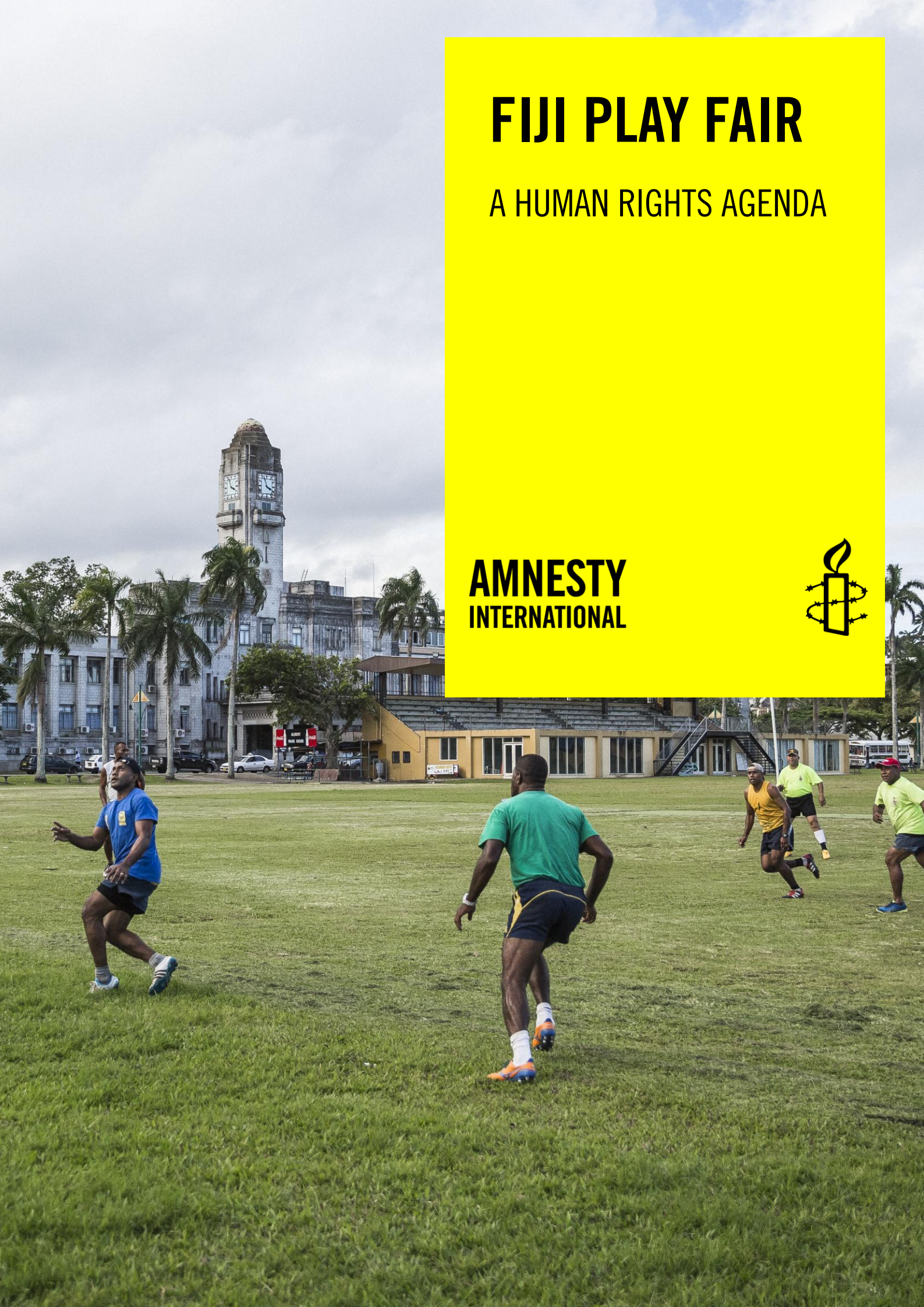


FIJI PLAY FAIR

A HUMAN RIGHTS AGENDA

**AMNESTY
INTERNATIONAL**



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Cover photo: Fijians play football at Albert Park, Suva, Fiji. July 2014. © Vlad Sokhin

Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign on human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments.

We research, campaign, advocate and mobilize to end abuses of human rights. Amnesty International is independent of any government, political ideology, economic interest or religion. Our work is largely financed by contributions from our membership and donations.

**AMNESTY
INTERNATIONAL**



CONTENTS

Contents	1
Introduction	5
Protect freedom of expression, peaceful assembly and association	7
International law on freedom of expression	7
Media.....	8
Human rights defenders	11
Equality before the law and non-discrimination	13
Right to peaceful assembly	14
Recommendations.....	15
Uphold workers' rights.....	16
Recommendations.....	17
Stop torture.....	19
Accountability and the right to reparations	20
Recommendations.....	22
Strengthen human rights in the national legal framework	24
Recommendations.....	26
Summary of recommendations	28

INTRODUCTION

As Fiji's teams return from the Commonwealth Games held in Glasgow, Scotland from 23 July to 3 August 2014 – and as the Fijian people prepare for elections in September 2014, the first in eight years – Amnesty International is calling on the country's government to play fair and respect human rights. The human rights organization is also calling on political parties and candidates to publicly commit to ensuring that international human rights laws and standards are respected, protected and fulfilled by Fiji's next government.

Fiji has made important human rights commitments through ratifying several international treaties, including:

- UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1975);
- UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1984);
- UN Convention on the Rights of the Child (CRC) (1993); and
- A number of core International Labour Organisation treaties (including No. 87 and No. 98).

In addition, Fiji is bound by rules of customary international law protecting human rights. These international rules, derived from consistent state practice and consistent consideration by states of these rules as binding on them (*opinio juris*), bind states irrespective of whether or not they are party to relevant treaties.

Amnesty International acknowledges that Fiji has made some attempts to improve respect for human rights, including by lifting emergency regulations which severely curtailed the rights to freedom of expression, association and peaceful assembly, and by removing military censors from the newsrooms. However, those rights still remain restricted in law, policy and practice, therefore deterring people from speaking freely. A combination of draconian laws, a pattern of intimidation and harassment of those who are critical of the government, as well as reports of torture and other ill-treatment by the security forces, have created a climate of fear in the country.

The current government has violated workers' rights by taking away their right to strike and other employment benefits which existed under the Employment Relations Promulgation 2007, and by ongoing intimidation and harassment of trade union officials. This has led to calls by trade unions and human rights organizations, including Amnesty International, for a Commission of Inquiry by the International Labour Organization (ILO).

Security forces continue to use torture and other ill treatment against people in custody. Perpetrators of these and other human rights violations enjoy impunity, with broad amnesties entrenched in the new Constitution which was introduced in September 2013. Accountability for past acts of torture and other ill-treatment, including by allowing victims access to

remedies in national courts, is imperative to ending the culture of impunity.

