constitution, which would be presented in January 2013. The new Constitution should help to establish the independence of the Fijian Human Rights Commission, whose mandate included investigating cases of discrimination, in particular racial discrimination. Important legislative reforms had been enacted since the submission of the previous report, including the adoption of the following instruments: in 2009, the Crimes Decree, some of whose provisions related to racial discrimination; in 2012, the Public Order Decree, expressly prohibiting racial vilification; and, in 2007, the Employment Relations Promulgation, which prohibited racial discrimination in employment. Recruitment in the public sector, in particular for the army and the police, remained based on merit, independent of race or gender. The State party was aware that ethnic minorities, in particular Fijians of Indian origin, were underrepresented in the army and the police; it should be pointed out, however, that those careers attracted few members of minorities.
4. All public policies were grounded in the principles of non-discrimination, equality and equity among all races. The Fijian courts were independent, and any person coming before them was treated under conditions of equality. In the education sector, some schools whose names bore racist connotations had been renamed. The school identification card policy adopted by the State party would enable the quality of education in all schools to be harmonized, and eliminate preferences in school enrolment, which had previously been based on race. School curricula would seek to promote tolerance and mutual appreciation

among citizens of Fiji. The teaching of the iTaukei and Hindi languages was now obligatory in all schools. Since a vast expanse of iTaukei land was not in use, his Government was determined to make more iTaukei land available for the purposes of economic and social development. A Land Use Decree had been adopted in 2012 to allow all persons, including non-citizens, to have access to land. Most of the lands belonged to the iTaukei, but a majority of land leases were held by Fijians of Indian descent. The iTaukei should not be considered an indigenous people within the meaning of the United Nations Declaration on the Rights of Indigenous Peoples. The State party was determined to reform the systems that had contributed to a racial divide and served the interests of the iTaukei to the detriment of other ethnic communities. Indigenous rights were in no way superior to other human rights. Certain special provisions benefiting the iTaukei were still in force, but the Government was determined to eliminate privileges that benefited some groups to the detriment of others. It had thus halted preferential measures, economic development programmes and income-generating projects which exclusively assisted one ethnic group. Under the People's Charter, development assistance should not be related to ethnicity.

5. **Mr. Saidou** (Country Rapporteur), noting with satisfaction that civil society had participated in the preparation of the report, said he would like to know what actors were the main contributors. He noted that the State party forbade the collection of statistics based on ethnicity on the grounds that that promoted discrimination; he nevertheless urged the Government to gather such data in order to assist the Committee in its work. Among other positive aspects, he welcomed the withdrawal, by the State party, of reservations to several articles of the Convention, the enactment of the road map for democracy and sustainable socioeconomic development, the Government's commitment to hold national consultations on the new Constitution, and the measures taken in the area of education expressly to prohibit all forms of racial discrimination. He wondered whether the road map had been translated into all the country's languages and whether all stakeholders had participated in its preparation. He also asked what measures had been taken by the Government to bring the Fijian Human Rights Commission into conformity with the Paris Principles.

6. With regard to article 1 of the Convention, he asked whether Fijian law included a definition of racial discrimination. Although the Criminal Code and the Public Order Decree of 2012 criminalized incitement to racial hatred, there was no legal provision that considered racial motives as an aggravating circumstance in the commission of an offence. Turning to article 2, he said he wondered how effective legislative measures were in combating racial discrimination. The various ethnic groups did not enjoy the same treatment when seeking employment, especially in the public sector; in that regard, the delegation was invited to inform the Committee of any concrete measures taken to ensure that all Fijians were granted equal access to employment in the public sector. He asked whether the People's Charter for Change, Peace and Progress and laws prohibiting racial discrimination had been disseminated in the three national languages.

