



Republic of Fiji

Joint Submission to the UN Universal Periodic Review

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

**And**

**Pacific Islands Association of Non-Government Organisations (PIANGO)  
(ECOSOC Status), Fiji Women's Rights Movement (FWRM) and Citizens'  
Constitutional Forum (CCF)**

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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 190 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 initiate action, give voice to their concerns and influence policies for just and sustainable development for Pacific peoples.
- 1.3** The Fiji Women's Rights Movement (FWRM) is a multi-ethnic and multicultural CSO committed to removing discrimination against women through institutional reforms and attitudinal changes. Its vision is for the women of Fiji to be free from all forms of discrimination, have equal access to opportunities and to live in a healthy environment where the principles of feminism, democracy, good governance, multiculturalism and human rights prevail.
- 1.4** The Citizens' Constitutional Forum Limited (CCF) is a CSO based in Suva with more than 20 years' experience in community education and advocacy on Fiji's Constitution, democracy, human rights and multiculturalism.
- 1.5** In this submission, the authors 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 fulfilment of the rights to the freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in October 2014. To this end, we assess Fiji's implementation of recommendations received during the 2<sup>nd</sup> UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.6** During the 2<sup>nd</sup> UPR cycle, the Government of Fiji received 22 recommendations relating to the space for civil society (civic space). Of these recommendations, 12 were accepted and 10 were noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrates that the Government of Fiji has partially implemented 10 recommendations relating to civic space and fully implemented one. The other 11 recommendations have not been implemented. While the government has persistently failed to address unwarranted restrictions on civic space since its last UPR examination, particularly acute implementation gaps were found with regard to the rights to the freedoms of peaceful assembly and expression.

- 1.7** We are deeply concerned by the use of restrictive laws, including sedition provisions in the Crimes Act and other laws, to criminalise activists and journalists for exercising their rights to the freedoms of opinion and expression, thus creating a chilling effect within civil society.
- 1.8** We are further alarmed by the continued use of laws such as the Public Order (Amendment) Act to restrict the right to peaceful assembly, especially for trade unions.
- 1.9** As a result of these concerns, civic space in Fiji is currently rated as ‘obstructed’ by the CIVICUS Monitor, indicating the existence of serious constraints on civil society’s fundamental rights.<sup>1</sup>

- Section 2 of this submission examines Fiji’s implementation of UPR recommendations and compliance with international human rights standards concerning the 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 freedom of expression, independence of the media and access to information.
- Section 5 examines Fiji’s implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
- Section 6 contains a number of recommendations to address the concerns and to advance the implementation of recommendations under the 2<sup>nd</sup> cycle.
- An annex of the implementation of 2<sup>nd</sup> cycle UPR recommendations related to civic space.

## **2. Freedom of association**

- 2.1** During Fiji’s examination under the 2<sup>nd</sup> UPR cycle, the government received seven recommendations on the right to the freedom of association and creating an enabling environment for CSOs. Among other recommendations, the government committed to ensuring “respect for freedom of association” and to “create and maintain a safe and enabling environment for civil society actors to freely associate.” Of the

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<sup>1</sup> CIVICUS Monitor: Fiji, <https://monitor.civicus.org/country/fiji>.

recommendations received, the government accepted two and noted five. However, as evidenced below, the government has failed to take adequate and practical measures to realise many of these recommendations. Of the seven recommendations on the freedom of association, the government has only partially implemented three and has not implemented the other four.

- 2.2** Article 19 of Fiji's Constitution guarantees the right to the freedom of association with limitations.<sup>2</sup> Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Fiji is a state party, also guarantees the freedom of association. However, despite these commitments, there continues to be a legal environment that restricts civic space in Fiji and the existence of restrictive laws have compelled CSOs to self-censor. During a country visit in February 2018, then-UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, said that civil society groups are facing a "narrow civic space and the suppression of dissenting voices."<sup>3</sup>
- 2.3** The Fiji's Charitable Trusts Act is the sole legislation related to CSOs in Fiji. The law requires that CSOs be formed only for "religious, educational, literary, scientific, or charitable purposes" in order to be incorporated as charitable trusts.<sup>4</sup> In practice, while most CSOs are able to register and operate with minimum government interference, there are groups that have faced challenges. Rainbow Pride Foundation (previously known as MENFiji, Males Empowerment Network), an LGBTIQI organisation, was denied registration three times under the Charitable Trusts Act and eventually was forced to register as a Company Limited by Guarantee, which carries a tax burden.
- 2.4** While CSOs often play a crucial role in election preparations and promoting participatory democratic culture, in Fiji some CSOs are effectively barred from engaging in election related activities. The 2014 Electoral Act<sup>5</sup> states that any CSO<sup>6</sup> that receives foreign funding may not "engage in, participate in or conduct any campaign, including organising debates, public forum, meetings, interviews, panel

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<sup>2</sup> 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."

