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Republic of Fiji

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**Submission by CIVICUS: World Alliance for Citizen Participation,
NGO in General Consultative Status with ECOSOC status**

And

**Pacific Islands Association of Non-Government Organisations (PIANGO)
(ECOSOC Status), Fiji Council of Social Services (FCOSS) and Amnesty
International (ECOSOC status)**

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1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 180 countries throughout the world.
- 1.2 The Pacific Island Association of Non-Government Organisations (PIANGO) is a regional umbrella body of member national umbrella CSOs in 23 countries and territories of the Pacific Islands region. Formed in 1991, PIANGO strengthens CSOs to take action, give voice to their concerns and influence policies for just and sustainable development for Pacific peoples.
- 1.3 Fiji Council of Social Services (FCOSS) is a charitable organisation set up in 1957 to provide welfare and relief to vulnerable and marginalised people in Fiji. The key focus areas of FCOSS are community inclusion, community leadership, community innovation, CSO coordination, development effectiveness and building an effective, responsive organisation supporting transformative programmatic approaches.
- 1.4 Amnesty International is a global movement of more than 10 million people in over 150 countries and territories who campaign to end human rights abuses.
- 1.5 In this submission, the four organisations examine the Government of Fiji's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Fiji's protection and promotion of the rights to freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) and activists since its previous UPR examination in November 2019. To this end, we assess Fiji's implementation of recommendations received during the 3rd UPR cycle relating to these issues and provide follow-up recommendations.
- 1.6 During the 3rd UPR cycle, the Government of Fiji received 17 recommendations relating to the space for civil society (civic space). It accepted nine of these recommendations and noted eight. However, an evaluation of a range of legal sources and human rights documentation addressed in this submission demonstrates that Fiji has only partly implemented these recommendations.
- 1.7 In December 2022, a new coalition government came to power, led by Prime Minister Sitiveni Rabuka, bringing an end the leadership of Prime Minister Frank Bainimarama, who seized power in a 2006 military coup and later refashioned himself as a democratic leader by introducing a new constitution and winning

elections in 2014 and again in 2018.¹ The new government has committed to respecting and protecting the Constitution's Bill of Rights and reviewing and repealing laws that suppress human rights.²

1.8 While some legal and policy reforms have been taken, we are concerned that the government has yet to review laws and provisions that could be used to restrict civic space. We are alarmed that there continue to be restrictions on the right to freedom of peaceful assembly.

1.9 As a result of these issues, civic space in Fiji is currently classified as 'obstructed' by the CIVICUS Monitor, indicating a significant level of civic space restrictions.³

- Section 2 of this submission examines Fiji's implementation of UPR recommendations and compliance with international human rights standards concerning the right to freedom of association.
- Section 3 examines Fiji's implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines Fiji's implementation of UPR recommendations and compliance with international human rights standards concerning the right to freedom of expression, media freedom and access to information.
- Section 5 examines Fiji's implementation of UPR recommendations and compliance with international human rights standards related to the right to freedom of peaceful assembly.
- Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 3rd cycle.
- Section 7 is an annex on the implementation of 3rd cycle UPR recommendations related to civic space.

2. Freedom of association

2.1 During Fiji's examination under the 3rd UPR cycle, the government accepted one recommendation on the right to freedom of association and creating an enabling environment for CSOs. The government committed to promoting 'freedom of association and workers' rights to better defend their interests and views'. However,

¹ 'Rabuka Confirmed as Fiji Prime Minister After Close Election', VOA East Asia Associated Press, 24 December 2022, <https://www.voanews.com/a/rabuka-confirmed-as-fiji-prime-minister-after-close-election-6889980.html>.

² 'Govt will review and repeal laws that suppress basic human rights – AG: Koya says all freedoms are covered under the Bill of Rights', Fijivillage News, 1 July 2024, <https://www.fijivillage.com/news/Govt-will-review-and-repeal-laws-that-suppress-basic-human-rights--AG-fr845x>.

³ CIVICUS Monitor: Fiji, <https://monitor.civicus.org/country/Fiji>.

as evidenced below, there are ongoing concerns about restrictions related to the right to freedom of association in law and policy.