7. With respect to article 4 of the Convention, he noted with concern that, although the State party denounced any doctrine based on racial superiority, racially motivated offences continued to occur. In view of the close relationship between race and religion, the State party was invited to provide information on measures adopted to prevent religious conflicts. Turning to article 5, he observed that 88 per cent of land belonged to the iTaukei. He would like to know whether the land use law provided for the expropriation of land for public use, and asked for information on the renewal of land leases by non-iTaukei. Although the Government affirmed that all Fijians had equal access to justice, reports by NGOs indicated that certain categories of persons did not benefit from procedural guarantees and that the judiciary was not independent. The delegation was invited to revert to those questions.

8. Referring to information indicating that members of the security forces and the army might have ill-treated people on the basis of their ethnicity, without any action being taken

against them, he inquired what remedies and what assistance were available to help victims of such abuses. As to the right to work, housing, health, social security and social services, the delegation was invited to provide information on the effectiveness of programmes aimed at promoting equality among ethnic groups. The Committee had received reports that ethnic minorities were victims of discrimination, and the delegation was invited to give information on measures taken to integrate the ethnic minorities into the country's development programmes. Turning to article 6 of the Convention, he said that he would like more information on the handling of complaints of racial discrimination, and encouraged the State party to translate the Convention into the national languages and to disseminate it widely. As to article 7, he noted with satisfaction that the Government had decided to withhold funding from public schools that discriminated against pupils on the basis of race, gender or religion, and asked whether that policy was already in effect. He also wished to know whether school curricula had been brought into conformity with the Ministry of Education guidelines on combating racial discrimination.

9. **Mr. Lahiri** noted with satisfaction that in September 2014 the country would, for the first time, hold elections on the basis of the principle of one person, one vote, and asked for more details on the implementation of the system of proportional representation.

10. **Mr. Murillo Martínez** welcomed the road map adopted by the State party, and asked for further information on the participation of civil society in the preparation of that document and on its impact on racial discrimination. He invited the delegation to provide information about the distribution of land on the basis of ethnic origin and about the State party's participation in the International Year for People of African Descent, in 2011, and in the International Decade for People of African Descent, due to begin in 2013.

11. **Mr. Diaconu** pointed out that Fijian law contained no definition of racial discrimination and that discriminatory acts were only prohibited in the area of employment. He urged the State party to rapidly remedy that situation with a view to prohibiting discrimination in all areas of public life. He noted that certain provisions of article 4 of the Convention had been incorporated into domestic legislation, but that violent acts of a racist nature were prohibited only if they were deemed equivalent to crimes against humanity. However, according to the Rome Statute of the International Criminal Court, crimes against humanity were acts committed as part of a widespread or systematic attack directed against a civilian population, and that was not necessarily the case with racist acts. The Government should give all due attention to that matter and also prohibit organizations that incited racial discrimination, in accordance with article 4, paragraph (b), of the Convention.

12. He asked the delegation of Fiji to explain why the legal provisions regarding statelessness only applied to Fijians. It should confirm or deny reports that the National Human Rights Commission no longer had a president or vice-president, and explain, if that was the case, how that body was able to fulfil its mandate. He urged the Fijian authorities to dismantle the legal and social structures that had institutionalized racism by adopting special temporary measures for groups which had been disadvantaged in the past.

13. **Mr. de Gouttes** took note of the decree adopted by the Government of Fiji in 2010 with the aim of replacing the term "indigenous Fijians" with the term "iTaukei". In practice, however, the term "iTaukei" was understood to mean any member of the indigenous community; he wondered if that did not, de facto, amount to perpetuating a distinction between indigenous Fijians and others. He also wondered how realistic the notion of a common national identity was. He would like to know if the Government directive calling a halt to the collection of data relating to ethnicity would lead to the State party not collecting any more ethnic statistics, even if they derived from voluntary self-identification by the persons being interviewed.

14. **Mr. Thornberry** asked whether the term “iTaukei” was considered acceptable by those it designated; he would also like clarification on freehold lands and the customary land tenure system. He asked the delegation to indicate whether all Fijians had been consulted with regard to the new draft constitution and whether measures had been taken to ensure that the electoral reform under way would take into consideration the interests of all.