Fiji's current government must commit to protecting and respecting human rights in the lead up to elections, including by lifting restrictions on freedom of expression, peaceful assembly and association and refraining from acts of intimidation or harassment against political candidates, civil society organizations, journalists and others.

Indeed, the upcoming elections should provide an opportunity for political parties and candidates to address Fiji's human rights situation in their campaign meetings and forums with other candidates, communities and the media. Amnesty International is appealing to all political parties and candidates to commit firmly to acting on a comprehensive human rights agenda, should they form Fiji's next government, in particular to:

1. Protect freedom of expression, peaceful assembly and association;
2. Uphold workers' rights;
3. Stop torture; and
4. Strengthen human rights in the national legal framework.

PROTECT FREEDOM OF EXPRESSION, PEACEFUL ASSEMBLY AND ASSOCIATION

Fiji's Constitution, promulgated in 2013, enshrines the right to freedom of expression, peaceful assembly and association¹ albeit without the necessary guarantees and provisions to enforce these rights through national courts as required under international law and standards.²

International law provides that any restrictions on these three freedoms must be necessary and proportionate and should not put any of the rights in jeopardy. The right to freedom of expression generally includes being able to make comments that may be regarded as critical, or even deeply offensive of government institutions.³ Fiji's track record of suppressing freedom of expression, peaceful assembly and association suggests that restrictions will not be applied in a way which upholds these freedoms. In addition to this, constitutional restrictions on the role of the courts limits the avenues through which people can enforce these rights.⁴

Fiji's Prime Minister Rear Admiral Bainimarama has publicly committed to protecting freedom of expression and establishing "a level playing field for every Fijian once and for all."⁵ Despite this, Amnesty International is concerned that the government continues to use decrees to criminalize peaceful political activities and to arrest, detain, fine and imprison people for the peaceful exercise of their human rights to freedom of expression, peaceful assembly and association.⁶ Further, human rights defenders, journalists and trade union leaders in Fiji continue to face harassment and intimidation solely for carrying out their legitimate work peacefully.⁷

INTERNATIONAL LAW ON FREEDOM OF EXPRESSION

The human right to freedom of opinion and expression is enshrined in Article 19 of the Universal Declaration of Human Rights (UDHR),⁸ which states:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

The human rights to freedom of peaceful assembly and association are enshrined in Article 20(1) of the UDHR, which states: "Everyone has the right to freedom of peaceful assembly and association."

Both under the UDHR and under subsequently adopted human rights treaties, these rights may be restricted. For instance, Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR)⁹ provides that the exercise of the right to freedom of opinion and expression may be:

... subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

In its authoritative General Comment on this Article, the Human Rights Committee – the expert body charged with overseeing the implementation of the ICCPR – explained, among other things, that “restrictions on the exercise of freedom of expression... may not put in jeopardy the right itself”. It added, “the relation between right and restriction and between norm and exception must not be reversed.” Restrictions must be provided by law, be imposed on specific grounds (in this case, the ones listed in Article 19(3)(a) and (b)) and “must conform to the strict tests of necessity and proportionality.”¹⁰

MEDIA

The media has been subject to ongoing intimidation and harassment since 2009, when a number of journalists were arbitrarily arrested and detained and military censors were placed in all major newsrooms for a number of years. Amnesty International’s report, *Fiji: Paradise Lost, A tale of ongoing human rights violations from April – July 2009*, detailed many of these human rights violations. A more recent incident of harassment of journalists is described below.

On 26 June 2014, two journalism academics at the University of the South Pacific in Fiji’s capital Suva issued a press release calling on the authorities to stop harassing the media after one of Fiji’s prominent journalists, Samisoni Pareti, was refused access to the Pacific Islands Development Forum in Nadi, a town in the west of the country; and another, Netani Rika, was harassed by the police at his Nadi hotel.

The academics also referred to comments by the Commander of the Royal Fiji Military Forces, who admitted to past acts of torture and other ill treatment in an interview with *The Age* (an Australian newspaper) earlier that week.

In response, Fiji’s Media Industry Development Authority (MIDA) called for a criminal investigation into the academics’ comments. While no charges have been pressed as yet, MIDA operates under the Media Industry Development Decree. Breaches of this decree, including publishing matters that are deemed to be against the ‘national interest’, carry penalties of \$100,000 FJD (\$54,000 USD) and up to two years’ imprisonment.¹¹

While some restrictions on the media that were in place from 2009 until 2012 have been lifted, including the removal of military censors from newsrooms, structural, legal and practical barriers to exercising the right to freedom of expression remain. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression noted, “It is during times of political change that the right to freedom of expression is most essential, ensuring that a well informed and empowered public is free to exercise their civil and political rights.”¹²

Amnesty International remains concerned that freedom of expression in Fiji is criminalized, or subject to restrictions not consistent with international human rights law and standards under the Constitution and decrees such as the Public Order Amendment Decree (2012)

(POAD), Crimes Decree (2009) and the Media Industry Development Decree (2010) (MIDA).¹³ MIDA and POAD include hefty fines and imprisonment for people exercising their rights to freedom of expression, peaceful assembly and association. A journalist may face two years in prison for publishing something which is not in the “public interest”. A person may be imprisoned for five years for saying something which “undermines the economy of Fiji”. In addition to this, a person attending a public meeting without a permit or who breaches permit conditions can be imprisoned for up to five years and fined \$10,000 FJD (\$5,400 USD).¹⁴ In addition, heavy fines and jail terms can be imposed on the media for publications that “threaten the public interest or order, is against national interest, offends good taste or creates communal discord.”¹⁵ Collectively, these restrictions in law, policy and practice have compromised frank and fearless media reporting.

In addition to this, Amnesty International has expressed concern that contempt of court proceedings have been used to stifle the right to freedom of expression, which includes the right to be critical of institutions, such as the judiciary.¹⁶



Picture of Fiji Times office, Suva, Fiji. July 2014. A culture of self-censorship has become entrenched in media reporting. © Vlad Sokhin

A local newspaper and its editor and a human rights organization and its executive director were charged with contempt of court and fined for publishing reports or comments criticising the Fiji judiciary.

In 2009 and again in 2012, the Fiji Times was charged with contempt of court for accurately publishing the comments of others about the Fiji judiciary. On 21 February 2013, the Fiji Times (as a corporation) was fined \$300,000 FJD (\$163,000 USD) and the editor-in-chief was sentenced to six months’ imprisonment, suspended for two years on a good behaviour bond.

In August 2013, a human rights organization, Citizens’ Constitutional Forum, a not-for-profit company, was convicted of contempt of court for publishing in its monthly publication, Tutaka, details of a UK Law Society

Charity report on the rule of law in Fiji. The report stated, among other things, “there is no rule of law in Fiji” and the “independence of the judiciary cannot be relied upon.”