- 2.2** Article 19 of Fiji’s Constitution guarantees the right to freedom of association, with limitations.⁴ Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Fiji is a state party, also guarantees the right to freedom of association.
- 2.3** Most CSOs are registered under the Fiji Charitable Trusts Act. The law requires that CSOs be formed only for ‘religious, educational, literary, scientific, or charitable purposes’ in order to be incorporated as charitable trusts.⁵ Any organisation registered under the Charitable Trusts Act is automatically exempt from paying income tax.
- 2.4** In November 2021, the Registrar of Titles issued a notice to charitable organisations stating that those that do not submit their annual returns and a copy of their annual audited accounts would be ‘named and shamed’, with their information, containing names and addresses of trustees, board members and office holders, published in the news dailies, with 30 days to convince the Registrar of Titles that their organisation should not be deregistered.⁶ Similar language to ‘naming and shaming’ was also added to the Companies Act in 2020, which has an impact on CSOs registered under that act.⁷ This raises serious concerns around the right to privacy and due process of law.
- 2.5** In practice, most CSOs are able to register and operate with minimum government interference. According to CSOs, since the change of government in December 2022, the space has opened up for them to register and undertake their activities.⁸
- 2.6** While CSOs often play a crucial role in election preparations and promoting political participation, the electoral law in Fiji effectively bars CSOs from engaging in broadly defined election-related activities. Article 115 of the 2014 Electoral Act states that any CSO that receives foreign funding may not ‘engage in, participate in or conduct any

⁴ The Fiji Constitution (Article 19(2)) limits the freedom of association ‘in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of election’. See https://www.constituteproject.org/constitution/Fiji_2013.

⁵ ‘The Law Affecting Civil Society in Asia: Developments and Challenges for Nonprofit and Civil Society Organizations’, International Center for Not-for-Profit Law, April 2020, <https://www.icnl.org/post/report/the-law-affecting-civil-society-in-asia>.

⁶ ‘Alert: Charitable Organizations to Submit Annual Returns’, Haniff Tuitoga Pacific Legal Network, 2021, <https://www.haniffuitoga.com.fj/single-post/alert-charitable-organizations-to-submit-annual-returns>.

⁷ ‘Donor Money Under The Spotlight: This means that any company that’s limited by a guarantee, but is set for the purposes of charity, must disclose their accounts annually’, Fiji Sun, 1 September 2020, <https://fijisun.com.fj/2020/09/01/donor-money-under-the-spotlight>; ‘Fiji: Bill No. 34 of 2020 : A bill for an Act to amend the Companies Act 2015’, August 2020, <https://www.parliament.gov.fj/wp-content/uploads/2020/08/Bill-No.-34-Companies-Amendment-Bill-2020.pdf>.

⁸ Interview with civil society groups in Fiji, May 2024, on file.

campaign, including organising debates, public forums, meetings, interviews, panel discussions, or publishing any material that is related to the election following the issuance of the writ of elections'.⁹ Should a CSO wish to carry out any voter or election-related activities after the issuance of the writ of elections, an application process must be followed to obtain approval. Heavy fines of up to FJD 50,000 (approx. US\$22,440) can be imposed on those breaching the Electoral Act, along with prison sentences of up to 10 years. Such a provision is vague and ambiguous and unreasonably restricts the right to freedom of expression and inhibits discussions by civil society groups of political party policies that impact on human rights.

- 2.7** The Employment Relations (Amendment) Act 2015 recognises the right of private sector workers to form and join independent unions, bargain collectively and strike. Although the law provided for the right of workers in essential services and industries,¹⁰ including the public sector, to bargain collectively, it limited their right to strike. The law permitted the minister of employment to declare a strike unlawful and refer the dispute to the Arbitration Court. If authorities referred the issue to the Arbitration Court, workers and strike leaders could face criminal charges if they persisted in strike action.¹¹
- 2.8** In a positive step by the current government, it passed the Employment Relations (Amendment) Bill 2023 to reform labour laws and improve the rights of workers. As a result of the change, workers in the essential services and industries now have freedom of association rights in line with other workers.¹²
- 2.9** Fiji's highest chiefly political body, the Great Council of Chiefs (GCC), reconvened in May 2023 for the first time in 16 years. While it does not have any formal legal or political powers under the Constitution, it is regarded as the apex of Indigenous Fijian leadership and is therefore significant in the context of recognition of the rights of Indigenous peoples in Fiji. The GCC was disbanded in 2007 following the military coup

⁹ 'NGOs in Fiji requesting removal of Electoral Decree provision', Radio NZ, 2 April 2014,

<https://www.radionz.co.nz/international/programmes/datelinepacific/audio/2591184/ngos-in-fiji-requesting-removal-of-electoral-decree-provision>.

