

**SPEECH BY THE HONOURABLE AIYAZ SAYED-KHAIYUM,  
ATTORNEY-GENERAL AND MINISTER FOR JUSTICE OF THE  
REPUBLIC OF FIJI, GENEVA, 18 MARCH 2015**

Thank you Mr. President.

Bula Vinaka and Good Afternoon.

The Republic of Fiji is grateful for the opportunity to have presented its report at the second cycle of the Universal Periodic Review (UPR) to the United Nations Human Rights Council, which allowed Fiji the occasion to show the enormous strides that Fiji has made in Human Rights.

Fiji is honoured and welcomes this opportunity to present its Addendum to the Report of the Working Group to the United Nations Human Rights Council.

Mr President, on 31 October 2014, Fiji announced to the Working Group during the adoption of the Report of the Working Group, the endorsement of 98 of the 138 recommendations made. Fiji

also announced that 12 of the 98 endorsed recommendations had already been implemented.

The Addendum, Mr President, provides Fiji's position on the 40 recommendations that were left pending as it was necessary either to consult with the relevant independent institutions or refer the recommendations to the relevant government agencies for their input and advice.

Fiji reiterates its commitment to advancing and protecting the fundamental principles and values of universal human rights enunciated in the Universal Declaration of Human Rights whilst cultivating an ethos of a responsible human rights culture.

Having said this Mr President, it is now my pleasure to introduce to this Council the Fijian delegation. The delegation comprises of the Chief Justice His Lordship Justice Anthony Gates and the Permanent Representative to the Office of the United Nations in Geneva Her Excellency Nazhat Shameem Khan.

Mr President, as I already mentioned at Fiji's review last October, the Constitution which came into force on 7 September 2013 is an expression of the will of the Fijian people. It enshrines fundamental principles and values such as common and equal citizenry, secular state, the removal of systemic corruption, an independent judiciary, the elimination of discrimination, good governance, one person one vote one value, and the elimination of the legal enforcement of ethnic voting – values that should be aspired to universally.

More importantly, the Constitution has for the first time created a comprehensive and very progressive Bill of Rights which allows for the realization of socio-economic rights in addition to civil and political rights as human rights, where the State is legally obliged to advance, protect and promote of these rights. It also recognizes and protects the indigenous – the iTaukei and the Rotumans – their unique culture, tradition, customs, language and customary ownership of their land.

Mr President, in addressing the recommendations put forth in terms of Fiji's demonstration of its commitment toward the protection and promotion of human rights by the ratification of all

core human rights instruments and optional protocols, Fiji had set itself a time frame of 10 years within which it would endeavor to ratify all core human rights instruments.

At Fiji's review last October, Fiji had indicated that the international instruments on human rights, namely UNCAT, ICCPR and ICESCR, although not ratified, have been incorporated into Fiji's domestic law and which in fact goes beyond the requirements of these international instruments. Fiji also indicated that the ratification of these instruments will be the prerogative of the newly elected Parliament as set out under the Constitution.

As such Mr President, we are pleased to announce that on Monday (16 March 2015) the Fijian Parliament approved the ratification of UNCAT. As with many other sovereign countries who have ratified/acceded to UNCAT with some reservations, Fiji is no exception.

In light of this Mr President, Fiji's immediate priority is to ensure that all necessary processes for the ratification and

implementation of UNCAT is completed. The ratification of optional protocols will again be the prerogative of the Fijian Parliament.

Mr President, the Constitution establishes a Human Rights and Anti-Discrimination Commission which is the predominant enforcement body responsible for the promotion, protection and observance of and respect for human rights guaranteed under the Constitution. The Commission is also responsible for the monitoring, investigation and reporting on the observance of human rights. It is constitutionally empowered inter alia to enforce and monitor the compliance of human rights instruments ratified by the Government. It is empowered to bring proceedings before the judiciary, which are integral to the development of a robust human rights jurisprudence and culture.