The organization was ordered to pay a fine of \$20,000 FJD (\$10,800 USD) plus costs of \$2,500 FJD (\$1,400 USD) and its Director, Rev. Akuila Yabaki, was ordered to pay a fine of \$2,000 FJD (\$1,000 USD) plus costs of \$2,500 FJD (\$1,400 USD) and sentenced to three months in prison, suspended for 12 months on a good behaviour bond.

A recent report by the Australian government-funded Pacific Media Assistance Scheme stated, “a culture of self-censorship has become entrenched in media reporting as a result of confusion arising from the implementation of media decrees.”¹⁷

Concerns have been raised about the independence of media outlets, including a failure to provide equal space to different political candidates and refusal to publish letters or articles which are critical of the government.¹⁸ Current restrictions, combined with the heavy fines for breaching the regulations imposing them, have stifled open debate on key matters of national interest.

The media must be empowered to publish a diverse range of views, including criticism of government or of political candidates, without fear of retribution. To achieve this, the government should lift existing restrictions on the media and ensure that journalists will not be subject to prosecution, intimidation or harassment for the peaceful exercise of their right to express and publish diverse views. Restrictions on the media as outlined in the section above should not directly or indirectly favour any one party or candidate.

HUMAN RIGHTS DEFENDERS



Virisila Buadromo at FWRM's offices, Suva, Fiji. July 2014. © Vlad Sokhin

Virisila Buadromo, Executive Director of the Fiji Women's Rights Movement (FWRM), commented on how restrictions on freedom of expression affect her organization's human rights work.¹⁹

"For a long time, the media did not want to cover any of our work because the media was being heavily censored. Not only that, because there were heavy penalties in terms of not only fines, but also custodial sentences, the media started self-censoring. Issues that were considered 'too controversial' were not being covered by the media."

"From the media perspective, it meant that women's voices and experiences were not getting captured or reflected in the media. We know that globally women's voices or women themselves hardly ever get covered in the media, then when you are censored, the news by which people's decisions are informed are male, and particularly elite male, experiences."

"In relation to human rights issues, particularly when we have a Constitution that limits rights, we are not able to inform the decisions that leaders make."

Amnesty International continues to document cases where police have broken up private meetings, human rights activists have been arrested and detained for peacefully protesting

(see below), and permits for meetings and marches have been cancelled or arbitrarily refused.²⁰

On 12 June 2014, Prime Minister Bainimarama stated on Fiji One TV, “People who are opinion makers, academics, NGOs, trade union officials, they’ve all been banned from taking part in political activities and actually talking about the issues.” Under section 115 of the Electoral Decree 2014,²¹ human rights organizations receiving funding from overseas donors are prevented from ‘campaigning’ on any issue related to elections, which includes organizing debates, public seminars, meetings and issuing publications. This in effect prohibits any education or other programmes aimed increasing awareness of human rights. A breach of this provision carries a penalty of \$50,000 FJD (\$27,000 USD) and up to 10 years’ imprisonment. Fiji should eliminate these legal and practical barriers to organizations promoting human rights, including at times of elections.



Kris Prasad in Suva, Fiji. July 2014. © Vlad Sokhin

Kris Prasad, of the Drodrolagi Movement (an organization working for the rights of lesbian, gay, bisexual, transgender and intersex people), also said restrictions on the right to freedom of expression affect his work.²²

“LGBTIQ people don’t have the same space to express how they feel about their issues, about their government and what they want for Fiji’s path to democracy, so our voices become invisible... LGBTIQ

people are thrown further on the margins when we have all these restrictions [on rights].”

Kris outlined the difficulties he faced as a representative of a minority group in Fiji, including delays or rejection on registering as a charitable organization, cancellation or delay of permits to hold public events such as marches and family fun days, discrimination by religious organizations, and harassment by the police.

EQUALITY BEFORE THE LAW AND NON-DISCRIMINATION

Equality before the law and the right to non-discrimination are key human rights principles, including in Fiji's Constitution.²³ Any complaints of unlawful activity should be independently investigated regardless of political affiliation, while state institutions should not discriminate against opposition political parties or candidates.

A number of persons have been subjected to politically-motivated charges for exercising their rights to freedom of expression, peaceful assembly and association, resulting in lengthy and costly court battles, including criminal charges against two former Prime Ministers.²⁴

Registered political parties and candidates for elections have expressed concerns that restrictions on freedom of expression, association and peaceful assembly have had the effect of denying a level playing field for all political parties and discriminate against opposition parties.²⁵ They also claim that the Electoral Decree 2014 and other restrictions on freedom of expression favour the current government, limit their ability to criticize the government and its policies, and silence people from expressing their views (including academics, non-governmental organizations and trade unionists).

In an example of the unfair application of laws and policies on political participation, a student had his government funded scholarship cancelled for 'associating in political agendas' after he had spent a day volunteering with an independent opposition candidate for elections.²⁶ Subsequently the scholarship was reinstated, but no reasons were given for the initial decision, and it is not clear what laws or regulations the student was alleged to have breached. Laws and policies should not directly or indirectly limit the peaceful expression of minority or opposition voices.

Further steps must be taken by the Fiji Government to promote and protect the right to freedom of expression for all Fijians, including those who are critical of government.

RIGHT TO PEACEFUL ASSEMBLY



Activists were arrested and detained for protesting against the lack of human rights protection in the new Constitution. 6 September 2013, Suva, Fiji. © Citizens' Constitutional Forum

Kris Prasad, of the Drodrolagi Movement, was one of 12 people arrested for protesting against the new Constitution in September 2013. In late April 2014, police again contacted him and other activists, saying that they wanted to reopen the investigation and conduct further interviews.²⁷

"I was arrested with 11 other people when we protested outside the government buildings, when the new Constitution was being signed in. Twelve of us were arrested. Our details were taken down, we went to the police station and then our lawyers came. No charges were laid, but just a couple of weeks back we were told that the case has been reopened so [the police] are contacting everyone who was arrested on the day and they are going to ask them to come in for an interview. These are some of the tactics they are using for people not to express themselves, these tactics of intimidation and spreading fear among people."

The government responded to peaceful protests calling for changes in the Constitution and calling for the government's budget to be made public in 2013 by detaining a number of activists, who were questioned by police for a number of hours. While no charges have been pressed as yet, police may still charge these people with offences under the Public Order Amendment Decree 2012, which carries penalties of up to five years' imprisonment and a \$10,000 FJD (\$5,500 USD) fine for holding a meeting without a permit. With reports that these cases have been reopened, the threat of prosecution remains.

While no one has yet been convicted of an offence under the Public Order Amendment Decree, the hefty penalties act as a deterrent to people exercising their right to freedom of peaceful assembly.

Further, permission has been refused or withdrawn at the last minute for a number of planned peaceful protests and human rights events, including a march for International Day

against Homophobia in 2012 and a women's rights march 'Reclaim the Night' in 2013. In addition, the police have disbanded a number of private meetings, including an internal staff meeting of the Fiji Women's Rights Movement (July 2012) and private gatherings of politicians.²⁸ These cases show a disturbing pattern of interference with the right to peaceful assembly and association.