¹⁰ The law designates 'essential service and industries' to include 11 corporations in eight sectors, including the airline industry, finance, telecommunications and public sector employees. In 2015, the law was amended, extending the definition of essential services and industries to include all state-owned enterprises, statutory authorities and local government authorities.

¹¹ Workers in essential services must notify the Arbitration Court and provide the category of workers who propose to strike and the starting date and location of the strike. See 'Fiji 2015 Human Report', United States Department of State, 2023, <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/fiji>.

¹² 'Fiji takes critical step to reform the country's Labour Laws in line with ILO standards', International Labour Organization, 15 December 2023, <https://www.ilo.org/resource/news/fiji-takes-critical-step-reform-countrys-labour-laws-line-ilo-standards>.

by Frank Bainimarama, who accused it of interfering in politics and inciting racial tension. It was formally abolished by decree in March 2012.¹³

3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

- 3.1** Under Fiji's previous UPR examination, the government received one recommendation on the protection of HRDs, journalists and civil society representatives. The government committed to 'adopt concrete measures to ensure that trade unions and human rights defenders are able to carry out their work, guaranteeing their freedom of expression, association and assembly and freedom of the press'. The government accepted the recommendation and has partly implemented it.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. However, in spite of these protections, harassment of HRDs has been documented.
- 3.3** A 2021 Office of the High Commissioner for Human Rights (OHCHR) report found that while HRDs operate in a relatively free environment, rights particularly related to freedom of expression and peaceful assembly had been limited. Laws such as the 2012 Public Order (Amendment) Act and sedition provisions in the Crimes Act (see section 4) have created a chilling effect for HRDs. The report also found that some HRDs are subjected to stigmatisation and ostracism by community leaders, faith-based groups, families and communities, who consider them to be threatening religion, honour or culture through their work. This was prevalent amongst those interviewed by the OHCHR who advocated for LGBTQI+ rights, gender equality and sexual and reproductive rights. Women HRDs also said they feared being physically attacked or retaliated against and face cyberbullying and harassment online and offline. Sixty per cent of HRDs interviewed noted that they did not feel safe when criticising the government or discussing political issues.¹⁴
- 3.4** In August 2020, HRD Felix Anthony, the Fiji Trades Union Congress (FTUC) executive, was charged under Section 15 of the country's Public Order law. He was alleged to have 'spread false news' after speaking up on behalf of workers from the Water

¹³ 'Banned for almost two decades, Fiji's Great Council of Chiefs is back and pushing for greater influence', ABC News, 4 March 2024, <https://www.abc.net.au/news/2024-03-04/fiji-great-council-chiefs-pacific-traditional-leaders/103532502>.

¹⁴ 'Report On The Situation Of Human Rights Defenders, With A Focus On Women Human Rights Defenders In Selected Pacific Island Countries: OHCHR Assessment Of The Situation Of Human Rights Defenders, With A Focus On Women Human Rights Defenders In Fiji, Kiribati, Republic of Marshall Islands, Papua New Guinea, Solomon Islands, Tuvalu and Vanuatu 2019-2021', OHCHR, December 2021, https://www.ohchr.org/sites/default/files/2022-04/OHCHR_Situation-of-Human-Rights-Defenders-in-the-PacificDEC21-HRv1.pdf.

Authority of Fiji's whose contracts had suddenly expired. Authorities claimed this was false news that 'tended to create or foster public anxiety'. Police also raided and searched the FTUC's offices.¹⁵ Almost three years later, on 6 July 2023, the Office of the Director of Public Prosecution withdrew the state prosecution's case.¹⁶

- 3.5** In May 2022, Frank Bainimarama vilified two HRDs – Fiji Women's Crisis Centre Coordinator Shamima Ali and the Foundation for Rural Integrated Enterprises & Development (FRIEND) Fiji Founder Sashi Kiran – who had called for a caretaker government ahead of the election. Instead of responding to their demands, Bainimarama accused their organisations of not being NGOs but members of political parties.¹⁷

