



STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

Report on the Review of the Rights of Indigenous Peoples Bill (Bill No. 37 of 2025)



PARLIAMENT OF THE REPUBLIC OF FIJI
Parliamentary Paper No. 98 of 2026

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ACRONYMS

1.	UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
2.	SEEP	Social Empowerment and Education Programme
3.	FPIC	Free, Prior and Informed Consent
4.	FHRAD	Fiji Human Rights and Anti-Discrimination Commission
5.	SDGs,	Sustainable Development Goals
6.	TAAG	Tans Affirmative Action Guild

CHAIRPERSON'S FOREWORD



The Rights of Indigenous Peoples Bill was referred to the Standing Committee on Justice, Law and Human Rights scrutinise and to return a report of its findings to Parliament.

Fiji supported the United Nations Declaration on the Rights of Indigenous Peoples ('UNDRIP') in March 2023, signalling its commitment to promoting and protecting the rights of indigenous peoples within its borders. This endorsement aligns

Fiji with international standards for the recognition of indigenous peoples' rights, including cultural preservation, land rights, and participation in decision making processes. The purposes of UNDRIP are to recognise and protect the rights of indigenous peoples globally. It seeks to affirm their rights to self-determination, cultural identity, land and resource ownership, and participation in decision-making processes that affect them.

In addition, UNDRIP emphasizes respect for their unique cultural traditions, languages, and spiritual practices, while promoting their social, economic, and political inclusion. It also aims to combat discrimination and marginalisation faced by indigenous communities, ensuring their voices are heard and their rights upheld at national and international contexts.

The Rights of Indigenous Peoples Bill 2025 ('Bill') therefore seeks to provide for the UNDRIP in Fiji with its primary objective to formally acknowledge, uphold, and promote the inherent rights of the indigenous people as the indigenous inhabitants, ensuring that their cultural, social, economic, and political rights are safeguarded in accordance with international standards. The Bill establishes mechanisms for the recognition of traditional land and resource rights, promotes the preservation and revitalisation of indigenous cultural heritage and language, and ensures the active participation of the indigenous community in decision-making processes affecting their welfare.

Moreover, it provides for the legal frameworks to monitor, protect, and advance the rights of the indigenous people, fostering an inclusive and equitable society that respects indigenous sovereignty and promotes sustainable development aligned with their aspirations and customary laws.

As part of the review, the Committee conducted public consultation in targeted areas to gather opinions and feedback from the public. The Committee received support and commendation on the introduction of the amendment Bill, from majority of the public that had participated in the public consultation. However, like most activities that impact the

lives of the people of a country, there will also be other suggestions that are based on the premise of making improvements.

Consideration was also given to the impact of the Bill on Fiji's efforts in meeting its targets of the sustainable development goals (SDG).

The Committee acknowledges the concerns raised by the submitters and has deliberated at length on concerns raised. The Committee is confident that all issues raised have been addressed and that the Bill is sufficient as it is with some minor amendments.

I would like to thank the Honourable Members of the Justice, Law and Human Rights Committee for their deliberations and input; Hon. Faiyaz Koya (Deputy Chairperson), Hon. Jone Usamate, Hon. Ratu Josaia Niudamu, Hon. Sachida Nand and Hon. Ratu Isikeli Tuiwailevu.

I, on behalf of the Committee, commend the **Rights of Indigenous Peoples Bill (Bill No. 37 of 2025)** to the Parliament and seek support of all the members of this August house for the Bill.



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HON. RATU RAKUITA VAKALALABURE
CHAIRPERSON

COMMITTEE COMPOSITION

The Standing Committee on Justice, Law and Human Rights (‘Committee’) is established under Section 70 of the *Constitution of the Republic of Fiji* and Standing Order 109 of the *Standing Orders of the Parliament of the Republic of Fiji*. The Committee consists of the following Members:



Hon. Ratu Rakuita
Vakalalabure
(Chairperson)



Hon. Faiyaz Koya
(Deputy Chairperson)



Hon. Jone Usamate
(Member)



Hon. Sachida Nand
(Member)



Hon. Ratu Isikeli
Tuiwailevu
(Member)



Hon. Ratu Josaia
Niudamu
(Member)

COMMITTEE SECRETARIAT

Supporting the Committee in its work is a group of dedicated Parliament Officers who make-up the Committee Secretariat and are appointed and delegated by the Secretary-General to Parliament pursuant to Standing Order 15 (3)(i). The Secretariat team is made of the following Parliament officers:

- Mr. Jackson Cakacaka – Senior Committee Clerk
- Ms. Alumita Cabealawa – Deputy Committee Clerk
- Mr. Jeke Rokotuiloma – Assistant Committee Clerk

