



**International Human Rights
Instruments**

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

Fiji

Addendum

Updated information from Fiji*

[8 August 2011]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been formally edited.

I. Introduction

1. This information updates the Common Core Document (HRI/CORE/FJI/2006 and Add.1) submitted in conjunction with the 2008 Fiji report under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/FJI/2-4). The information below updates both the core document (HRI/CORE/1/Add.76) submitted with Fiji's initial report under the Convention on the Rights of the Child (CRC/C/28/Add.7) and the core document submitted with its 2008 report under the Convention on the Elimination of All Forms of Discrimination against Women as required¹.

II. Updates

Fiji at a glance — update

2. The following is updated information related to paragraph 4 of the core document:

Population (also refer to HRI/CORE/FJI/2006, paras. 42-44):

Total as of July 2009: 944,720.

Population density: 45.7 per km²

Age (2009 estimate):

- 0-14 years: 30.3%
- 16-64 years: 67.9%
- 65 years and over: 4.8%
- Less than 5 years: 82,718
- 5 to 9 years: 78,319
- 10 to 14 years: 82,384
- 14 to 19 years: 79,518.

Religious affiliation (see also para. 9):

- Christian: 539,553
- Hindu: 233,414
- Sikh: 2,540
- Islam: 52,505
- Other: 2,181
- No religion: 7,078.

Persons economically active

Number of persons above 15 years: 594,150

- Active: 326,988 (28,014 unemployed)

¹ Sourced from "Fiji Facts and figures as at 1st July 2010" compiled by the Fiji Bureau of Statistics.

- Not active: 267,162 (including home workers, students, retirees, etc.).
- Total live births** (per thousand population, 2008): 18,944
- Crude birth rate** (per 1000 population): 21.5
- Crude death rate** (per 1000 population): 7.40
- Rate of natural increase:** 1.40%
- Infant mortality rate** (under 1 year, per 1000 live births): 13.1
- Perinatal mortality rate** (after 28 weeks, less than 7 days old): 15.4
- Neonatal mortality rate:** 9.0
- Under 5 mortality rate:** 23.6
- Maternal mortality rate:** 31.7
- Life expectancy at birth:**
- 65.1 (male), 69.8 (female).
- Gross fertility rate/ 1000 CBA:** 99.0.

Historical background — update

3. The following update is to be read as inserted after paragraph 40 of the common core document.
4. The Fiji Labour Party (FLP) won the general elections in 1999 and led a Coalition Government under the Prime Minister ship of Mr. Mahendra Pal Chaudhary for a year before they were overthrown and taken hostage by a George Speight led civilian takeover in 2000. This was followed by the purported abrogation of the 1997 Constitution.
5. However, the Courts later declared that the 1997 Constitution remained the supreme law. In 2001 General Elections saw Fiji's subsequent return to parliamentary democracy under the Prime Minister ship of Mr. Laisenia Qarase in a *Soqosoqo Duavata Lewenivanua* (SDL) led Government.
6. The Soqosoqo Duavata ni Lewenivanua (SDL) Government was returned to office in the 2006 General Elections. Based on the 1997 Constitution a multi- Party Cabinet, including the FLP was formed. On 5 December, 2006 H.E the President dissolved parliament and appointed a caretaker Government.
7. On 10 April 2009, following a Court of Appeal decision overturning the previous High Court decision legalising the actions of the President, the 1997 Constitution was abrogated. A new legal order was established with the aim of creating a new Constitution and elections under a non-racial, equal suffrage electoral system no later than 2014.

The people — update

8. Fiji is pluralistic society. English is the lingua franca and one of the three official languages of Fiji. The official languages, Fijian (Bauan) and Hindi, are also widely spoken and taught in schools as part of the curricula.

The land — update

9. The following is to be read to update paragraphs 62-81 of the common core document.²

10. The board of trustees of the Native Land Trust Board comprises the President of the Republic of Fiji as president, the Minister for iTaukei Affairs as chairman, five members appointed by the Great Council of Chiefs, three iTaukei members appointed by the iTaukei Affairs Board from a list of nominees submitted by provincial councils to the iTaukei Affairs Board, and not more than two members of any race, appointed by the President.

11. The Native Land Trust Board as administrator of the largest tract of landmass in Fiji plays an important and essential role in the development of Fiji. It is required to make available native land that is outside reserve for development. However, in doing this, the NLTB is statutorily required to satisfy itself that the land to be opened up for development will not be required by its native owners during the currency of the lease or license. The Board is required to collect land rentals and distribute them to landowning units according to a formula prescribed by law. NLTB is the body that links investors to landowning units who own the land earmarked for any type of development and it is therefore important for investors to contact the Board if they intend to use native land for development purposes.

12. Native land, managed by the Native Land Trust Board, comprises 87% of all the land in Fiji and was permanently deeded by the British Crown in the 1880's. This land cannot be sold. Native land is available for public use by lease agreement. Leases can vary from 30 years for agricultural purposes up to 99 years for most other uses (commercial, residential, etc.).

General political structure — update

13. Fiji became an independent nation on 10 October 1970, 96 years after cession to Britain. Its constitution, up to 1987, provided for a bicameral parliament modelled on the Westminster plan with a House of Representatives elected by popular vote and a Senate with appointed members.