4. Freedom of expression, media freedom and access to information

- 4.1** Under the 3rd UPR cycle, the government received 13 recommendations relating to the right to freedom of expression, media freedom and access to information. For example, the government pledged to 'take legislative measures to ensure that the right to freedom of expression is protected in line with the provisions of the International Covenant on Civil and Political Rights' and ensure 'that criminal and speech-related legislation are not misused to suppress media, civil society and opposition politicians'. The government accepted five recommendations and noted eight. However, it has only partly implemented the recommendations.
- 4.2** Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 17 of the Constitution of Fiji also guarantees the 'right to freedom of speech, expression, thought, opinion and publication'.¹⁸ However, laws used to criminalise expression have yet to be revised and there have been efforts by the authorities to silence dissent.
- 4.3** The Fijian authorities have previously used sedition provisions in the Crimes Act, including section 66 (seditious intention) and section 67 (sedition offences) to target the media and opposition politicians. These provisions are inconsistent and incompatible with international human rights standards. In April 2021, political activist Benjamin Padarath was charged with sedition for posting information

¹⁵ 'Fiji Authorities Stifle Airing of Debate and Continue Prosecution of Trade Union Leader', CIVICUS Monitor, 14 October 2020, <https://monitor.civicus.org/explore/fiji-authorities-stifles-airing-debate-and-continues-prosecution-trade-union-leader>.

¹⁶ United States Department of State, op. cit.

¹⁷ 'PM says FWCC and FRIEND Fiji are not NGOs, they are members of NFP and PAPI: It is in the interest of all of us to have a Caretaker Government – Shamima Ali', Fijivillage News, 12 May 2022, <https://www.fijivillage.com/feature/PM-says-FWCC-and-FRIEND-Fiji-are-not-NGOs-but-members-of-NFP-and-PAPI-f48rx5>.

¹⁸ The Fiji Constitution (Article 19(2)) limits the freedom of association 'in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of election'. See, op. cit.

pertaining to an ongoing investigation by the Fiji Independent Commission Against Corruption on Facebook.¹⁹

- 4.4** The Public Order (Amendment) Act 2012 also has a chilling effect on expression. Section 15 of the Act states that any person who ‘maliciously fabricates or knowingly spreads abroad or publishes, whether by writing or by word of mouth or otherwise, any false news or false report tending to create or foster public alarm, public anxiety or disaffection or to result in the detriment of the public’ is guilty of an offence and could face a one-year prison sentence.²⁰
- 4.5** Individuals critical of the previous government were detained or criminalised. Dr Jone Hawea, an outspoken former surgeon with the Ministry of Health, was taken by police from his Lautoka home in August 2021 over comments he made about COVID-19 and the government’s response. Police detained him for 48 hours and questioned him before releasing him without charge.²¹ In November 2022, senior lawyer Richard Naidu was found guilty by a High Court judge of contempt of court for correcting a spelling mistake. Naidu had highlighted on social media an error in a court judgment where the word ‘injection’ was used instead of ‘injuncton’. The Attorney-General claimed Naidu’s post was malicious and invited others to mock the judiciary.²² The charges were dismissed in July 2023 following the change of government.²³
- 4.6** The opposition was also targeted. In June 2020, police raided the offices of two opposition political parties, allegedly due to anti-government social media posts.²⁴ In July 2021, nine opposition politicians were arrested and questioned for voicing concerns about proposed amendments to a contentious land bill. Six members of parliament and three other high-profile politicians were taken into custody by the criminal investigations department. They were accused of ‘inciting unrest’ under the Public Order Act.²⁵

¹⁹ ‘Fiji Authorities Target Critics, Deny Union March as Press Freedom Ranking Drops’, CIVICUS Monitor, 1 June 2021, <https://monitor.civicus.org/explore/fiji-authorities-target-critics-deny-union-march-press-freedom-ranking-drops>.

²⁰ ‘Public Order Act [Cap 20]: An Ordinance To Facilitate The Maintenance Of Public Order’, Pacific Islands Legal Information Institute Database, https://www.pacii.org/fj/legis/consol_act_OK/poa133.

²¹ ‘Fiji Government Continues To Silence Dissent As Impunity For Torture Persists’, CIVICUS Monitor, 15 September 2021, <https://monitor.civicus.org/explore/fiji-government-continues-silence-dissent-impunity-torture-persists>.

²² ‘Conviction of Lawyer and Recent Legal Changes Further Erodes Civic Space in Fiji Ahead of Elections’ CIVICUS Monitor, 24 November 2022, <https://monitor.civicus.org/explore/conviction-lawyer-and-recent-legal-changes-further-erodes-civic-space-fiji-ahead-elections>.

