



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the initial report of Fiji*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on any significant developments in the legal and institutional framework within which human rights are promoted and protected at the national, provincial and local levels that have taken place since ratification of the Covenant.

B. Specific information on the implementation of articles 1 to 27 of the Covenant

Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. Please provide information on the status of the Covenant in the State party's legal order and provide examples of cases in which the national courts have applied its provisions. Please describe the measures taken to raise awareness of the provisions of the Covenant among the population, public officials, judges, prosecutors and lawyers.

3. Please describe the measures that have been taken to ensure that the Human Rights and Anti-Discrimination Commission of Fiji is fully consistent with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and to ensure that it is fully resourced to carry out its functions.

Anti-corruption measures (arts. 2 and 25)

4. Please discuss any measures taken by the State party to address corruption, including within the police force and the judicial system, and among judges and prosecutors. Please include information about: (a) the mandate, composition, working methods and achievements of the Independent Commission Against Corruption; (b) measures taken to raise awareness among politicians, Members of Parliament and public servants about the economic and social costs of corruption, and among judges, prosecutors and law enforcement officials about the need for strict application of the laws against corruption; and (c) the number of complaints, investigations, prosecutions and convictions and the sanctions imposed for corruption under the Prevention of Bribery Act 2007, the Fiji Independent Commission Against Corruption Act and other relevant legislative provisions, since the ratification of the Covenant. Please also respond to reports that those who have investigated corruption have been subjected to reprisals.

* Adopted by the Committee at its 131st session (1–26 March 2021).



The fight against impunity and past human rights violations (arts. 2, 6, 7 and 14)

5. Please discuss efforts to eradicate immunity for past grave human rights violations. In this regard, please provide information on the compatibility of chapter 10 of the Constitution and the Limitation of Liability for Prescribed Political Events Act 2010, which provide immunity from prosecution for acts committed during “prescribed political events”, with the Covenant, and comment on reports that these provisions are not subject to judicial review.

Non-discrimination (arts. 2, 19, 20 and 26)

6. Please describe steps taken to address and prevent discrimination, including whether there has been progress toward adopting comprehensive anti-discrimination legislation, which clearly defines and establishes the offences of direct and indirect discrimination, and contains a comprehensive list of prohibited grounds of discrimination, including sexual orientation and gender identity, race or ethnicity, religion, and disability. Please provide disaggregated information on complaints of discrimination since the ratification of the Covenant and detail any remedies provided to victims.

7. Please discuss measures taken to prevent and combat acts of discrimination, stigmatization, violence and hate speech on the basis of sexual orientation and/or gender identity, including specific measures taken towards ensuring that members of the lesbian, gay, bisexual, transgender and intersex community are empowered to report such acts. Please respond to reports: (a) that discriminatory behaviours against lesbian, gay, bisexual, transgender and intersex persons are legitimized by customary, cultural and religious beliefs; and (b) that hate speech against lesbian, gay, bisexual, transgender and intersex persons is prevalent, including among politicians and religious leaders, as well as on social media.

Gender equality (arts. 3 and 26)

8. Please provide statistics on women’s representation within the private and public sectors and describe measures taken to ensure women’s meaningful participation in all forms of decision-making. Please include information on: (a) measures taken to effectively address deeply rooted patriarchal attitudes and stereotypes regarding the roles and responsibilities of women and men in the family and society; (b) reports that local authorities often exclude women from decision-making regarding the disposition of indigenous communal land; and (c) the implementation of the Women’s Plan of Action and the Fiji National Gender Policy, including the financial resources available for its implementation and how the inputs of stakeholders are being coordinated.

Emergency measures and derogations (arts. 4, 12, 17 and 21)

9. Please provide information about the measures that have been taken in response to the coronavirus disease (COVID-19) pandemic and to cyclones Harold, Yasa and Ana, including whether there have been derogations from or restrictions on any rights under the Covenant. Please provide information on: (a) whether any such derogations or restrictions met the strict requirements of proportionality to the exigencies of the situation, relating to duration, geographical coverage and material scope; (b) whether other States parties were notified through the Secretary-General of the United Nations; and (c) the degree to which the legal framework governing emergency situations, including the Constitution, the Public Health Act 1935 and the Natural Disaster Management Act 1998, and their application, have been compatible with provisions of the Covenant.