<sup>3</sup> 'Opening remarks by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein at a press conference during his mission to Fiji', Office of the High Commissioner for Human Rights (OHCHR), 12 February 2018,

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22648&LangID=E>.

<sup>4</sup> 'The Law Affecting Civil Society in Asia: Developments and Challenges for Nonprofit and Civil Society Organizations', International Center for Not-for-Profit Law, 6 December 2016,

[http://www.icnl.org/The%20Law%20Affecting%20Civil%20Society%20in%20Asia%20\(final\).pdf](http://www.icnl.org/The%20Law%20Affecting%20Civil%20Society%20in%20Asia%20(final).pdf).

<sup>5</sup> '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>.

<sup>6</sup> Section 115(1) of the 2014 Electoral Act states that "any person, entity or organisation (including any person employed or engaged by any such person, entity or organisation) that receives any funding or assistance from a foreign government, inter-governmental or non-governmental organisation or multilateral agency."

discussions, or publishing any material that is related to the election following the issuance of the writ of elections.” 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 to carry out voter or election-related activities. Heavy fines of up to FJD 50,000 (approximately US\$23,000) can be imposed on those breaching the Electoral Act, along with prison sentences of up to 10 years.

**2.5** In September 2015, the Employment Relations (Amendment) Act entered into force. The law repealed the 2011 Employment Relations (Amendment) Decree, the 2011 Essential Industries Decree, and the 2011 Public Service Amendment Decree, bringing all workers under the 2007 Employment Relations Promulgation. The law recognises the right of workers in the private sector to form and join independent unions, bargain collectively and strike. Although the law provides for the right of workers in essential services and industries,<sup>7</sup> including the public sector, to bargain collectively, the right to strike is still limited. The law permits the minister of employment to declare a strike unlawful and refer the dispute to the Arbitration Court. If authorities refer the issue to the Arbitration Court, workers and strike leaders can face criminal charges if they persist in strike action.<sup>8</sup>

**2.6** There is growing concern among some trade unions in Fiji, in particular among public sector unions, that the government is seeking to weaken and dismantle the trade union movement.<sup>9</sup> According to the Fiji Trade Union Congress (FTUC), in February 2018, the government’s decision to introduce individual, fixed-term contracts for civil servants rather than a collective bargaining agreement aims to weaken the collective voice of the union. Such contracts do not provide protection or job security for workers and are slanted heavily in favour of the government as they can be terminated with just one month’s notice.<sup>10</sup>

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<sup>7</sup> 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.

<sup>8</sup> Workers in essential services may strike but must give 28 days’ notice. Workers in essential services must also notify the Arbitration Court and provide the category of workers that propose to strike and the starting date and location of the strike. See ‘Fiji 2015 Human Report’, United States Department of State, 2015, <https://www.state.gov/documents/organization/252975.pdf>.

<sup>9</sup> ‘Fiji: Unions weakened and NGOs attacked as Fiji joins UN Human Rights Council’, CIVICUS Monitor, 22 October 2018, <https://monitor.civicus.org/newsfeed/2018/10/22/unions-weakened-and-ngos-attacked-fiji-joins-un-human-rights-council>.

<sup>10</sup> ‘Fiji: Authorities deny permit for union march once again’, CIVICUS Monitor, 23 April 2018, <https://monitor.civicus.org/newsfeed/2018/04/23/authorities-deny-permit-union-march-once-again>.