At its Universal Periodic Review (UPR) in 2009, Fiji accepted recommendations to establish an environment which protects freedom of expression, peaceful assembly and association for political activists and human rights defenders.²⁹ Amnesty International urges Fiji's current and future leaders to adopt the following recommendations in order to protect these rights.

RECOMMENDATIONS

- Ensure that there are no restrictions on the rights to freedom of expression, peaceful assembly and association in national laws, policies and practices, other than those allowed in international human rights laws and standards.
- Review and repeal provisions of the Constitution, Public Order Amendment Decree, Media Industry Development Decree, and the Crimes Decree which criminalize freedom of expression, peaceful assembly and association.
- Ensure that victims of violations of the rights to freedom of expression, peaceful assembly and association have the right to a timely and effective remedy.
- Review criminal charges against human rights defenders and others and drop those imposed solely for the peaceful exercise of the rights to freedom of expression, assembly and association.
- Ensure that no one is arbitrarily arrested and detained for peacefully exercising their rights to freedom of expression, assembly and association, and that no one is subject to threats, violence, harassment, persecution, intimidation or reprisals.
- Facilitate and protect the peaceful exercise of the rights to freedom of expression, assembly and association, with particular vigilance in relation to minority groups and activists advocating for economic, social and cultural rights, who are at greater risk of attacks and stigmatization.
- Ensure that no associations carrying out their activities peacefully, including political parties, are discriminated against in relation to their formation, ability to access funding, and to exercise their rights to freedom of expression and peaceful assembly, including through peaceful demonstrations and access to the media.

UPHOLD WORKERS' RIGHTS

Under international law, all workers have the human right to form and join trade unions, to bargain collectively and to strike. These rights are an essential foundation for the realization of other rights, and are enshrined in the UDHR and provided for in conventions adopted by the ILO, including core conventions 87 and 98 that Fiji has ratified.



Rajeshwar Singh, outside the Fiji Public Service Association, Suva, Fiji. July 2014. © Vlad Sokhin

Rajeshwar Singh is Secretary of the Fiji Trades Union Congress and Fiji Public Service Association. He expressed a number of concerns about workers' rights, including:³⁰

"The workers' rights in Fiji have been severely restricted. The regime has enacted various decrees which have impacted badly on the rights of workers, including the Essential National Industries Decree."

"The decree has decimated unions. There is no job security. There is no real provision to go on strike in this country."

The Fiji Government has taken some steps to protect workers' rights in principle. The right to form or join a trade union and the right to collectively bargain are protected in the Constitution. However, broad limitations render these guarantees almost meaningless. The Essential National Industries (Employment) Decree 2011 (ENID) overrides constitutional

rights and continues to limit collective bargaining rights, severely curtailing the right to strike, bans overtime payments and voids existing collective agreements for workers in key sectors of the economy, including sugar, aviation and tourism.

In addition to this, the Political Parties (Registration, Conduct, Funding and Disclosures) Decree 2013³¹, the Electoral Decree 2014³² and the Constitution³³ collectively prevent trade union officials from being a member of, or holding office in a political party, engaging in political activity, expressing support for a political party or campaigning on an issue related to elections (such as worker's rights). Amnesty International is deeply concerned at the failure to respect workers' rights in Fiji, including through restrictions on freedom of expression, peaceful assembly and association for workers.³⁴

As a result of the restrictions on workers' rights and harassment of trade union officials, the ILO has identified Fiji as one of five countries where workers' rights violations are the most serious and urgent.³⁵ In 2012, a high level mission of the ILO investigating workers' rights in Fiji was directed to leave the country.³⁶

Amnesty International continues to receive reports of intimidation, harassment and arrests of trade union officials. For example:

Trade Union leaders Felix Anthony and Daniel Urai have been arrested and charged with criminal offences for advocating for workers' rights, including on more serious charges of sedition.

Daniel Urai was arrested most recently in January 2014 in relation to a strike at the Sheraton Hotel in Nadi, which he claims he was not involved in. These charges were subsequently dropped.

Kenneth Zinck, Daniel Urai and Felix Anthony have all complained to the police about harassment, threats and physical abuse by the military since 2011. The police have failed to investigate these claims.

In 2013, military officers were sent to the Lautoka sugar mill in an apparent move to intimidate workers due to vote on industrial action.³⁷

The protection of workers' rights is critical in Fiji, where poverty is a major barrier to the enjoyment of rights. Workers, union leaders and civil society organizations must be able to advocate for improved working conditions and fair wages without fear of harassment or reprisals. Amnesty International urges all political parties and candidates to pledge that Fiji's next government will take steps to protect workers' rights and union leaders.

Amnesty International supports the call for an ILO Commission of Inquiry into workers' rights in Fiji as this will assist the Fiji government to strengthen the protection of workers' rights and trade union officials in law, policy and practice.³⁸ Amnesty International urges Fiji's current and future leaders to adopt the following recommendations.

RECOMMENDATIONS

- Amend current legislation, including the Essential National Industries (Employment) Decree 2011 and relevant parts of the Constitution, so as to protect workers' rights in line with international human rights law and standards as well as international labour standards, including the right to form and join a trade union, the right to collectively bargain, the right

to strike and the right to seek improved working conditions without penalty or reprisal.

- Take effective steps to ensure that attacks, intimidation and harassment of workers, union leaders, representatives and others who advocate for social and economic rights, are promptly, effectively and impartially investigated and that those responsible are brought to justice in accordance with international fair trial standards.

STOP TORTURE

Under international law, torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) are prohibited absolutely, in all circumstances and without exception. The prohibition of torture and other ill-treatment is enshrined in article 5 of the UDHR.

This absolute prohibition is mirrored in the Geneva Conventions, to which Fiji (like all of the world's other states) is a High Contracting Party, and which dictate that even during war (or "armed conflict"), the direst of national emergencies, torture and other ill-treatment must never be perpetrated.³⁹

Fiji has yet to ratify any international human rights treaty that imposes a general prohibition on torture and other ill-treatment. However, the prohibition of torture and other ill-treatment is also a rule of customary international law,⁴⁰ binding on all states whether or not they are parties to particular treaties. Indeed, the prohibition of torture is widely recognized as one of a relatively small number of particularly fundamental peremptory norms of general international law (*jus cogens* rules).⁴¹

Despite commitments to address past human rights violations and investigate reports of torture and deaths in custody, there has been no progress to date.⁴² The Constitution not only erodes the human rights for the people of Fiji, it grants full criminal and civil immunity to the military, police and other government officials for past, present and future human rights violations, up until when a new parliament sits. This allows perpetrators of serious human rights violations, including torture, to act with impunity.⁴³

In the past few years, there have been several reports of torture and other ill-treatment against persons in custody and sex workers.

Amnesty International has received credible testimony of the torture of recaptured prisoners.