Mr President, we are pleased to report to this Council that the Commissioners for the Human Rights and Anti-Discrimination Commission are to be appointed through the Constitutional Officers Commission. In this respect, the Fijian Government has the NGO Coalition on Human Rights in Fiji to submit names for possible Commissioners. Fiji also had a meeting yesterday with

the High Commissioner of the UNHCR in which Fiji requested assistance to build capacity within the Fijian Human Rights and Anti-Discrimination Commission and looks forward to this assistance.

Mr President, at Fiji's review last October, Fiji had announced that in the next session of Parliament for 2015, a law inherited from our former colonial masters would be amended to remove the reference of death penalty. Mr President, we are pleased to report that the Fijian Government presented a bill to Parliament at its first Parliamentary sitting for 2015, and which was subsequently approved by Parliament, for the removal of all references to the death penalty in the Military laws. This effectively means that Fiji has completely abolished the death penalty from all its laws.

Mr President, in addressing the recommendations on the establishment of a Constitutional Commission to conduct a review of the Constitution, Fiji reiterates that the Constitution is an expression of the will of the Fijian people and the Constitution itself stipulates a process whereby parliamentary approval must be sought for a referendum to take place prior to any amendments being made to the Constitution. Any review and

amendment through any other mechanism would be in breach of the Constitution.

Mr President, in addressing the recommendations put forth in terms of having Special Procedures, Fiji is committed to inviting special mandate holders and will endeavor to invite one special mandate holder per year for key areas which are identified by the Fijian Government.

Mr President, Fiji is currently consulting with various stakeholders in terms of priority areas where an invitation can be extended to special mandate holders, and invitations will be extended or visits will be accepted when Fiji is in a position to properly and adequately resource and host such special mandate holders, so as to obtain maximum benefit from the visit.

Mr President, we are pleased to report that the Fijian Prime Minister in his address to the High Level Session of the 28<sup>th</sup> Session of the UNHRC has already invited the Special Rapporteur on Water and on Education and Fiji is looking forward to the assistance and benefit that this would bring.

Mr President, in addressing the recommendation in terms of ensuring that the issue of violence against women be considered by the Human Rights and Anti-Discrimination Commission, Fiji recognizes that like most societies in the world, we also suffer from patriarchal notions of power relations. Fiji is conscious of the fact that the challenges that violence against women poses is both at the legislative and community levels.

With that being said, it was only under the Bainimarama Government that huge progress has been made in putting in place a legislative framework for addressing violence against women. These efforts include new legal provisions for the offence of rape and sexual assault based on the Australian model. These new legal provisions also abolish the law of corroboration and limit questioning on the complainant's sexual history. Fiji now has laws for the protection of vulnerable witnesses, special measures for the protection of persons subjected to domestic violence, and special protective measures for children. In 2014, Cabinet approved the national gender policy which aims to mainstream gender, to remove systemic discrimination against women in employment practices, and which provides for recruitment and promotion on merit and merit alone. Fiji's gender mainstreaming policy includes the necessity of gender competence training of the



civil service, the police and the judiciary. Already we see the success of our policy in the increased participation and visibility of our women in all spheres of life. Following the 2014 general elections, our Parliament has the highest percentage of women that Fiji has ever had, and the highest percentage in the Pacific. We also have our first woman speaker of Parliament.

Mr President we reiterate that the effective implementation of our laws and policies require the strong role of civil society in helping to shape attitudinal change. Ultimately we accept that if violence against women is to be effectively dealt with, then patriarchy itself must be challenged and dismantled. In that regard, we encourage civil society also to undergo and submit themselves to gender competence and legal training on the effective implementation on the laws designed to remove discrimination and violence against women. Such training must lead to greater objectivity on the part of civil society and a non-communal approach to the implementation of human rights.

Mr President, Fiji is pleased to report that on 4 March of this year, the Fijian Court of Appeal ruled that the statutory requirement for the corroboration of evidence of children is contrary to the equality

and anti-discrimination provision in the Constitution. The effect of the judgment was to strike down and to declare invalid the corroboration section of the Juveniles Act. This shows the readiness and willingness of the Fijian Judiciary to apply international human rights law internationally. This responsiveness is enabled by section 7 of our Constitution.