### **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 five recommendations on the protection of HRDs, journalists and civil society representatives. Among other recommendations, the government committed to "take all relevant steps to protect human rights defenders" and "adopt effective measures to ensure the protection of journalists." Of the recommendations received, four were accepted and one was noted. However, as examined in this section, the government has not implemented any of the recommendations.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure protection to HRDs. The ICCPR further guarantees the freedoms of association, peaceful assembly and expression. However, in spite of these protections there are no domestic laws or policies in Fiji to recognise and protect HRDs. Further both HRDs and journalists have continued to face harassment for undertaking their work and the government has yet to facilitate a visit by the UN Special Rapporteur on the situation of human rights defenders.
- 3.3** The Public Order (Amendment) Act has also been used to harass journalists. Section 15 of the Act<sup>11</sup> 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.
- 3.4** On 11 February 2018, Netani Rika, the director of Fijian magazine Islands Business, was taken from his home by police and interrogated under the Public Order Act over an online article published in relation to the Air Terminal Service (ATS) workers who had been locked out from their place of work after attending a shareholders' meeting. The article highlighted the termination of the tenure of a magistrate who presided over the ATS dispute and ruled in favour of the workers. Rika was detained again on 15 February 2018, along with his colleagues Nanise Volau and editor-in-chief Samisoni Pareti, for police interrogation over the issue.<sup>12</sup>
- 3.5** Aman Ravindra-Singh, a human rights lawyer and an outspoken critic of the government, who has represented victims of police abuse and those charged with sedition, has faced intimidation because of his work. In November 2015, a law clerk working for Singh and a woman who was a personal friend were both attacked by unknown persons. The attacks occurred within hours of each other. On 25 March

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<sup>11</sup> See Public Order Act, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/95506/112475/F-2087560428/FJI95506.pdf>.

<sup>12</sup> 'Fiji: Court rules in favour of locked out airport workers', CIVICUS Monitor, 27 February 2018, <https://monitor.civicus.org/newsfeed/2018/02/27/court-rules-favour-locked-out-airport-workers>.

2016, Singh's office was ransacked. No one has been charged in relation to any of these incidents. Singh said his office was broken into again in August 2016.<sup>13</sup> In October 2018, he was served a summons by the Prime Minister and Attorney General for a Facebook post he made criticising them and the government.<sup>14</sup>

#### **4. Freedom of expression, independence of the media and access to information**

- 4.1** Under the 2<sup>nd</sup> UPR cycle, the government received 16 recommendations relating to the freedom of expression and access to information. For example, the government pledged to “protect and promote freedom of expression and media pluralism” and “adopt effective measures to ensure the protection of journalists, as well as of opposition and critics of the government.” Of the recommendations received, seven were accepted and nine were noted. However, as discussed below, the government did not take effective measures to implement these recommendations. Of the 16 recommendations, the government has fully implemented one and partially implemented five. Ten other recommendations have not been implemented
- 4.2** Article 19 of the ICCPR guarantees the right to the freedoms of expression and opinion. Article 17 of the Constitution of Fiji also guarantees the “right to freedom of speech, expression, thought, opinion and publication.” However, in law, policy and practice, restrictions on the freedom of expression and media freedom persist.
- 4.3** Sedition provisions in the Crimes Act have been used by the Fijian authorities to target the media and opposition politicians. Hank Arts, publisher of The Fiji Times, Anare Ravula, editor of the Nai Lalakai newspaper, Josai Waqabaca, opinion writer of Nai Lalakai and Fred Wesley, editor-in-chief of The Fiji Times were prosecuted in March 2017 for sedition over the publication of a letter in Nai Lalakai in April 2016 that allegedly contained controversial views about Muslims, though it was not written by any staff of The Fiji Times. Human rights groups believe the charges were politically motivated.<sup>15</sup> Although all four were acquitted in May 2018, the prosecution has submitted an appeal, prolonging the judicial persecution against them.
- 4.4** In March 2018, the Fiji United Freedom Party's former leader, Jagath Karunaratne, and opposition parliamentarian, Mosese Bilitavu, were convicted of sedition for spray-painting anti-government slogans in 2011. They have denied the charges.<sup>16</sup>

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<sup>13</sup> 'Fiji: A darker side of paradise', Amnesty International, 4 December 2016,

<https://www.amnesty.org/en/latest/news/2016/12/fiji-a-darker-side-of-paradise>.

<sup>14</sup> 'Fiji Labour politician served writ over Facebook article', Radio NZ, 18 October 2018

<https://www.radionz.co.nz/international/pacific-news/368910/fiji-labour-politician-served-writ-over-facebook-article>.

<sup>15</sup> 'Fiji: Media workers face potential prison sentences on alleged politically-motivated charges', CIVICUS Monitor, 11 September 2017, <https://monitor.civicus.org/newsfeed/2017/09/11/media-workers-face-potential-prison-alleged-politically-motivated-charges>.