On Monday 17 September 2012, five prisoners escaped Fiji's Naboro Prison. Four of the men, Solomon Qurai, Tevita Sugu, Josaia Usumaki and Epli Qaraniqio, were recaptured by security forces (military and police) on 25 September 2012 at Udaya Point. Also on 25 September, police recaptured the last of the five men. Isoa Waqa. Sugu and Usumaki appeared before the Magistrates Court in Suva on 1 October 2012 with visible injuries and requiring assistance to walk. Media reports claimed the other three men did not appear on this date for medical reasons.⁴⁴

Qaraniqio's injuries were so severe that he was only fit to appear before the court on 16 November 2012, nearly two months after his recapture. He had been beaten so severely that his right leg was amputated below the knee as a result of an open fracture which became infected. He also suffered a broken jaw.⁴⁵

Amnesty International received testimony that the men did not resist arrest and that they were tortured by the military after their recapture. Reports detailed that the men were handcuffed, kicked, hit with the butts of guns, had hot water poured on them and were forced to wait naked in dark cells.⁴⁶

Approximately five months later, a video was leaked online on YouTube, apparently showing Fiji security forces assaulting another recaptured prisoner. In the disturbing video, lowene Bendito (he was later identified by family) was repeatedly hit with sticks and batons, while another man was dragged along the ground by a dog.

The police have consistently failed or refused to independently investigate this and other reports of acts of torture or other ill treatment by the security forces. Instead of condemning acts of torture, Prime Minister Bainimarama has claimed he “stands by his men.”⁴⁷

ACCOUNTABILITY AND THE RIGHT TO REPARATIONS

All states have an obligation to not only prevent and prohibit violations of customary international law, but also to provide victims with access to justice, rehabilitation and other forms of reparations.⁴⁸

Reparations for human rights violations in accordance with international law and standards include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁴⁹

There has been no attempt to establish a comprehensive and effective reparation programme for victims of past human rights violations, particularly cases of torture and other ill-treatment. Laws in Fiji remain inadequate, and often preclude victims from accessing remedies in the national courts.⁵⁰ Amnesty International calls on all parties to pledge that if they form Fiji's next government, they will investigate these cases and ensure reparations are provided to victims of serious human rights violations in accordance with international law and standards.

Richard Naidu, lawyer, speaks of why accountability is important for cases of torture and other ill treatment by security forces (police, military and prisons officers).⁵¹

“We can't really know how much and what level of torture goes on, as people are generally too afraid to report it. And as the escaped prisoners' case shows nobody has any confidence the police will do anything about it anyway.”

“Accountability for torture is a basic rule of law issue. Those who breach other people's rights must be brought to book. Nothing's really more basic, in terms of rights, than the right not to be physically violated.”

“What is required by [the country's] leadership to stop torture is first and foremost, they have to demonstrate that they are prepared do something about the acts of torture that are already known about and are already notorious. It's no use saying we will begin to be better at some later time, no one is going to believe them. We have the escaped prisoners' incident, it's still very fresh in the minds of the population. So rather than talking about accountability, rather than talking about rule of law, they actually have to demonstrate it. They actually have an opportunity, they have a real live case where they can demonstrate a commitment to it.”

“And really, until they take action on that case, no one is going to believe they have a commitment to stopping or reducing incidents of torture.”



A police vehicle drives past Government Buildings, Suva, Fiji. Police have shown a reluctance to investigate claims of torture against the security forces in the past. July 2013. © Vlad Sokhin

There are a number of barriers to people exercising the right to a remedy in Fiji, including the following:

- Far-reaching immunities under the Constitution make it impossible to hold accountable perpetrators of serious human rights violations, including for torture and other ill-treatment.⁵²
- Several decrees remove the authority of courts to determine the lawfulness of government actions and provide for a registrar who can summarily dismiss or discontinue cases against the Fiji Government, with no right of review.⁵³
- The police have shown a reluctance to investigate cases against the security forces, including the recent torture of recaptured prisoners.
- The Fiji Government has shown a reluctance to abide by court decisions regarding the accountability of the security forces. For example, in April 2009, eight military officers and one police officer were convicted of beating to death 19 year old Sakuisa Rabaka. The Justice Minister released them from prison just three weeks into their four year prison sentences.



High Court of Fiji, Government Buildings, Suva, Fiji. An independent judiciary is critical to ensuring that victims of human rights violations can seek redress through national courts. July 2014. © Vlad Sokhin

Closely linked to the right to a remedy, is the right to a fair hearing before an impartial tribunal. Amnesty International's report *Fiji: Paradise Lost, A tale of ongoing human rights violations April-July 2009*, highlighted a number of concerns regarding interference by government with judges and lawyers contrary to international law and standards, including the arbitrary removal of judges, lack of security of tenure and reports of executive interference in the judiciary. Collectively, this undermines the independence of the judiciary. An independent judiciary is critical to ensuring that victims of human rights violations can seek redress through national courts.

People must have confidence that claims of torture or other ill-treatment will be promptly, independently, impartially and effectively investigated by the police and that perpetrators will be prosecuted in court in accordance with international standards of fairness. The right to reparations also includes the right to seek civil remedies such as compensation, which are also the subject of Constitutional immunities. Amnesty International is appealing to all political parties and candidates to commit to the following recommendations.

RECOMMENDATIONS

- Publicly condemn all acts of torture and other ill-treatment, ensure such practices cease immediately, and make clear to all officers involved in arrests, detention and interrogation that torture and other ill-treatment will not be tolerated under any circumstances.
- Ensure that all those suspected of being responsible for torture, other acts of ill-treatment criminalized under international law and similar acts, including persons with command or other superior responsibility irrespective of rank or status, are brought to justice in proceedings that meet international fair trial standards, without recourse to the death penalty.

- Remove any barriers to justice for serious human rights violations, including immunities in the Constitution and other decrees, and ensure that victims and families can seek and receive reparations, including through national courts.
- Ratify the Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.
- Immediately invite and facilitate a visit by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and fully co-operate with the Special Rapporteur, including by providing him with a copy of all investigation records and medical reports relating to the torture and other ill-treatment of the escaped prisoners.
- Ensure the government immediately ceases all interference with the independence of the judiciary and lawyers, and ensure that the processes governing the qualification and discipline of lawyers and judges are free from political interference, as required by international human rights law and standards.
- Review the Constitution, decrees and other laws to ensure that all judges have security of tenure and that they can only be appointed and removed through an independent and transparent process consistent with international human rights law and standards.
- Invite the UN Special Rapporteur on the independence of judges and lawyers to visit Fiji, and fully co-operate with the Special Rapporteur.

STRENGTHEN HUMAN RIGHTS IN THE NATIONAL LEGAL FRAMEWORK

Amnesty International is concerned that Fiji's Constitution falls short of international human rights law and standards, and runs counter to commitments made by Fiji at its previous UPR to accord, "the utmost importance, in the formulation of the new Constitution to the promotion and protection of human rights and fundamental freedoms."⁵⁴ At the same time, Fiji also committed to ensuring the independence of the Fiji Human Rights Commission in accordance with international standards.⁵⁵

Amnesty International welcomes some improvements which were made in the Constitution adopted by the Fiji government, including the removal of exceptions to the right to life.⁵⁶ However, the organization highlights a number of areas where Fiji can strengthen its human rights protection.