15. **Ms. January Bardill** said that the report of Fiji gave little attention to women or to the specific forms of racial discrimination to which they could be subjected. She asked the Government to include in its next report statistics disaggregated by race or ethnic origin, and by gender, in compliance with the Committee’s general recommendation No. 25 on gender-related dimensions of racial discrimination. She asked the delegation to indicate what legal recourse was available to women who were victims of racial discrimination. Lastly, she would like more detailed information on the objectives pursued by the State party in the context of the People’s Charter.

16. **Mr. Calí Tzay** said he found it disturbing that the State party had deemed it necessary to proclaim by decree the desire for a common national identity and had not held consultations on that matter. He wondered whether persons who did not feel they belonged to that national identity risked reprisals from other population groups. It would be useful for the delegation to comment on information provided by NGOs indicating that the Government did not have the will or intention to consult civil society concerning legislative measures to combat racial discrimination. He reminded the Government that it was required, pursuant to general recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system, to allow any person coming before the court who did not speak English, the official language, to receive the assistance of an interpreter during all judicial proceedings.

17. **Mr. Lindgren Alves** observed that Fiji was in the midst of a transition, and that many measures still needed to be taken in order to achieve the objective of a unified and united State. He understood, from the explanations given by the delegation, that the people previously called “indigenous Fijians”, and now called “iTaukei”, did not wish to be considered indigenous any longer; he urged the State party to take special protection measures in support of other small Fijian communities.

18. **Mr. Vázquez** asked for clarification on the Public Order Decree of 2012, which prohibited “racial vilification”. He would particularly like to know, in the light of article 4 of the Convention, the precise definition of “racial vilification” and what sorts of conduct it referred to. He asked for additional information on conduct or language prohibited by the Media Decree of 2009, which established administrative sanctions for using the media to incite racial discrimination. He wondered if that decree, by its nature, did not limit freedom of the press and freedom of expression, and invited the delegation to say more on the subject.

19. **Mr. Kemal** asked the delegation to provide disaggregated data which took into consideration the economic situation of the various ethnic groups, so as to give a clearer picture of the socioeconomic and income disparities that still existed in the country. Economic development had had the effect of exacerbating poverty among residents of rural areas, and he asked for the delegation’s opinion on that subject. He had understood that the Government of Fiji had decided to allow Fijians of Indian descent to pursue careers in the military, which had traditionally been reserved for iTaukei, and asked whether it envisaged adopting affirmative action measures to encourage them to join the army. He would also like to know whether a person belonging to an ethnic minority could easily enter public service. Lastly, observing that iTaukei lands were governed by a system of communal ownership, he asked under what conditions leases were granted for agricultural lands, whether Fijians of Indian descent could easily acquire land, and what land security guarantees were in place.

20. **Mr. Amir** said that he would like to know if there were legal provisions governing the exploitation of maritime resources by indigenous peoples. Recalling that during the 1970s and 1980s Fiji had been a party to the Lomé Convention, he asked what commercial and other relations currently existed between Fiji and the European Union. He would also like to know if landowners had a right to compensation in the event that their agricultural lands — as a result of adverse climatic changes, for example — could no longer be used. He asked the delegation to appraise the early results of the implementation of the road map for democracy and sustainable socioeconomic development 2009–2014. More generally, he enquired how the State party envisaged guaranteeing to the indigenous peoples the exercise of the rights enshrined in the Declaration on the Rights of Indigenous Peoples.

21. **The Chairperson**, speaking in his capacity as a Committee member, said that he would like to know whether iTaukei and Fijians of Indian descent shared the same vision for the future of Fiji, and whether there were still tensions between and within communities.

22. **Mr. Kut** asked whether the People’s Charter, which was intended to replace the Constitution, would be adopted by referendum or by parliamentary procedure. It was his understanding that the Fijian Army was made up of career soldiers; in that regard, he asked what the selection process was, and whether members of all ethnic groups could join the army.

*The meeting rose at 5.55 p.m.*