<sup>16</sup> 'In Court: Bilitavu Denies Spray Painting Seditious Comments', Fiji Sun, 8 November 2017,

<http://fijisun.com.fj/2017/11/08/in-court-bilitavu-denies-spray-painting-seditious-comments>.



Both were sentenced to almost two and a half years in prison. The duo successfully appealed against their convictions in August 2018, and the courts have asked for a retrial.<sup>17</sup>

- 4.5** The Media Industry Development Act (Media Act) has created a chilling effect for media and press freedom. It stipulates, in Article 22, that the media cannot publish material that threatens public interest or order, is against the national interest, or creates communal discord.<sup>18</sup> Any media organisation that breaches this provision can be sanctioned by a fine of up to 100,000 Fijian dollars (approximately US\$48,000) and/or imprisonment of up to two years (Article 24). The Media Act established the Fiji Media Industry Development Authority (MIDA), which has wide powers of investigation over journalists and media outlets, including powers of search and seizure, and the power to refer any complaint received to the Media Tribunal. Additionally, under article 26 of the Act, journalists can be forced to reveal their sources to MIDA.<sup>19</sup> In 2016, the Media Act was amended to prohibit the airing of local content, including news, by subscription-based television services.<sup>20</sup>
- 4.6** On 13 February 2018, then-UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein stated that he found the limitations imposed on journalists in Fiji to be "highly worrying." Concerns noted included the stiff penalties placed on both journalists and media organisations under the Media Industry Development (Amendment) Act 2015 that have inhibited investigative journalism and coverage of issues deemed sensitive, which as a result has curtailed the level of pluralism in the media.<sup>21</sup>
- 4.7** Charges of contempt for "scandalising the courts and judiciary"<sup>22</sup> have also been used to silence dissent.<sup>23</sup> On 14 June 2018, ATS Employees' Trust Chairman, Jay Dhir Singh.

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<sup>17</sup> 'Bulitavu, Karunaratne Released', Fiji Sun, 25 August 2018,

<https://fijisun.com.fj/2018/08/25/bulitavu-karunaratne-released>.

<sup>18</sup> The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has expressed concern that the decree does not define what kinds of material fall under these categories, in violation of the principle that any law that restricts the right to freedom of expression must be clear, drawn narrowly and with precision so as to enable individuals to foresee whether a particular action is unlawful. See 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue: Addendum, Summary of cases transmitted to Governments and replies received', Human Rights Council, 27 May 2011, pg. 106,

[https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/a.hrc.17.27.add.1\\_efonly.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/a.hrc.17.27.add.1_efonly.pdf).

<sup>19</sup> Ibid.

<sup>20</sup> 'Motion in Parliament by NFP leader Amendment to MIDA Act to allow Pay TV to broadcast news and air advertisements', National Federation Party, 16 March 2018, <http://nfpfiji.com/motion-in-parliament-by-nfp-leader-amendment-to-mida-amdt-act-to-allow-pay-tv-to-broadcast-news-and-air-advertisements>.

<sup>21</sup> 'Fiji: Court rules in favour of locked out airport workers', op. cit.

<sup>22</sup> See Order 52 rule 1 of the Fiji High Court Rules, [http://www.pacii.org/fj/rules/procedural\\_rules/Fiji%20-%20Fiji%20High%20Court%20Rules%201988.html](http://www.pacii.org/fj/rules/procedural_rules/Fiji%20-%20Fiji%20High%20Court%20Rules%201988.html).

<sup>23</sup> Under international human rights law and standards, the right to the freedom of expression includes being allowed to make comments that may be regarded as critical, or even deeply offensive of government institutions, including the judiciary. See 'New contempt of court ruling, a setback for freedom



was found guilty of scandalising the courts for comments he made at the ATS workers' strike on 19 January 2018, alleging that the judiciary is controlled by one minister.<sup>24</sup>

**4.8** In June 2016, Tupou Draunidalo, a parliamentarian and member of the National Federation Party, was suspended following a parliamentary motion on 3 June 2016 for criticising a government minister. Under the terms of the suspension, Draunidalo was not be able to sit in parliament for the remainder of its term, which ended in November 2018.<sup>25</sup>