Committee contact details

Address: Standing Committee on Justice, Law and Human Rights
Parliament of the Republic of Fiji
Parliament Complex
Government Buildings
SUVA, FIJI

Phone: +679 322 5600/ +679 8925 221

Web: <https://www.parliament.gov.fj/committees/standing-committee-on-justice-law-human-rights/>

1.0 INTRODUCTION

1.1 Background

The Standing Committee on Justice, Law and Human Rights, referred to as the ("**Committee**"), was assigned the Rights of Indigenous Peoples Bill 2025 for review on November 2025. The Bill was referred to the Committee in accordance with SO 84, which tasked the Committee with the examination of the Bill and the responsibility to report on its findings in a subsequent Parliament Sitting.

1.2 Procedure and Program

The Committee has conducted a thorough review of the Rights of Indigenous Peoples Bill 2025 (Bill No. 37 of 2025). This report outlines the findings, observations, and recommendations of the Committee regarding the Bill.

The Committee examined the Bill in detail, reviewing each clause and engaging in deliberations. Following this, the Committee invited the responsible Ministry to provide a briefing on the objectives and intentions behind the proposed amendments. To ensure transparency and inclusivity, the Committee then opened the process to public participation by calling for submissions from citizens and other stakeholders, which was advertised through Parliament's official social media platforms.

The Committee was mindful of the provisions on Standing Order 111(1)(a) and ensured that its meetings were open to the public and the media, except during such deliberations and discussions to develop and finalise the Committee's observations and this Report.

1.3 Committee Remit

The Standing Committee on Justice, Law, and Human Rights, in accordance with Standing Order 109 of Parliament's Standing Orders, is tasked with several duties. As outlined in Standing Order 110, these include scrutinizing each Bill referred to it by Parliament and review any subordinate legislation presented in Parliament that falls under its purview.

2.0 RIGHTS OF INDIGENOUS PEOPLE BILL (BILL NO. 37 of 2025)

2.1 Introduction

The Rights of Indigenous Peoples Bill 2025 aims to recognise, protect, and promote the rights of indigenous people in Fiji, aligning with the United Nations Declaration on the Rights of Indigenous Peoples. It establishes legal frameworks to safeguard cultural heritage, land rights, and self-determination, while promoting equality, combatting discrimination, and ensuring indigenous participation in decision-making processes. The Bill mandates the creation of an Action Plan, annual reporting, and regulations to implement its objectives effectively.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP):

The UNDRIP, adopted by the UN General Assembly on 13 September 2007, establishes comprehensive international standards regarding the individual and collective rights of Indigenous peoples. These standards encompass land and resource rights, self-determination, and the principles of free, prior, and informed consent. Although UNDRIP is non-binding, it serves as an important framework for promoting and protecting the rights of Indigenous communities globally. The declaration addresses both individual and collective rights (including cultural rights, identity, language, education, health and economic development) and seeks to eliminate discrimination while promoting Indigenous participation in decisions that affect them. It was negotiated over decades and reflects the consensus of Indigenous representatives and many states.

UNDRIP Adoption:

Most countries in the world now support the UNDRIP. When it was adopted on 13 September 2007, 143 countries voted in favour, 4 voted against 11 abstained (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine), and 34 were absent. Since then, all four countries (Australia, Canada, New Zealand & United States) that originally voted against have reversed their position and now support UNDRIP. Fiji was among the 34 states absent that did not cast a vote. However, in March 2023, the Government announced it would adopt an official position of support for UNDRIP, aligning domestic policy with the Declaration's standards.

Legal status and practical impact:

UNDRIP is not a law, but a set of guidelines agreed on by the UN General Assembly. While it is not legally binding, it is highly respected and often used to influence national laws, government policies, court cases and international discussions about Indigenous rights. Many countries have used UNDRIP as a benchmark when drafting legislation, negotiating land claims, or reforming consultation and consent processes; its influence is

evident in national statutes and policy frameworks that aim to align domestic law with the Declaration's standards.

2.2 Objectives of the Bill

The objectives of this Act are to—

- (a) establish a legal framework for the equitable and sustainable growth and development of the industry;
- (b) establish the Forum and the Tribunal, in addition to the Company and the Trust, as institutions of the industry;
- (c) provide for the financing of the Forum, the Tribunal, the Company and the Trust and equitable benefit sharing for the landowners;
- (d) promote principles of governance and management of the Company and the Trust;
- (e) prescribe standard provisions and processes, and to co-ordinate activities of all sections of the industry, in order to promote and manage goodwill and harmony between them;
- (f) encourage and provide means for conciliation with a view to prevention and settlement of all disputes within the industry by amicable agreement; and
- (g) provide a means for preventing and settling disputes within the industry which are not resolved by amicable agreement with maximum expedition and minimum legal form and technicality.