Violence against women, and domestic violence (arts. 2, 3, 6, 7 and 26)

10. Please discuss the measures taken by the State party to address all forms of violence against women, including domestic violence, and its reported increase during the COVID-19 pandemic. Please include information about: (a) how specific protections are ensured for vulnerable women, including those from minority groups, and for transgender persons; (b) reports that the “no drop” policy requiring every domestic violence case to be registered, investigated and prosecuted is not implemented effectively; and (c) measures in place to ensure that members of the community are empowered to report violence against women and that such cases are determined by competent judicial and other national authorities. Please

also provide information about the number of complaints, investigations, prosecutions and convictions, as well as about the nature of punishments applied following convictions and the rehabilitation offered to victims.

Voluntary termination of pregnancy, and sexual and reproductive rights (arts. 6 and 7)

11. Bearing in mind the Committee's general comment No. 36 (2018) on the right to life (para. 8), please discuss efforts made to ensure legal and effective access to abortion where the life and health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or where the pregnancy is not viable. In this regard, please provide information about: (a) reports that women are not able to access safe abortion services, even in the circumstances under which the abortion is permissible under the Crimes Act 2009; (b) whether the State party intends to reform part 14 of the Crimes Act 2009 to remove criminal sanctions for women and girls who undergo abortion, as well as for medical service providers; and (c) the number of individuals subjected to criminal prosecution for crimes relating to abortion since the ratification of the Covenant, and the type of sanctions imposed.

Climate change and the right to life (arts. 6 and 25)

12. In view of the Committee's general comment No. 36 (2018) on the right to life (para. 62) and of the specific geographical characteristics and location of Fiji, please report on the National Adaptation Plan and any other measures aimed at protecting persons in the State party, including the most vulnerable persons, from the negative impact of climate change and natural disasters on the enjoyment of their rights. Please include information about how the meaningful and informed participation of the whole population in projects that may affect sustainable development and resilience to climate change is ensured.

Suicide (art. 6)

13. In view of the Committee's general comment No. 36 (2018) on the right to life (para. 9), please report on the number of suicides and on efforts made to reduce the high number of deaths by suicide in Fiji.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment and treatment of persons deprived of their liberty (art. 7)

14. Please provide information on the steps taken to prevent and combat torture. Please provide information: (a) about the legal framework in place to address torture and ill-treatment, including the definition of torture and associated legal penalties, as well as forced confessions; (b) about steps that have been taken to address the excessive use of force by law enforcement officers, particularly regarding cases of detention, including how the effective implementation of the Fiji Police Force's use-of-force policy is being ensured; and (c) about the mechanisms that are in place to ensure prompt, thorough and impartial investigations into allegations of torture and ill-treatment, as well as about the number of complaints, investigations, prosecutions and convictions for cases of torture and ill-treatment, including in cases of detention, since the ratification of the Covenant, and also details about the remedies provided to victims and sanctions applied following convictions.

Treatment of persons deprived of their liberty and security of person (arts. 9 and 10)

15. Please report on measures taken to ensure that conditions of detention are consistent with human dignity and the provisions of the Covenant. Please respond to allegations of overcrowding, unsanitary conditions and inadequate access to health services in places of detention. Please: (a) provide information about the compatibility of section 17A (2) of the Public Order Act 1969, allowing for pretrial detention of up to 16 days, with the Constitution and the provisions of the Covenant; (b) provide data on the number of individuals held in pretrial detention and their percentage among the overall prison population since the ratification of the Covenant, and on the average length of time spent in such detention; and

(c) describe any measures taken to develop alternative measures to detention, and provide statistics on the frequency of their application during criminal sentencing.

Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8 and 26)

16. Please discuss the steps taken to address all forms of trafficking and labour exploitation within the State party, including cases affecting women and children. Please: (a) include information about the compatibility of the domestic legislation of Fiji regarding the elimination of slavery, servitude and trafficking in persons, with the Covenant; (b) discuss the implementation of the National Action Plan for the Eradication of Human Trafficking 2011 and how the State party intends to ensure the effective participation of all relevant stakeholders in the design and implementation of the new National Action Plan and the National Human Trafficking Strategy, as adopted on 16 February 2021; and (c) provide data on cases of trafficking since the ratification of the Covenant, disaggregated by sex, age group and country of origin of the victims, as well as a summary of any investigations, prosecutions, convictions, and remedies provided to victims.