**4.9** The Information Act,<sup>26</sup> a freedom of information law, was passed<sup>27</sup> in May 2018 but has yet to come into force at the time of writing. While recognised as a positive step for transparency and access to information, concerns have been raised by civil society about the lack of consultation on the bill as well as the broad list of information that is exempted from disclosure.<sup>28</sup>

**4.10** There are also concerns that the Online Safety Act, which was passed into law in May 2018 and came into force on 1 January 2019, could restrict the freedom of expression. According to the Attorney General the law sought to “deter harmful online behaviour and the creation of specific offences such as the intentional posting of harmful electronic communications, as well as intimate images or visual recordings without consent.” It establishes an Online Safety Commission to receive and investigate complaints and provide the means of redress. However, CSOs have raised strong concerns<sup>29</sup> about the bill, including the lack of guiding principles in the Bill to define and determine the scope of powers and discretion of the Commission when receiving, assessing and investigating complaints. CSOs have also stated that it would “create an atmosphere of censorship” and could be misused to criminalise legitimate speech.<sup>30</sup>

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of expression in Fiji' Amnesty International, 13 August 2013,

<https://www.amnesty.org/download/Documents/12000/asa180032013en.pdf>.

<sup>24</sup> 'Fiji: Criminalisation of free speech creating chilling effect, as elections draws near', CIVICUS Monitor, 8 August 2018, <https://monitor.civicus.org/newsfeed/2018/08/08/criminalisation-free-speech-creating-chilling-effect-elections-draws-near>.

<sup>25</sup> 'Fiji: Suspension of parliamentarian underlines government stranglehold on freedom of expression', Amnesty International, 3 June 2016, <https://www.amnesty.org.nz/fiji-suspension-parliamentarian-underlines-government-stranglehold-freedom-expression>.

<sup>26</sup> See Information Act 2018, <http://www.fiji.gov.fj/getattachment/9d6f70b2-0bb6-48b4-b66b-3dc2e9acf59b/Act-9---Information-Act.aspx>.

<sup>27</sup> 'Bill passed', The Fiji Times, 17 May 2018, <https://www.fijitimes.com/bill-passed>.

<sup>28</sup> 'Fiji: Youth committee speaks out on proposed Information Bill', Pacific Media Centre, 16 August 2016, <http://www.pmc.aut.ac.nz/pacific-media-watch/fiji-youth-committee-speaks-out-proposed-information-bill-9739>.

<sup>29</sup> 'Fiji: Criminalisation of free speech creating chilling effect, as elections draws near', op. cit.

<sup>30</sup> 'NGOCHR Online Safety Bill (2018) Submission', NGO Coalition on Human Rights, <http://www.fwrn.org.fj/images/resources/NGOCHR-Online-Safety-Bill-Submission.pdf>.

## 5. Freedom of peaceful assembly

- 5.1** During Fiji's examination under the 2<sup>nd</sup> UPR cycle, the government received eight recommendations on the right to the freedom of assembly. Among other recommendations, the government committed to ensuring "respect for freedom of peaceful assembly" and "amending relevant laws and ensuring they are not invoked to curtail the right to freedom of peaceful assembly." Of the recommendations received, Fiji accepted two and noted six. However, as evidenced below, the government has failed to realise many of these recommendations adequately. It has partially implemented three recommendations and not implemented five.
- 5.2** Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 18 of the Fiji Constitution also guarantees the right to the freedom of assembly. The authorities have allowed some peaceful protests to take place. However, there have been instances where this right has been arbitrarily restricted.
- 5.3** The Public Order (Amendment) Act 2014 allowed 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 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.<sup>31</sup> As evidenced below, the discretionary powers of the Commissioner of Police in issuing permits have been misused in a number of instances to restrict peaceful gatherings and demonstrations.
- 5.4** On 7 September 2016, a three-day meeting in Pacific Harbour on the sugar industry was cancelled by officials who said that the civil society organisers did not have a permit.<sup>32</sup> In June 2017, the Fijian police arrested Jope Koroisavou, a youth leader from the opposition Social Democratic Liberal Party, for holding a solitary, peaceful and silent protest, carrying a placard bearing the names of Fijian victims of torture as he marched through the capital, Suva.<sup>33</sup>
- 5.5** In late September 2018, the Fiji police denied authorisation for the FTUC to hold a peaceful march on 29 September 2018. FTUC National Secretary Felix Anthony said that they were not given any valid reason as to why the government rejected their application for a permit. The authorities had also previously refused to grant the FTUC

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<sup>31</sup> See Public Order (Amendment) Act 2017, <http://www.parliament.gov.fj/wp-content/uploads/2017/03/Act-1-Public-Order-Amendment-Act.pdf>.