In addition to the specific human rights concerns outlined in the above chapters, Amnesty International notes that Fiji's Constitution fails to adequately protect the right to personal liberty, gender equality and indigenous rights. Human rights contained in Fiji's Bill of Rights are also subject to other laws, which could effectively render these guarantees in the bill worthless.⁵⁷ It also fails to provide adequate safeguards to ensure the independence of the Fiji Human Rights Commission in accordance with the Paris Principles.⁵⁸

The Constitutional provision for "the right to personal liberty" (article 9) invests the state, in times of emergency, with powers to detain persons without charge or trial. The Constitution provides that, under such circumstances, persons may be detained without the authorities being obliged to provide any explanations for up to seven days and without access to a judge for up to one month. Detention for such periods without being told of the reasons and without judicial oversight constitutes arbitrary detention, prohibited under international human rights law. While the detention must be reviewed by the courts on a monthly basis, the Constitution does not place any restrictions whatsoever on the period for which a person may be administratively detained in times of emergency without charge or trial, thus providing for indefinite detention.⁵⁹

Amnesty International is opposed to and has globally campaigned against the practice of administrative detention as it involves violations of human rights and is used to circumvent the fair trial guarantees of the criminal justice system. Amnesty International's report *Fiji: Paradise Lost, A tale of ongoing human rights violations from April-July 2009*, outlined a pattern of arbitrary arrests and detentions (often accompanied by torture and other ill-treatment) under public emergency regulations. The constitutional framework must prevent similar violations occurring in the future.

Section 45 of the Constitutional Commission's Draft Constitution guaranteed equality between men and women, including equal opportunities in political, educational, social and cultural and sporting spheres. It also covered the rights of women to own land or property, receive equal pay for equal work, access maternal health care, maternal and paternal leave

and non-discrimination in the work place due to pregnancy. This section covered a wide range of human rights, consistent with the government's obligations under the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which appear to be absent from the Constitution adopted by government. Fiji (along with other countries in the Pacific) has high rates of violence against women and low representation of women in leadership roles. As a result, Fiji would benefit from stronger measures in national law and policies to promote gender equality.⁶⁰

Under CEDAW, State parties like Fiji are required to "take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government"⁶¹

Under CEDAW, Fiji can also adopt temporary special measures to assist in the implementation of this and other obligations. Such special measures aimed at accelerating equality between men and women, are not considered as discrimination (article 4). Amnesty International urges the Fiji's next government to adopt measures to promote gender equality in national laws, policies and practice.

The Constitution does not contain any provisions for the protection of the rights of indigenous peoples, particularly in relation to indigenous peoples' effective participation in decisions affecting them, and their human rights to traditional lands, culture and livelihood as affirmed in the UN Declaration on the Rights of Indigenous Peoples, adopted by Fiji in 1998, and the Indigenous and Tribal Peoples Convention, 1989, ratified by Fiji in 1998. Sections 27 to 30 of the Constitution provide for the payment of royalties or compensation for use or acquisition of land, including customary land, but the Fiji Government is not required to consult with or obtain consent from indigenous landowners consistent with international law and standards.⁶²

The Constitution also provides for the preservation of decrees,⁶³ which restrict freedom of expression and other human rights, unless and until they are amended by parliament. Amnesty International has previously raised concerns about a number of decrees that undermine human rights and the rule of law (including MIDA restricting media freedom and ENID restricting workers' rights, which are both referred to above).

The Fiji Human Rights Commission (FHRC) established under the Human Rights Commission Decree (2009) (HRCD) continues under the Constitution, but is subject to restrictions in the Constitution and other laws. The Constitution clearly states that the FHRC can be subject to direction by a person, as provided by law,⁶⁴ and the HRCD states that the government bears "general policy responsibility for the management of the Commission,"⁶⁵ thus clearly restricting its independence. The FHRC would be unable to take certain human rights matters to court where it involves challenging the legality or validity of a decree or the actions of certain government officers due to Constitutional immunities and restrictions in other decrees.⁶⁶ Fiji must ensure that the constitutional framework provides for a fully independent human rights institution and does not restrict its mandate to investigate human rights

violations and to bring cases of human rights violations to the courts. The institution should also be fully compliant with the Paris Principles on National Human Rights Institutions.

Amnesty International calls on Fiji's current and future leaders to implement the following recommendations to strengthen human rights in Fiji's national legal framework.

RECOMMENDATIONS

- Review the Constitution and national laws to ensure that human rights are fully respected and protected, that perpetrators face justice and victims have access to reparations, and that no restrictions may be placed on human rights, other than those that are consistent with international human rights laws and standards.
- Provide adequate protection against administrative detentions, including by limiting the maximum time a person may be detained and providing for judicial review of administrative decisions.
- Provide for the possibility of introducing temporary special measures to promote gender equality, including to increase representation of women in parliament, and re-introduce section 45 of the Constitutional Commission's draft constitution in line with Fiji's obligations under the UN Convention on the Elimination of all forms of Discrimination Against Women.
- Ensure that there is protection of indigenous peoples' rights, particularly in relation to their rights to customary land and their effective participation in decisions impacting on them in line with the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169, and amend the non-discrimination provision (currently in Article 26) to explicitly include indigenous origin.
- Ensure the independence and impartiality of the national human rights institution in line with the Paris Principles.

SUMMARY OF RECOMMENDATIONS

- Ensure that there are no restrictions on the rights to freedom of expression, peaceful assembly and association in national laws, policies and practices, other than those allowed in international human rights laws and standards.
- Review and repeal provisions of the Constitution, Public Order Amendment Decree, Media Industry Development Decree, and the Crimes Decree which criminalize freedom of expression, peaceful assembly and association.
- Ensure that victims of violations of the rights to freedom of expression, peaceful assembly and association have the right to a timely and effective remedy.
- Review criminal charges against human rights defenders and others and drop those imposed solely for the peaceful exercise of the rights to freedom of expression, assembly and association.
- Ensure that no one is arbitrarily arrested and detained for peacefully exercising their rights to freedom of expression, assembly and association, and that no one is subject to threats, violence, harassment, persecution, intimidation or reprisals.
- Facilitate and protect the peaceful exercise of the rights to freedom of expression, assembly and association, with particular vigilance in relation to minority groups and activists advocating for economic, social and cultural rights, who are at greater risk of attacks and stigmatization.
- Ensure that no associations carrying out their activities peacefully, including political parties, are discriminated against in relation to their formation, ability to access funding, and to exercise their rights to freedom of expression and peaceful assembly, including through peaceful demonstrations and access to the media.
- Amend current legislation, including the Essential National Industries (Employment) Decree 2011 and relevant parts of the Constitution, so as to protect workers' rights in line with international human rights law and standards as well as international labour standards, including the right to form and join a trade union, the right to collectively bargain, the right to strike and the right to seek improved working conditions without penalty or reprisal.
- Take effective steps to ensure that attacks, intimidation and harassment of workers, union leaders, representatives and others who advocate for social and economic rights, are promptly, effectively and impartially investigated and that those responsible are brought to justice in accordance with international fair trial standards.
- Publicly condemn all acts of torture and other ill-treatment, ensure such practices cease immediately, and make clear to all officers involved in arrests, detention and interrogation that torture and other ill-treatment will not be tolerated under any circumstances.
- Ensure that all those suspected of being responsible for torture, other acts of ill-treatment criminalized under international law and similar acts, including persons with

command or other superior responsibility irrespective of rank or status, are brought to justice in proceedings that meet international fair trial standards, without recourse to the death penalty.