The Constitutional Redress Rules were amended earlier this month by the Chief Justice and allowed for easier access to the Courts by litigants who allege contravention of their rights, than was the case previously. We recognize that easy access to justice including in cases of constitutional redress is crucial as the majority of such litigants are usually marginalized members of society. These mechanisms together with consistent and regular human rights and gender training for all judges and magistrates in Fiji will rapidly lead to emerging and progressive human rights jurisprudence.

Mr President, in addressing the recommendations on media freedom, we reiterate that the Constitution unequivocally recognizes freedom of the press as pivotal to freedom of speech, expression, thought, opinion and publication. Mr President, we

are creating an environment of equality and we cannot allow racism and religious chauvinism to undermine the preeminent right to equality. We are aware that we have a historical past of racism and religious prejudice, a past in which the media sadly played a pivotal and negative role. Mr President, we cannot allow this to happen again. We celebrate freedom of expression, but not the freedom to incite violence or racial hatred against others. We celebrate media freedom, but not the right of the media to disseminate hate speeches. We are working with the media through the Media Industry Development Authority to encourage the media to work towards a development model of media freedom. One in which the media plays an important part in building a just and equal society. Mr President, notwithstanding the criticism of the Media Industry Development law, it should be noted that no media organisation has been prosecuted for any editorial content, nor has any journalist been prosecuted under this law.

Mr President, we note the United Nations Special Rapporteur on Torture (**'Special Rapporteur'**) referred a complaint of the alleged rape and abduction of a woman to Fiji for a response. That referral was made on 16 January 2014. On 11 February 2014, the legal representative for the Fiji Police Force provided a

response to the referral. The response was addressed to the Attorney-General's Chambers and was copied to the Office of the United Nations Human Rights Commission in Suva, Fiji. However, it appears that the response did not reach the Special Rapporteur. The response is now with the Special Rapporteur. The response demonstrates that after a thorough investigation had been conducted by the Fijian Police Force, there were no grounds found on which a prosecution could be brought.

Mr President, I take this opportunity to report to this Council that only 5 months ago in November of last year, Fiji facilitated a visit of an ILO Direct Contacts Mission which prepared a constructive report recommending a way forward for Fiji. The Fijian Government has already begun to implement the recommendations in the report. It has already met with stakeholders who are directly impacted upon by the Essential National Industries law ('**ENI Law**') to discuss issues pertaining to the ENI Law. These stakeholders will formulate any proposed amendments to the ENI Law for onward transmission to Cabinet and to the Fijian Parliament. Mr President, the Fijian Government is also in the process of negotiating a Memorandum of Understanding which includes an undertaking to review the ENI

Law. We acknowledge that this is a positive step towards the betterment of labour laws in Fiji.

Mr President, Fiji has implemented a significant number of reforms which have had a direct impact on the economic and social welfare of workers in Fiji. These reforms include free education, free medicine, free water, electricity at subsidized rates for certain categories of Fijian citizens, and most significantly the Fijian Government has passed legislation to increase the employer's contribution to future pensions from 8% to 10% of gross wages. This means that 18% of a worker's annual salary now goes towards the creation of a proper pension fund.

Mr President, the trajectory that Fiji is on will see even greater developments in human rights in Fiji.

Given the commitment by the Fijian Government in implementing human rights both from a legal and practical perspective, Fiji is open to and welcomes genuine assistance and collaboration with the objective to, in a very tangible and practical manner, improve human rights for all Fijians. Human Rights Mr President cannot be

selectively used by NGO's and state parties to simply further a political agenda or financial gain. I use this opportunity Mr President to reach out to all those stakeholders who are genuinely interested in helping Fiji to build capacity and develop a responsible culture of human rights.

Mr President, I thank you once again for this opportunity and I am positive that this process and engagement will help all of us provide tangible benefits and make human rights changes to impact the lives of all Fijians positively.

There will be no slowing down in this reform program, nor will there be any dilution in the gains that we have made. Fiji has already and will continue to institute reforms which are major, practical, and sustained.

Fiji is set upon a human rights path from which there is no turning back.

Vinaka Vaka Levu and Thank you