<sup>32</sup> Fiji entry, Amnesty International Report 2016/17, 22 February 2017, <https://www.refworld.org/docid/58b033fea.html>.

<sup>33</sup> 'Fiji: Crack down on torture, not protests', Amnesty International, 26 June 2017, <https://www.amnesty.org/en/latest/news/2017/06/fiji-crack-down-on-torture-not-protests>.

permission to hold a peaceful protest march on 7 April 2018 and on 24 February 2018.<sup>34</sup>

## **6. Recommendations to the Government of Fiji**

CIVICUS, PIANGO, FWRM and CCF 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 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:

### **6.1 Regarding the 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 association.
- Remove all undue restrictions on the ability of CSOs to register under the Charitable Trusts Act, undertake activities in line with best practices articulated by the UN Special Rapporteur on the rights to peaceful assembly and of association, and immediately recognise all CSOs that have been arbitrarily and unduly denied registration.
- Guarantee the effective and independent functioning of autonomous trade unions by removing undue limitations in the Employment Relations (Amendment) Act 2015 on the right to form and join a union, undertake collective bargaining and strike.

### **6.2 Regarding the protection of human rights defenders**

- Provide civil society members, journalists and HRDs with a safe and secure environment in which to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring the perpetrators of offences to justice.

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<sup>34</sup> 'Fiji: Unions weakened and NGOs attacked as Fiji joins UN Human Rights Council', op. cit.

- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment. In particular, the government should withdraw the summons against human rights lawyer Aman Ravindra-Singh for peacefully expressing his political views.
- Initiate a consolidated process of review, repeal or amendment of legalisation that unwarrantedly restricts the legitimate work of HRDs in line with the UN Declaration on Human Rights Defenders.
- Amend the Public Order (Amendment) Act so as to be consistent with the ICCPR and repeal provisions that criminalise the freedom of expression.
- Publicly condemn at a high-level instances of harassment and intimidation of CSOs and activists.
- Systematically apply legal provisions that promote and protect human rights and establish mechanisms that protect human rights activists by adopting a specific law on the protection of human rights activists, in accordance with resolution 27.31 of the Human Rights Council.

### **6.3 Regarding the freedom of expression, independence of the media and access to information**

- Ensure the freedom of expression and media freedom by bringing all national legislation into line with international standards.
- Repeal the sedition provisions of the Crimes Act, which are vaguely defined, in order to ensure that the legislation is consistent with best practices and international standards in the area of the freedom of expression.
- Review and remove all provisions in the Media Industry Development Act that unduly restrict the freedom of expression, particularly for journalists.
- Review the Online Safety Act 2018 to ensure it complies with the government's commitment to guarantee the freedoms 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.
- Amend the 2018 Information Act, the law on access to information, in order to fully promote the exercise of the right to the freedoms of expression and opinions and bring it into force immediately.

- Drop all charges and review convictions of individuals prosecuted for sedition, contempt for scandalising the courts and judiciary and other laws simply for peacefully exercising their right to the freedom of expression.
- 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.
- Take adequate steps to lift restrictions on the freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Guarantee unfettered access for all people in Fiji to domestic and foreign media information, both offline and online.
- Refrain from adopting any laws providing for censorship or undue control over the content of the media.
- Refrain from censoring social and conventional media and ensure that the freedom of expression is safeguarded in all forms, including in the arts and other forms of cultural expression.

#### **6.4 Regarding the freedom of peaceful assembly**

- Adopt best practices on the 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, which calls for procedures in which there is simple notification of assemblies being held, rather than explicit permission being needed to assemble.
- Amend the Public Order (Amendment) Act in order to guarantee fully the right to the freedom of assembly and to remove restrictions other than those provided for within the framework of international law.
- 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, including the UN Basic Principles on the Use of Force and Firearms.
- Provide recourse for judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of assembly by state authorities.

## **6.5 Regarding 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; 3) Special Rapporteur on the right to freedom of peaceful assembly and of association; and 4) Special Rapporteur on the independence of judges and lawyers.

## **6.6 Regarding the state's engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of the UPR, 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.