²³ ‘Fiji Judge Dismisses Lawyer Richard Naidu’s Guilty Conviction Over “Scandalising Court” Case’, Asia Pacific Report Independent News and Analysis, 21 July 2023, <https://asiapacificreport.nz/2023/07/21/judge-dismisses-lawyer-richard-naidus-guilty-conviction-over-scandalising-court-case>.

²⁴ ‘Authorities Intimidate Protesters and Silence Critics Using Restrictive Law in Fiji’, CIVICUS Monitor, 24 June 2020, <https://monitor.civicus.org/explore/authorities-intimidate-protesters-and-silence-critics-using-restrictive-laws-fiji>.

²⁵ CIVICUS Monitor, 15 September 2021, op. cit.

- 4.7** The media also faced restrictions and attacks under the previous government. In August 2020, Bainimarama ordered the Fiji Broadcasting Corporation to stop a religious debate on its channel between the leader of a spiritual movement and local church groups, claiming it would confuse religious groups.²⁶ In February 2022, former Attorney-General Aiyaz Sayed-Khaiyum attacked media organisations after he was asked at a media conference if the Attorney-General and other ministers had failed to adhere to COVID-19 safety protocols during a tour of the Western Division.²⁷ During Chinese Foreign Minister Wang Yi's visit to Fiji in June 2022, press conferences and media access were heavily restricted.²⁸
- 4.8** There are also concerns about the Online Safety Act 2018, which could be used to muzzle online expression. It establishes an Online Safety Commission to receive and investigate complaints and provide redress. CSOs have raised strong concerns about the law, including its lack of guiding principles to define and determine the scope of powers and discretion of the Commission when receiving, assessing and investigating complaints.²⁹ CSOs have also stated that it would 'create an atmosphere of censorship' and could be misused to criminalise legitimate speech.³⁰
- 4.9** The authorities have also targeted whistleblowers. Professor Pal Ahluwalia, Vice Chancellor and President of the University of the South Pacific (USP), was deported along with his partner in February 2021 after he exposed allegations of corruption and financial mismanagement under the previous university administration. He was deemed 'prejudicial to peace, defence, public safety, public order, public morality, public health, security, or good government of the Fiji islands'.³¹ Fijian academic Dr Padma Lal was deported with her husband in 2009. Fijian historian Brij Lal was

²⁶ CIVICUS Monitor, 14 October 2020, op. cit.

²⁷ 'Civic Space Remains 'Obstructed' In Fiji As Media Attacked, Climate March Blocked', CIVICUS Monitor, 9 February 2022, <https://monitor.civicus.org/explore/civic-space-remains-obstructed-fiji-media-attacked-climate-march-blocked>.

²⁸ 'Media Restrictions and Vilification of Activists Intensifies Climate of Fear in Fiji', CIVICUS Monitor, 22 June 2022, <https://monitor.civicus.org/explore/media-restrictions-and-vilification-activists-intensifies-climate-fear-fiji>.

²⁹ Critics point to part four of the law as problematic since it could be arbitrarily used to intimidate internet users. This particular provision considers 'the posting of an electronic communication with the intention to cause harm to an individual' as an offence, punishable by five to seven years in prison. They have warned that 'causing harm' as an offence was too broad, such that any dissenting opinion could be interpreted as illegal content.

³⁰ 'NGOCHR Online Safety Bill (2018) Submission', NGO Coalition on Human Rights, 11 August 2022, <https://fwrn.org.fj/publications/submissions/2018-ngochr-submission-on-online-safety-bill-2018>.

³¹ 'Deportation of Academic Increases the Chilling Effect on Freedom of Expression in Fiji', CIVICUS, 8 February 2021, <https://www.civicus.org/index.php/media-resources/news/4864-deportation-of-academic-increases-the-chilling-effect-on-freedom-of-expression-in-fiji>.

expelled from Fiji after criticising the government that took power in the 2006 coup. He never returned to his home and died in Australia in December 2021.³²

- 4.10** In one of his first acts as head of government in January 2023, Prime Minister Rabuka officially reversed the politically motivated travel ban against Ahluwalia.³³ The ban against Padma Lal was also reversed.
- 4.11** The Information Act, a freedom of information law, was passed in May 2018. However, civil society has raised concerns about the broad list of information exempt from disclosure. Under the law, only Fijian residents or citizens may make applications for information. Requests are limited to cases where the information directly affects a decision regarding the person making the request and only if the information came into existence after the law entered into force. The law does not address how conflicts with secrecy provisions in other laws will be handled, and the only ground for appeal is where access is denied. There is no sanction for people who wilfully undermine the law or public bodies that fail to disclose information or do not meet their obligations.³⁴

