



NGO: EUROPEAN CENTRE FOR LAW AND JUSTICE (ECLJ)

**UNIVERSAL PERIODIC REVIEW
48TH SESSION**

**STATUS OF HUMAN RIGHTS IN THE REPUBLIC OF FIJI
FOR THE 48TH SESSION OF THE
UNIVERSAL PERIODIC REVIEW**

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Fiji (Fiji) for the 48th session of the Universal Periodic Review (UPR).

Background

2. Fiji is a country located in the South Pacific Ocean with a population of approximately 900,000 people.¹ Approximately 34.6% of the population identifies as Methodist, 27.9% as Hindu, 9.1% as Roman Catholic, 6.3% as Muslim, 5.7% as Assemblies of God, and 16.4% belong to various other religions.²

3. Fiji's last review was held on November 6, 2019.³ As a result of the review, Fiji received 242 recommendations, 207 of which it supported.⁴ It was recommended by Mexico, and supported by Fiji, that the government “[l]egalize voluntary termination of pregnancy in cases of rape, incest, grave deformation of the foetus or risks to the health or life of the mother.”⁵ On the issue of human trafficking, it was recommended by Botswana, but only noted by Fiji, that the government “[e]nsure implementation of recommendations from the visit of the United Nations Office on Drugs and Crime to prevent, investigate, prosecute and punish acts of trafficking.”⁶ No recommendations made regarding religious freedom.

Legal Framework

Abortion

4. Article 8 of the Constitution of Fiji states that “[e]very person has the right to life, and a person must not be arbitrarily deprived of life.”⁷ Additionally, under Article 41 § 2, “[t]he best interests of a child are the primary consideration in every matter concerning the child.”⁸

¹ Fiji, Britannica, <https://www.britannica.com/place/Fiji-republic-Pacific-Ocean/People> (July 10, 2024).

² *Id.*

³ *Universal Periodic Review – Fiji*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/fj-index> (last visited July 10, 2024).

⁴ *Fiji – Infographic*, OHCHR, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session34/FJ/Fiji_Infographic.pdf (last visited July 8, 2024).

⁵ OHCHR, UPR of Fiji (3rd Cycle – 34th Session): Thematic List of Recommendations, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session34/FJ/UPR34_Fiji_Thematic_list_of_Recommendations.docx (last visited July 9, 2024).

⁶ *Id.*

⁷ CONSTITUTION OF FIJI (2013) art. 8, https://www.constituteproject.org/constitution/Fiji_2013.

⁸ *Id.* art. 41 § 2.

5. Under the Penal Code of Fiji, abortion is prohibited in all cases except when it is performed “for the preservation of the mother[']s life.”⁹

6. Fiji is a party to the International Covenant on Civil and Political Rights (ICCPR).¹⁰ Article 6 of the ICCPR states that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”¹¹ In addition, Fiji has a responsibility to uphold pro-life principles enshrined in other international agreements such as the United Nations Charter, the Universal Declaration of Human Rights (UDHR), and the 1994 Cairo Conference on Population and Development.

Human Trafficking

7. Article 112 of the Crimes Decree 2009 prescribes twelve to twenty years in prison for human trafficking.¹² If the victim is a minor, the prison sentence is increased to twenty-five years.¹³

8. Moreover, Article 8 of the ICCPR states that “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”¹⁴

9. Fiji is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.¹⁵ Under Article 9 section 1 of this Protocol:

States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.¹⁶

⁹ LAWS OF FIJI CH. 17 PENAL CODE art. 234,

http://www.vertic.org/media/National%20Legislation/Fiji/FJ_Penal_Code.pdf.

¹⁰ *Status for Fiji*, OHCHR, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=60&Lang=EN (last visited July 8, 2024).

¹¹ International Covenant on Civil and Political Rights art. 6, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [hereinafter ICCPR].

¹² Crimes Decree 2009 art. 112 (Decree No. 44 of 2009) (Fiji), <https://antislaverylaw.ac.uk/wp-content/uploads/2019/08/Crime-Decree-2009-Official-Gazette-English.pdf>.

¹³ *Id.* art. 117.

¹⁴ ICCPR art. 8, *supra* note 11.

¹⁵ *Chapter XVIII Penal Matters: 12. a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-12-a&chapter=18 (July 11, 2024).

¹⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime art. 9 § 1, *adopted* Nov. 15, 2000, 2237 U.N.T.S. 319, https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-38%20AM/Ch_XVIII_12_ap.pdf.

Abortion

10. Fiji has taken the correct stance in protecting the lives of preborn babies and ensuring that “[t]he best interests of a child are the primary consideration in every matter concerning the child.”¹⁷ By prohibiting abortion, which is the deliberate killing of a preborn baby, Fiji is acting in the best interest of the child.