Treatment of aliens, including migrants, refugees and asylum seekers (arts. 7, 9, 12, 13 and 24)

17. Please provide information on the protections afforded to refugees and asylum seekers under the Immigration Act 2003, and indicate what measures have been taken to uphold the principle of non-refoulement in law and in practice. Please provide data, disaggregated by nationality, on the number of asylum requests that have been registered and granted since the ratification of the Covenant and on the number of appeals and their outcomes.

Right to freedom of movement (art. 12)

18. Please provide information on the nationwide curfew from 11.00 p.m. to 4 a.m. that has been in place since 30 March 2020 following the onset of the COVID-19 pandemic. Please provide details: (a) about the legislative basis for the curfew and the penalties that have been applied for breaching the curfew; (b) about the necessity and proportionality of the curfew and the associated penalties; and (c) about the number of individuals who have been arrested or fined for breaching the curfew since 30 March 2020, disaggregated by sex, age, ethnicity and geographical location.

Access to justice, independence of the judiciary, and fair trial (arts. 2 and 14)

19. Please report on the measures taken to ensure the independence, impartiality and transparency of the judiciary and prosecution services, including information as to procedures governing the appointment, tenure, evaluation, promotion and removal of judges and prosecutors. Please indicate what measures are in place to address impediments to effective access to justice such as high costs, geographical distance and limited awareness about accessing formal justice mechanisms.

Right to privacy (art. 17)

20. Please: (a) provide information about the legal framework in place to protect the right to privacy as stipulated in article 24 of the Constitution; (b) describe the safeguards that are in place to allow for the authorization and limitation of surveillance, interception, analysis, use and archiving of private data, including relating to information transmitted online; and (c) outline how individuals' right to privacy is guaranteed, including the right to contest the collecting of personal data, particularly in the context of COVID-19, including health data collected by the careFIJI app.

Freedom of expression (art. 19)

21. Please provide information about: (a) the provisions contained within section 80 of the Media Industry Development Act 2010, and their compatibility with article 19 of the Covenant; (b) the impact of other legislative provisions, such as the Online Safety Act 2018, the Media Industry Development Act 2010, the Public Order Act 1969 and the Crimes Act 2019, on the ability of the Fijian media, human rights defenders and others to engage in free

expression; and (c) reports that such legal provisions have been used to prevent criticism of the Government, including through the detention and intimidation of journalists, for instance journalists for the *Fiji Times*.

22. Please provide information on the status of the Parliamentary Powers and Privileges Bill 2016, and respond to concerns that section 24 of this draft legislation will unreasonably penalize criticism of Parliament and erode civic space.

Peaceful assembly and freedom of association (arts. 21 and 22)

23. Bearing in mind the Committee's general comment No. 37 (2020), please provide information about: (a) the compatibility of the Public Order Act 1969, including sections 8 and 9 that reportedly restrict legitimate exercise of the right to peaceful assembly, and also specifically section 9 (3), which permits and indemnifies police officers using such force as they deem necessary, including the use of arms, with provisions of the Covenant; (b) how effective measures have been taken by the State party, including the Fiji Police Force's use-of-force policy and the human rights cell within the Directorate of Internal Affairs, in addressing the use of excessive force within the context of peaceful assemblies, including the use of firearms and less-lethal weapons; and (c) allegations that protests organized by trade unions have been arbitrarily restricted and denied, and that trade union leaders have faced harassment in the lead-up to protests and meetings.

Rights of the child (arts. 23, 24 and 26)

24. Please describe measures taken to ensure the protection of the rights of children in Fiji. Please include information about: (a) steps taken to ensure the effective implementation of the prohibition of child marriage; (b) how effective birth registration, including in remote areas and among children from minority groups, is ensured; and (c) whether there are plans to reform provisions within section 26 of the Crimes Act 2009 that establish the minimum age of criminal responsibility as 10 years old, or 14 years old if the child does not understand what they did was wrong.

25. Please clarify the exact legal status of the use of corporal punishment against children, including whether it is prohibited in all settings, such as the home and alternative care settings, and provide information about the measures that the State party has taken to prevent and reduce corporal punishment against children in all circumstances.