5. Freedom of peaceful assembly

- 5.1** During Fiji's examination under the 3rd UPR cycle, the government received two recommendations on the right to freedom of peaceful assembly, including to 'uphold freedom of assembly by ensuring that criminal statutes, such as section 15 of the Public Order (Amendment) Act, are not used to curtail workers' rights' and to 'take measures to permit lawful labour, political and social protests'. It accepted both recommendations but has only partly implemented them.
- 5.2** Article 21 of the ICCPR guarantees the right to freedom of peaceful assembly. Article 18 of the Fiji Constitution also guarantees this right.³⁵ The authorities have allowed some peaceful protests to take place. However, there have also been instances where this right has been arbitrarily restricted.
- 5.3** The Public Order (Amendment) Act 2014 allows the government to refuse permit applications for any public meeting or march deemed to 'prejudice the maintenance of peace or good order'. A 2017 amendment removed the requirement for a permit to

³²Fiji: Repeal of Restrictive Media Law, Reverse of Travel Bans and other Reform Commitments a Positive Signal for Civic Freedoms', CIVICUS Monitor, 31 May 2023, <https://monitor.civicus.org/explore/fiji-repeal-of-restrictive-media-law-reverse-of-travel-bans-and-other-reform-commitments-a-positive-signal-for-civic-freedoms>.

³³ 'Exiled USP vice-chancellor returns to Fiji after ban lifted', RNZ News, 10 February 2023, <https://www.rnz.co.nz/international/pacific-news/484028/exiled-usp-vice-chancellor-returns-to-fiji-after-ban-lifted>.

³⁴ 'Status Of the Right To Information In Pacific Island Countries', UNODC/UN-PRAC, February 2020, https://www.unodc.org/roseap/uploads/archive/documents/pacific/2020/UN-PRAC_Paper_-_Status_of_Right_to_Information_in_Pacific_Island_Countries.pdf

³⁵ The Fiji Constitution (Article 19(2)) limits the freedom of association 'in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of election', op. cit.

hold a meeting in a public place, but a permit is still required to convene a meeting in a public park or on a public road.³⁶

- 5.4 Under the previous government, trade unions were often denied permits to march. The FTUC was denied a permit to march and hold a rally in Suva on International Labour Day on 1 May 2021, with no written reasons given. According to the FTUC, it was verbally told this was due to the pandemic.³⁷
- 5.5 In November 2021, a peaceful climate march organised by young people ended abruptly after police officers stepped in to stop the rally in Suva. Organisers told local media that police also removed their banners.³⁸ Police said no application had been made to them for a march and, as such, no permit had been granted. They also warned protesters against posting on social media about the event.³⁹
- 5.6 The environment for protests has improved under the current government but some groups continue to face challenges from the police. In March 2023, police attempted to block a 'Reclaim the Night' march in support of ending violence against women. The march took place following ministerial intervention. On 25 August 2023, police prevented members of the Fiji First political party from joining a peaceful protest against the release by Japan of Fukushima nuclear wastewater into the Pacific Ocean.⁴⁰
- 5.7 In November 2023, police cancelled a peaceful march planned in Suva by USP students to call for an end to genocide in Gaza. The government revoked their permit, citing national security concerns.⁴¹
- 5.8 Police have also intimidated peaceful protesters who have gathered regularly every Thursday to hold protests and vigils at the premises of the Fiji Women's Crisis Centre on human rights violations in Gaza and West Papua. A truckload of police officers, including two patrol cars, showed up at a Free Palestine and Free West Papua solidarity rally and vigil on 9 May 2024. Police officers stood across the road next to the truck and stared at them for close to an hour. The two patrol cars continuously

³⁶ See Public Order (Amendment) Act 2017, 14 February 2017, <http://www.parliament.gov.fj/wp-content/uploads/2017/03/Act-1-Public-Order-Amendment-Act.pdf>.

³⁷ 'Permit Denied: Approach By This Government Is Shameful – Anthony', FTUC, 6 April 2021, <https://ftuc.org.fj/permit-denied-approach-by-this-government-is-shameful-anthony>.

³⁸ 'Fiji Police Stop Climate Rally by Youths', RNZ News, 9 November 2021, <https://www.rnz.co.nz/international/pacific-news/455267/fiji-police-stop-climate-rally-by-youths>.