- Remove any barriers to justice for serious human rights violations, including immunities in the Constitution and other decrees, and ensure that victims and families can seek and receive reparations, including through national courts.
- Ratify the Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.
- Immediately invite and facilitate a visit by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and fully co-operate with the Special Rapporteur, including by providing him with a copy of all investigation records and medical reports relating to the torture and other ill-treatment of the escaped prisoners.
- Ensure the government immediately ceases all interference with the independence of the judiciary and lawyers, and ensure that the processes governing the qualification and discipline of lawyers and judges are free from political interference, as required by international human rights law and standards.
- Review the Constitution, decrees and other laws to ensure that all judges have security of tenure and that they can only be appointed and removed through an independent and transparent process consistent with international human rights law and standards.
- Invite the UN Special Rapporteur on the independence of judges and lawyers to visit Fiji, and fully co-operate with the Special Rapporteur.
- Review the Constitution and national laws to ensure that human rights are fully respected and protected, that perpetrators face justice and victims have access to reparations, and that no restrictions may be placed on human rights, other than those that are consistent with international human rights laws and standards.
- Provide adequate protection against administrative detentions, including by limiting the maximum time a person may be detained and providing for judicial review of administrative decisions.
- Provide for the possibility of introducing temporary special measures to promote gender equality, including to increase representation of women in parliament, and re-introduce section 45 of the Constitutional Commission's draft constitution in line with Fiji's obligations under the UN Convention on the Elimination of all forms of Discrimination Against Women.
- Ensure that there is protection of indigenous peoples' rights, particularly in relation to their rights to customary land and their effective participation in decisions impacting on them in line with the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169, and amend the non-discrimination provision (currently in Article 26) to explicitly include indigenous origin.
- Ensure the independence and impartiality of the national human rights institution in line with the Paris Principles.

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- ¹ Constitution of the Republic of Fiji (Promulgation) Decree (2013), sections 17, 18 and 19, available at: http://www.paclii.org/fj/promu/promu_dec/cotrofd2013526/ accessed 1 August 2014.
- ² Amnesty International, *Fiji's draft constitution falls short on human rights standards*, 25 April 2013, (Index: ASA 18/001/2013), <http://www.amnesty.org/en/library/asset/ASA18/001/2013/en/cf46f02c-3951-456c-a804-75f0d3105f47/asa180012013en.html> accessed 11 July 2014; Amnesty International, *Fiji: New constitution fails to protect fundamental human rights*, 4 September 2014 (Index: PRE 01/443/2013).
- ³ Human Rights Committee, *General comment No. 34, Article 19: Freedoms of opinion and expression*, UN Doc. CCPR/C/GC/34, 12 September 2011, paras. 21-2.
- ⁴ Constitution of the Republic of Fiji (Promulgation) Decree (2013), section 174, available at: http://www.paclii.org/fj/promu/promu_dec/cotrofd2013526/ accessed 1 August 2014.
- ⁵ Rear Admiral J V Bainimarama, *Speech at the Launch of Constitution in Braille*, 4 March 2014, available at: <http://www.fiji.gov.fj/Media-Center/Speeches/PRIME-MINISTER-J-V-BAINIMARAMA----SPEECH-AT-THE-LA.aspx>, accessed 3 June 2014.
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- ⁷ Amnesty International Annual Report 2012: Fiji, available at: <http://www.amnesty.org/en/region/fiji/report-2012> accessed 11 July 2014.
- ⁸ Universal Declaration of Human Rights, UN General Assembly resolution 217 A(III), adopted 10 December 1948.
- ⁹ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <http://www.refworld.org/docid/3ae6b3aa0.html> accessed 1 August 2014.
- ¹⁰ UN Human Rights Committee (HRC), *General comment no. 34, Article 19, Freedoms of opinion and expression*, 12 September 2011, CCPR/C/GC/34, available at: <http://www.refworld.org/docid/4ed34b562.html> accessed 1 August 2014
- ¹¹ Amnesty International, *Fiji: End harassment of journalists ahead of election*, 27 June 2014, <http://www.amnesty.org/en/news/fiji-end-harassment-journalists-ahead-election-2014-06-27> accessed 14 July 2014.
- ¹² UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, Frank La Rue, UN Doc. A/HRC/26/30, 30 May 2014, para. 10.
- ¹³ Amnesty International, *Fiji's draft constitution falls short on human rights standards*, Amnesty International Public Statement, 25 April 2013, (Index: ASA 18/001/2013).
- ¹⁴ Section 10 of the Public Order (Amendment) Decree (2012). By comparison, penalties under the Public Order Act (1988) prior to 2012 only allowed for up to 3 months imprisonment and a fine of \$100 FJD (\$50 USD) for the same offences.

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- ¹⁵ Amnesty International, *Proposed Fiji media law threatens journalists with jail*, 13 April 2010, (Index: PRE01/128/2010).
- ¹⁶ Amnesty International, *Another court ruling, another setback for freedom of expression in Fiji*, 13 August 2013, (Index: ASA 18/003/2013), available at <http://www.amnesty.org.au/news/comments/32473/> accessed 1 August 2014.
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- ¹⁸ Radio New Zealand International, *Survey shows Fiji media bias – UDFDF*, 25 June 2014, available at: <http://www.radionz.co.nz/international/programmes/datelinepacific/audio/2600891/survey-shows-fiji-media-bias-ufdf> accessed at 11 July 2014.
- ¹⁹ Interview with Virisila Buadromo, 1 July 2014, Suva, Fiji.
- ²⁰ Amnesty International Annual Report 2012: Fiji, available at: <http://www.amnesty.org/en/region/fiji/report-2012> accessed 1 August 2014; Amnesty International Annual Report 2013: Fiji, available at: <http://www.amnesty.org/en/region/fiji/report-2013> accessed 1 August 2014.
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- ²⁷ Interview with Kris Prasad, 1 July 2014, Suva, Fiji.
- ²⁸ Amnesty International Annual Report 2012: Fiji; Amnesty International Annual Report 2013: Fiji.
- ²⁹ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review : Fiji*, 23 March 2010, A/HRC/14/8, para 71.21 (Norway), 28 (United Kingdom), 31 (United States), 34 (Australia), 76 (Netherlands), para 71.61 (Netherlands), 62 (Norway), 63 (Spain), 93 (Canada).
- ³⁰ Interview with Rajeshwar Singh, 1 July 2014, Suva, Fiji.
- ³¹ Section 14.