Abrogation of the 1997 Constitution

14. The former President of Fiji, His Excellency the late 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.

The road to democracy and parliamentary rule: “The Roadmap”

15. On 1st July 2009, the Prime Minister Commodore Bainimarama announced the Government's *Roadmap for Democracy and Sustainable Socio-Economic Development (RDSSD) 2009-2014* “the Road Map”. The Road Map intends to lead Fiji to 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. Work on the new Constitution will commence by September 2012. The basis for the new Constitution will be the ideals and principles formulated by the Peoples Charter for

² Information from the Native Lands Trust Board website, 13/01/11.

Change, Peace and Progress (“the Peoples Charter”), a document prepared following widespread consultations with, and input from, the people of Fiji. The Peoples Charter was adopted by the President of Fiji after the endorsement of the majority of the people of Fiji.

17. Consultation on the new Constitution will involve all the citizens of Fiji as well as 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. Fiji’s new Constitution will be in place by September 2013. The people of Fiji will have a year to become familiar with its provisions before elections are held in September 2014.

The economy – update

18. The following is to be read to update paragraphs 113-126 of the common core document.

19. The annual growth rate for 2007 was 2.6% and for 2008 was 4.2%. In 2009, due global economic circumstances, the economy contracted by 2.5%³.

20. The Fijian dollar was devalued by 20% in April 2009⁴.

21. The 2010 Budget framework estimated total revenue of \$1.486 billion and a total estimated expenditure of \$1.706 billion. The estimated net deficit is \$220 million or a net deficit of 3.5% of the nominal GDP at \$6.288 billion⁵.

22. The corporate tax rate was 31% in 2008 and has been reduced to 28% in 2010⁶.

23. Total arrivals, not including resident, totalled 585,031 in 2008 and 658,211 in 2009⁷.

Inflation

24. The 2008 year-end inflation stood at 6.6%. Inflation reached 6.3% in October 2009. Inflation was expected to ease by 2.0% for 2010⁸.

Foreign reserves

25. By September 2009, and partly due to the devalued Fijian dollar, foreign reserves increased substantially to around \$1.059 billion while bank liquidity significantly rose to around \$374 million⁹.

General legal framework within which human rights are protected — update

26. The following is to be read to update paragraphs 134-176 of the common core document.

³ 2010 Budget Address “Strengthening the Foundations of Economic Growth and Prosperity”, delivered by Commodore Josaia Voreqe Bainimarama at the Novotel Lami, November 27, 2009.

⁴ Information from the Native Lands Trust Board website, 13/01/11.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

The law in Fiji — nature and composition

Electoral and parliamentary reforms

27. The electoral process will be reviewed to eliminate ethnic based politics and promote racial tolerance. Necessary steps will be undertaken to ensure the new Constitution captures the main features of the newly reformed electoral and parliamentary system. Other associated issues to be addressed include the size and composition of Parliament; compulsory voting; determination of voting age; eligibility of candidates; residency restrictions on voting rights; electoral regulations for ensuring free and fair elections and strengthening capacity of electoral agencies¹⁰.

Sources of law

28. Following the abrogation of the 1997 Constitution, the President on 10th 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....” This meant that all written laws, other than the *Constitution Amendment Act 1997*, continued in existence.

29. The Government has passed the following new laws to ensure continued compliance with the country’s obligations under the CRC:

- *Domestic Violence Decree 2009*, protecting children from violence where necessary and providing emergency funds if required;
- *Marriage Act (Amendment) Decree 2009*, raising the age for marriage for girls from 16 and equalising it for both boys and girls at 18 years;
- *Citizenship of Fiji Decree 2009*, providing for citizenship for children to avoid situations of statelessness.

30. Other developments include:

- The Penal Code has been repealed by the Crimes Decree 2009
- Change to gender neutral language where appropriate;
- Definition of rape to include instances involving both males and females and widening the scope of definition of rape;
- Introduction of new provisions relating to indecent assault and commercial exploitation of children under 18 years and
- Revision of penalties.

31. The *Public Emergency Regulations 2009* came into force on the 10th of April 2009 and has been extended and is still in force as of March 2011. Part I of the Regulation is entitled “Preliminary”, Part II ‘Powers for Maintaining Public Safety, Part III “Protected places and protected areas” and Part IV “Power to detail suspected persons”. The President has the power to extend the regulations under Part I, section 1(2).

Administration of justice and the rule of law

32. 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.

¹⁰ 2010 Budget Supplement at page 25.

33. 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.

Jurisdiction of the High Courts

34. 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.

Jurisdiction of Court of Appeal

35. 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.

Jurisdiction of Supreme Court

36. 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.

Fundamental human rights under the law

37. The abrogation of the 1997 Constitution does not affect the respect and enjoyment of fundamental human rights in Fiji nor does it affect the observance of the rule of law.

38. 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.

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

- Crime against humanity – sexual violence;
- Slavery offences;
- Trafficking in children;
- Selling or buying minors for immoral purposes;
- Defilement of a child under 13 or between 13-16;

- Assault with attempt to rape; and
- Incest by any relative.

All of the above may be charged as ‘aggravated offences’ if the victim is a person under the age of 18.

40. 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 as may be prescribed by the President by decree. The decree defines human rights as those embodied in UN 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 Decree¹¹. These include the Universal Declaration of Human Rights, adopted in 1948, and the Convention on the Rights of the Child, ratified in 1993.

41. For further information please read this update in conjunction with Fiji’s core document forming part of the reports of states parties (HRI/CORE/FJI/2006 and Add.1) and the national report under universal periodic review submitted to the seventh session of the Human Rights Council, 8-19 February 2010 (A/HRC/WG.6/7/FJI/1).

¹¹ Fiji Commission website.