³⁹ CIVICUS Monitor, 9 February 2022, op. cit.

⁴⁰ Amnesty International: Fiji, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-east-asia-and-the-pacific/fiji/report-fiji>.

⁴¹ 'Fiji: Solidarity Marches for Palestine Blocked While Independent Media Council Revived', CIVICUS Monitor, 17 January 2024, <https://monitor.civicus.org/explore/fiji-solidarity-marches-for-palestine-blocked-while-independent-media-council-revived>.

made the rounds, with police officers taking pictures and videos from inside the vehicles.⁴²

6. Recommendations to the Government of Fiji

CIVICUS, PIANGO, FCROSS and Amnesty International call on the Government of Fiji to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: the rights to freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect.

In the light of this, the following specific recommendations are made:

16.1 Freedom of association

- Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit the right to freedom of association.
- Remove all undue restrictions on the ability of CSOs to register and operate under the Charitable Trusts Act, undertake activities in line with best practices articulated by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, and immediately recognise all CSOs that have been arbitrarily and unduly denied registration.
- Review the 2014 Electoral Act so that any CSO may engage in, participate in or conduct any campaign, including by organising debates, public forums, meetings, interviews, panel discussions, or publishing material related to and election without impermissible restrictions on CSO activities and the right to freedom of expression.

16.2 Protection of human rights defenders

⁴² 'More Than 50 People Had Gathered Tonight When Police Officers Stood Across The Road Next To The Truck And Stared Them Down For Close To An Hour', X.com post, 9 May 2024, <https://x.com/CommsFWCC/status/1788528939968925920>.

- Provide civil society members, HRDs and journalists with a safe, enabling and secure environment in which to carry out their work, conduct impartial, independent, thorough, transparent and effective investigations into all cases of harassment and intimidation against them and bring suspected perpetrators of such offences to justice in fair trials.
- Ensure that HRDs are able to freely carry out their activities without fear of reprisals or undue hindrance, obstruction, or harassment of themselves or their families.
- Undertake a consolidated process of repeal or amendment of legislation such as the sedition provisions of the Crimes Act and the Public Order (Amendment) Act that unwarrantedly restrict the legitimate work of HRDs, in line with the UN Declaration on Human Rights Defenders.
- Publicly condemn at the highest levels and put an end to all acts of harassment and intimidation of HRDs, activists and CSOs, including police and judicial harassment.
- Systematically implement legal provisions that promote and protect human rights and establish mechanisms that protect HRDs, including by working with CSOs to adopt a specific law on the protection of HRDs in accordance with Human Rights Council resolution 27.31.

Freedom of expression, media freedom and access to information

- Ensure the right to freedom of expression and media freedom by all bringing national legislation into line with international standards.
- Repeal the sedition provisions of the Crimes Act in order to ensure that the legislation is consistent with best practices and international standards in the area of the right to freedom of expression.
- Amend the Public Order (Amendment) Act so as to be consistent with the ICCPR and repeal provisions that criminalise the right to freedom of expression.
- Review and amend the Online Safety Act 2018 to ensure it complies with the government's commitment to guarantee and ensure the rights to freedom of expression and information and allows bloggers, journalists and other internet users to play a full and active role in promoting and protecting human rights.

- Ensure that journalists and writers can work freely and without fear of retribution for expressing critical opinions or covering topics that the government may find sensitive.
- Refrain from adopting any laws providing for censorship or undue control over media content.
- Review and amend the Information Act 2018 to ensure it is consistent and compatible with international human rights standards on the right to access information.

6.4 Freedom of peaceful assembly

- Adopt best practices on the right to freedom of peaceful assembly, as put forward by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association in his 2012 annual report, and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020, which calls for procedures in which there is simple notification of assemblies being held, rather than explicit permission being needed to assemble.
- Refrain from harassment or intimidation of people peacefully expressing views on the situation in Gaza and issues of independence and self-determination in the Pacific, including New Caledonia and West Papua.
- Amend the Public Order (Amendment) Act in order to guarantee fully the right to freedom of peaceful assembly and remove restrictions other than those provided for under the framework of international human rights law and standards.
- Halt all form of harassment and intimidation of peaceful protesters and ensure that any law enforcement officials who undertake such actions are held accountable.
- Review and, if necessary, update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards.
- Provide recourse for judicial review and right to an effective remedy, including compensation, in cases of violations of the rights to freedom of peaceful assembly by state authorities.