³² Sections 24 and 115.

³³ Section 20.

³⁴ Amnesty International, *Fiji: ILO Commission of Inquiry should be set up to protect workers' rights*, 6 August 2013, (Index: ASA 18/002/2013), available at: <http://www.amnesty.org/en/library/asset/ASA18/002/2013/en/74944867-a098-4ad3-a136-9e7136643081/asa180022013en.html>.

³⁵ UN News Centre, *UN Labour Agency names five countries where 'serious and urgent' labour rights cases need attention*, 15 November 2012, available at: <http://www.un.org/apps/news/story.asp?NewsID=43506> accessed 5 June 2014.

³⁶ Amnesty International Annual Report 2013: Fiji

³⁷ Amnesty International Annual Report 2013: Fiji.

³⁸ Amnesty International, *Fiji: ILO Commission of Inquiry should be set up to protect worker's rights*, Public Statement (Index: ASA 18/002/2013), 6 August 2013.

³⁹ See for instance 1949 Geneva Convention III relative to the Treatment of Prisoners of War, Art. 17; 1949 Geneva Convention IV relative to the Protection of Civilian Persons in Time of War, Art 31, and see also Arts. 5, 27, 32, 37. The Geneva Conventions were adopted on 12 August 1949, and entered into force 21 October 1950, Art 31. See also Arts. 5, 27, 32, 37.

⁴⁰ See for instance International Court of Justice, Questions Relating to the Obligation to Prosecute or Extradite (*Belgium v Senegal*), Judgment of 20 July 2012, para. 99; International Court of Justice, *Case Concerning Ahmadou Sadio Diallo* (Republic of Guinea v. Democratic Republic of the Congo), Judgment of 30 November 2010, para. 87; UN General Assembly Resolution 66/150 (19 December 2011), third preambular paragraph; International Criminal Tribunal for the Former Yugoslavia (ICTY), *Prosecutor v Furundzija*, no IT-95-17/1, Trial Judgment, 10 December 1998, paras. 137-146.

⁴¹ International Court of Justice, Questions Relating to the Obligation to Prosecute or Extradite, para 99; UN General Assembly Resolution 66/150 (19 December 2011), third preambular paragraph; ICTY, *Prosecutor v Furundzija*, paras. 153-157.

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⁴³ Amnesty International, *Fiji: New constitution fails to protect fundamental human rights*, (Index: PRE 01/443/2013) 4 September 2014.

⁴⁴ Amnesty International, *Fiji: Open letter concerning reports of torture of recaptured prisoners*, 12 December 2012, available at: <http://www.amnesty.org/en/library/info/ASA18/002/2012/en> accessed 15 July 2014.

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⁴⁶ Amnesty International, *Fiji: Open letter concerning reports of torture of recaptured prisoners*, 12 December 2012.

⁴⁷ Amnesty International, *Fiji: "Shocking" torture video depicts alleged torture of prisoners*, Press Release, 5 March 2013, <http://www.amnesty.org/en/news/fiji-shocking-video-depicts-alleged-torture->

[prisoners-2013-03-05](#), accessed 11 July 2014.

⁴⁸ UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law : resolution / adopted by the General Assembly*, 21 March 2006, A/RES/60/147, available at: http://legal.un.org/avl/pdf/ha/ga_60-147/ga_60-147_e.pdf accessed 1 August 2014.

⁴⁹ See for instance UN Commission on Human Rights, *Updated Set of principles for the protection and promotion of human rights through action to combat impunity*, UN Doc. E/CN.4/2005/102/Add.1, 8 February 2005, esp. Principles 34-8; UN Basic Principles (above), esp. Principles 18-24.

⁵⁰ See, for example Constitution of the Republic of Fiji (Promulgation) Decree (2013), Chapter 10: Immunities.

⁵¹ Interview with Richard Naidu, 1 July 2014, Suva, Fiji.

⁵² Constitution of the Republic of Fiji (Promulgation) Decree (2013), Chapter 10: Immunities.

⁵³ See, for example, section 4 of the Regulation of Pensions and Retirement Allowances Decree (2009), which states “No court, tribunal, commission or any other adjudicating body shall have the jurisdiction to accept, hear, determine or in any other way entertain, any challenges whatsoever (including any application for judicial review) by any person or body, or to grant any remedy to any person or body, in relation to the validity, legality or propriety of any action, decision or order of the Prime Minister under this Decree.” The Administration of Justice Decree (2009) empowered the Registrar of the Courts to dismiss all court proceedings challenging decisions of government or any decree passed between 5 December 2006 and 9 April 2009 under section 23(3). The Administration of Justice Decree (2009) was repealed by the Constitution, which include a similar provision restricting judicial review for government actions from 5 December 2006 up until when a new parliament is sitting (see section 173(4) of the Constitution).

⁵⁴ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review : Fiji*, 23 March 2010, A/HRC/14/8, para 71.16 (Philippines).

⁵⁵ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review : Fiji*, 23 March 2010, A/HRC/14/8, paras 71.37 (Canada), 71.38 (Germany), 71.40 (Israel).

⁵⁶ Constitution of the Republic of Fiji (Promulgation) Decree (2013), section 8.

⁵⁷ Section 6(5) of the Bill of Rights states that human rights in the Constitution may be restricted by other laws or decrees, which will have the effect of nullifying many rights in the Constitution.

⁵⁸ *Principles relating to the Status of National Institutions (the Paris Principles)*, A/RES/48/134, adopted by UN General Assembly resolution, entered into force 20 December 1993.

⁵⁹ Amnesty International, *Fiji's draft constitution falls short on human rights standards*, 25 April 2013, (Index: ASA 18/001/2013).

⁶⁰ Amnesty International, *Fiji's draft constitution falls short on human rights standards*, 25 April 2013, (Index: ASA 18/001/2013).

⁶¹ See Article 7, CEDAW. Fiji ratified CEDAW in 1995.

⁶² Amnesty International, *Fiji's draft constitution falls short on human rights standards*, 25 April 2013, (Index: ASA 18/001/2013)

⁶³ Section 173.

⁶⁴ Constitution of the Republic of Fiji (Promulgation) Decree (2013), section 45.

⁶⁵ Fiji Human Rights Commission Decree (2009), section 15 (6)(b).

⁶⁶ Constitution of the Republic of Fiji (Promulgation) Decree (2013), Chapter 10: Immunities; see also s11 (2) of the Fiji Human Rights Commission Decree (2009) which limits the types of complaints which can be received by the Commission.



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