11. Fiji has no obligation to support recommendations to expand access to abortion, especially when these recommendations are in contravention of several fundamental human rights documents. For example, the UDHR states “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,” and provides that “[e]veryone has the right to life”¹⁸ Article 6 of the ICCPR likewise states, “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”¹⁹ Similarly, the preamble to the United Nations Charter states that “the peoples of the United Nations [are] determined . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person.”²⁰

12. Additionally, under the 1994 Cairo Conference on Population and Development, Fiji has a responsibility to “take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*”²¹ Fiji’s Ministry of Health has implemented this very idea in its Reproductive Health Policy, which emphasizes the importance of family planning in preventing abortion.²² The Ministry of Health also works to ensure that everyone has access to family planning services.²³

13. Additionally, Fiji’s obligation to protect life, and its choice to do so, should be honored and respected as abortion not only takes the life of an innocent baby, it can also result in physical and psychological harm to the mother. We only have to look at Fiji’s neighbor New Zealand to see the impact that abortions can have on women. One study conducted in New Zealand found that women who have had abortions experienced elevated rates of suicidal behavior, depression, substance abuse, anxiety, and other mental problems.²⁴

14. Fiji is not alone in protecting the lives of preborn babies and mothers. Numerous United Nations Member States have recognized that there is no international right to abortion and have taken their obligation to protect life seriously by implementing laws restricting this dangerous practice. Out of the 193 United Nations Member States, an overwhelming majority (108)

¹⁷ CONSTITUTION OF FIJI art. 41 § 2, *supra* note 7.

¹⁸ G.A. Res. 217 (III), A Universal Declaration of Human Rights, pmbl., art. 3 (Dec. 10, 1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

¹⁹ ICCPR art. 6, *supra* note 11.

²⁰ U.N. Charter pmbl.

²¹ International Conference on Population and Development, *Report of the International Conference on Population and Development*, ¶ 7.24, U.N. Doc. A/CONF/F.171/13/Rev. 1 (adopted July 2, 1999) (emphasis added), https://www.unfpa.org/sites/default/files/pub-pdf/programme_of_action_Web%20ENGLISH.pdf.

²² MINISTRY OF HEALTH, REPRODUCTIVE HEALTH POLICY (2014), https://www.health.gov.fj/wp-content/uploads/2014/09/1_Reproductive-Health-Policy.pdf.

²³ *Id.*

²⁴ David C. Reardon, Ph.D., *New Zealand Study on Mental Health Problems May Force Doctors to Refuse Abortions*, RACHEL’S VINEYARD MINISTRIES (Mar. 2006), <https://www.rachelsvineyard.org/PDF/Articles/New%20Zealand%20Study%20on%20Mental%20Health%20-%20David%20Reardon.pdf>.

strictly limit on abortion.²⁵ Among the remaining countries that permit abortion, nearly all of them have gestational limits.²⁶

15. One only has to look at the human rights obligations that require the protection of life, along with the fact that there is no right to abortion, to see that Fiji is more than justified in refusing to support any recommendation calling for expanding access to abortion. Fiji has every right, and arguably an obligation, to protect the lives of preborn babies and mothers from the devastation of abortion.

Human Trafficking

16. In Fiji, victims are trafficked for both forced labor and sexual exploitation.²⁷ Victims of sex trafficking are largely exploited in brothels, clubs, massage parlors, and hotels.²⁸ Many victims of labor trafficking are forced into working in various industries such as hospitality, food, construction, and agriculture.²⁹ Over the past five years, it is estimated that there are approximately 5,208 victims of human trafficking in Fiji who have not been identified.³⁰ However, despite the large number of likely victims, the Office of the Director of Public Prosecutions (ODPP) has reported only prosecuting three cases of human trafficking between 2023 and 2024.³¹

17. One common method traffickers use to lure victims is promising foreigners better employment opportunities in Fiji.³² However, once the victims arrive in Fiji, they are forced into work they did not agree to and are exploited.³³ For example, in June 2023, a sixty-six-year old man was convicted on four counts of human trafficking and sentenced to eight years in prison by the Lautoka High Court.³⁴ The individual had promised four Bangladeshi men that he would provide them jobs in Fiji.³⁵

18. Sadly children are at risk for sex trafficking and are exploited by taxi drivers, foreign tourists, businessmen, and family members.³⁶ One report noted that children as young as twelve

²⁵ *The World's Abortion Laws*, CTR. FOR REPROD. RTS., https://reproductiverights.org/wp-content/uploads/2023/07/CRR_WALM_2023_FINAL-1.pdf (last visited July 11, 2024).

²⁶ *Id.*

²⁷ Kana Ruhalter, *Human Trafficking in Fiji: Past, Present and Future*, THE BORGEN PROJECT (July 18, 2021), <https://borgenproject.org/human-trafficking-in-fiji/>.