6.5 Access to UN Special Procedures mandate holders

Extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; and 3) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.

6.6 State engagement with civil society

- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of UPR recommendations, including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

7. Annex: Assessment of implementation of civic space recommendations under the 3rd cycle

Recommendation	Position	Assessment/Comments on level of implementation
<p>139.85 Promote freedom of association and workers' rights to better defend their interests and views, including through lawful permits to peacefully demonstrate, without fear of harassment or detention (Canada);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Accepted	<p>Status: Partially implemented</p> <p>Source: Section 2 and 4</p>
<p>140.35 Adopt concrete measures to ensure that trade unions and human rights defenders are able to carry out their work, guaranteeing their freedom of expression, association and assembly and freedom of the press (Spain);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Accepted	<p>Status: Partially implemented</p> <p>Source: Section 3</p>
<p>139.79 Take the necessary measures to ensure respect for freedom of expression and peaceful assembly and association, and consider responding favourably to the requested visits by the relevant special procedures (Republic of Korea);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Accepted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>
<p>139.80 Take legislative measures to ensure that the right to freedom of expression is protected in line with the provisions of the International Covenant on Civil and Political Rights (Republic of Moldova);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Accepted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>
<p>139.81 Safeguard freedom of expression by ensuring that criminal and speech-related legislation are not misused to suppress media, civil society and opposition politicians' criticism of the Government (United States of America)</p>	Accepted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>

<p>Source of position: A/HRC/43/8/Add.1</p>		
<p>139.82 Take steps to ensure that the rights to freedom of expression and association in Fiji, including those of workers and employers, can be exercised without fear of undue interference by the authorities, including by progressing legislative reform (New Zealand);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Accepted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>
<p>139.83 Strengthen the efforts to ensure freedom of expression and the protection of journalists, including online (Italy);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Accepted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>
<p>140.36 Repeal all laws and policies that unlawfully restrict fundamental rights of freedom of expression, assembly and association, including sections of the Public Order (Amendment) Act, the Media Industry Development Decree, the Electoral Act 2014 and the Online Safety Act (Netherlands);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Noted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>
<p>140.37 Review decrees limiting freedom of expression and association, particularly the Media Industry Development Decree, the Essential National Industries (Employment) Decree and the Public Order (Amendment) Act (United Kingdom of Great Britain and Northern Ireland);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Noted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>
<p>140.39 Take the necessary measures in order to revise the law on the development of the media (Albania);</p>	Noted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>
<p>140.40 Review legislation that affects freedom of speech, particularly the Crimes Act, the Media Industry Development Decree and the Public Order (Amendment) Act, to bring them into compliance with Fiji's obligations under the</p>	Noted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>

<p>International Covenant on Civil and Political Rights (Belgium);</p> <p>Source of position: A/HRC/43/8/Add.1</p>		
<p>140.41 Enhance measures aimed at protecting and promoting freedom of expression and the right to peaceful assembly, including by removing any legal obstacle to the exercise of these rights (Brazil);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Noted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>
<p>140.42 Amend the Media Industry Development Decree, the Public Order (Amendment) Act and the sedition provisions of the Crimes Act, which restrict freedom of expression, the press and assembly (Denmark);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Noted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>
<p>140.43 Guarantee freedom of expression and opinion and freedom of the press, by ensuring respect for the rights of journalists and human rights defenders and reviewing the Media Industry Development Decree 2010, which punishes any journalistic publication against the general interest or public order, in order to avoid abusive interpretations (France);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Noted	<p>Status: Partially implemented</p> <p>Source: Section 4</p>
<p>139.84 Uphold freedom of assembly by ensuring that criminal statutes, such as section 15 of the Public Order (Amendment) Act, are not used to curtail workers' rights to form and join trade unions and to assemble (United States of America);</p> <p>Source of position: A/HRC/43/8/Add.1</p>	Accepted	<p>Status: Partially implemented</p> <p>Source: Section 5</p>

<p>140.38 Take measures to permit lawful labour, political and social protests, and to safeguard activists' and human rights defenders' rights to speak and peacefully assemble freely, without harassment, and unimpeded by inappropriately applied administrative impediments (United States of America)</p> <p>Source of position: A/HRC/43/8/Add.1</p>	<p>Accepted</p>	<p>Status: Partially implemented</p> <p>Source: Section 5</p>
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