²⁸ *Fiji*, GLOB. ORG. CRIME INDEX, <https://ocindex.net/country/fiji> (last visited July 9, 2024).

²⁹ UNODC, RESULTS OF THE FIJI NATIONAL TRAFFICKING IN PERSONS PREVALENCE SURVEY 12 (2023), https://www.unodc.org/roseap/uploads/documents/Publications/2023/FIJI_TIP_RESULTS_REPORT_UNODC_FBOS_FINAL_2023.pdf.

³⁰ *Human Trafficking Looms Large in Fiji*, FBC NEWS (Oct. 6, 2023), <https://www.fbcnews.com.fj/news/human-trafficking-looms-large-in-fiji/>.

³¹ *Fiji Government Urged to Address "Huge Gap in the System" to Tackle Human Trafficking*, N.Z. HERALD (May 5, 2009), <https://www.nzherald.co.nz/world/fiji-government-urged-to-address-huge-gap-in-the-system-to-tackle-human-trafficking/D3Q7LTZ5OJGMLD5R25SO7BID2M/>.

³² FBC NEWS, *supra* note 30.

³³ *Id.*

³⁴ *Man Sentenced for Human Trafficking*, FBC NEWS (June 21, 2023), <https://www.fbcnews.com.fj/news/court/man-sentenced-for-human-trafficking/>.

³⁵ *Id.*

³⁶ N.Z. HERALD, *supra* note 31.

have been transported by taxi drivers to hotels populated by tourists and forced to engage in commercial sex acts.³⁷

19. In January 2023, five individuals were brought before the Nadi Magistrates Court in Fiji after they were arrested for their involvement in human trafficking.³⁸ According to a report, the individuals allegedly were trafficking minors.³⁹

20. In 2022, a businessman and his wife were charged with trafficking their seventeen-year-old daughter to be sexually exploited.⁴⁰ In 2023, the couple was found guilty by the Suva High Court.⁴¹

21. With over 5,000 unidentified victims of trafficking and only three prosecutions, clearly, Fiji has not taken serious action to combat human trafficking. This can be seen not only in the lack of prosecutions, but also in the fact that the government has only allocated FJ\$10,000 annually to a Human Trafficking Unit consisting of only two officers who work with the Department of Immigration.⁴² Although this unit is tasked with recording data on human trafficking, they lack a centralized database for sharing with other relevant agencies.⁴³ Further, there are no standard operating procedures in place to screen and identify potential victims of human trafficking.⁴⁴ Additionally, there has been no public education of what human trafficking is and what to look out for, and as a result, trafficking cases go unreported by the public and by the victims themselves.⁴⁵

Recommendations

22. We want to commend Fiji for being steadfast in protecting life, including the right to life of preborn babies. We want to encourage Fiji to maintain these protections and resist international pressure to expand access to abortion. We want to remind Fiji that it is not alone in its commitment to protecting the foundational human right to life, and in fact, it is in the majority, and should continue to protect life at all stages.

23. As Fiji has an obvious commitment to protecting life, we also want to encourage it to increase its efforts to combat human trafficking. To accomplish this, Fiji must allocate more resources and personnel to fully investigate all cases of human trafficking. This includes creating a well-staffed anti-human trafficking department that is equipped to identify victims of human trafficking and thoroughly investigate cases of human trafficking. It also includes

³⁷ *Children Face Threat of Sex, Labor Trafficking in Fiji: U.S. Trafficking in Persons Report*, ISLAND TIMES (July 9, 2021).

³⁸ Filipe Naikaso, *Five to Face Allegation of Human Trafficking*, FBC NEWS (Jan. 31, 2023), <https://www.fbcnews.com.fj/news/crime/five-to-face-allegation-of-human-trafficking/>.

³⁹ *Id.*

⁴⁰ *Couple Charged for Trafficking 17 Year Old*, FIJI POLICE (Mar. 17, 2022), <https://www.police.gov.fj/view/1796>.

⁴¹ Rashika Kumar, *Nausori Couple Found Guilty of Trafficking the Man's Daughter to Provide Sexual Services to Another*, FIJI VILL. (June 20, 2023), <https://www.fijivillage.com/news/Nausori-couple-found-guilty-of-trafficking-the-mans-daughter-to-provide-sexual-services-to-another-frx845/>.

⁴² Christine Rovo, *Experts Call Out Govt Inaction Against Child Trafficking in the Pacific*, PMN (May 10, 2024), <https://pmn.co.nz/read/pacific-region/experts-call-out-govt-inaction-against-child-trafficking>.

⁴³ N.Z. HERALD, *supra* note 31.

⁴⁴ *Id.*

⁴⁵ *Id.*

adding more prosecutors who are trained in issues related to human trafficking and are equipped with the resources needed to prosecute all cases of human trafficking.