3.0 COMMITTEE'S DELIBERATION AND ANALYSIS OF THE BILL

3.1 Initial Reading of the Bill and Deliberation by the Committee

The Committee commenced its analysis of the Bill, reading through it, Clause by Clause. From this initial reading, it was noted that the Bill seeks to provide for the UNDRIP in Fiji with its primary objective to formally acknowledge, uphold, and promote the inherent rights of the indigenous people as the indigenous inhabitants, ensuring that their cultural, social, economic, and political rights are safeguarded in accordance with international standards.

The Committee had extensive discussions on the provisions of the Bill and resolved that it be prudent to firstly hear the views of the public specifically the stakeholders on this very important proposed legislation. The public consultation would then allow the Committee to gauge the public's perspective on the Bill before deliberating further, whilst also bearing in mind the requirements as set down by Parliament in referring the Bill to the Committee.

3.2 Bill Summary

By way of consensus, the Committee agreed that it would be prudent to include the necessary issues that the proposed law intends to address. This would readily give the reader of this Report with the aforementioned information regarding the Bill, which is summarized below;

Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the new legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.

Clause 2 of the Bill provides for the definitions of certain terms used throughout the Bill.

Clause 3 of the Bill provides for the objectives of the Act.

Clause 4 of the Bill provides for the reaffirmation of the Declaration under the Act.

Clause 5 of the Bill provides for measures to be included in an Action Plan.

Clause 6 of the Bill provides that the Action Plan must be completed 12 months after the Act comes into force.

Clause 7 of the Bill provides that the Minister must table the Action Plan before Parliament within 14 sitting days.

Clause 8 of the Bill provides that an annual report on the measures in the Action Plan to be tabled in Parliament.

Clause 9 of the Bill provides for the indemnification of the Minister responsible for iTaukei affairs ('Minister') or any other person duly authorised under the Act.

Clause 10 of the Bill empowers the Minister to make regulations under the Act.

3.3 In-depth Analysis of the Clauses of the Bill

The Committee then held extensive discussions on the Clauses and identified certain provisions that merit proper consideration. These discussions resulted in the identification of a few issues, which the Committee placed as priority issues raised by the Ministry of iTaukei Affairs to be further discussed and deliberated on with the drafters.

The Committee also made comparative analysis on the of countries that have implemented similar laws which are tabulated as follows:

Examples by country (type of implementation):

Country	Type of implementation
Canada	Federal statute (United Nations Declaration on the Rights of Indigenous Peoples Act, 2021); plus, provincial laws (e.g., British Columbia's DRIPA)
Ecuador	Constitutional reforms recognizing indigenous rights
Mexico	Constitutional and legislative reforms to strengthen indigenous rights
Kenya	Constitutional provisions (2010 Constitution includes indigenous/community rights)
Chile	Constitutional and legislative reforms in recent years
Sweden	Constitutional/legislative recognition and policy measures
Costa Rica, El Salvador, Nicaragua, Morocco	Constitutional amendments or reforms referencing indigenous/collective rights

United Nations Declaration on the Rights of Indigenous Peoples Act (Canada) and Rights of Indigenous Peoples Bill 2025 (Fiji)

Aspect	Canada UNDRIP Act	Fiji Rights of Indigenous Peoples Bill 2025
Purpose	Recognises and implements UNDRIP for the well-being, dignity, and rights of Indigenous peoples in Canada.	Recognises and implements UNDRIP to protect and promote the rights of the iTaukei people in Fiji.
Focus	Reconciliation, healing, justice, democracy, human rights, non-discrimination, and sustainable development.	Self-determination, cultural preservation, equitable sharing of resources, and combating prejudice.
Scope of Indigenous Rights	Covers all Indigenous peoples in Canada (First Nations, Inuit, Métis). Recognises diversity in identities, cultures, languages, and governance structures.	Focuses on the iTaukei people of Fiji, emphasising their cultural, land, and resource rights.

Implementation Mechanisms	Requires federal laws to align with UNDRIP. Mandates an action plan developed in consultation with Indigenous peoples.	Requires an action plan developed in consultation with the Great Council of Chiefs and iTaukei Affairs Board.
Action Plan Timeline	Must be completed within 2 years of the Act coming into force.	Must be completed within 12 months of the Act coming into force.
Annual Reporting	Annual reports on implementation and consistency of laws with UNDRIP, tabled in Parliament.	Annual reports on measures taken under the Action Plan, tabled in Parliament.
Cultural and Legal Recognition	Recognises self-determination, self-government, Indigenous knowledge, and relationships to land.	Recognises and protects iTaukei culture, traditions, customary practices, and land rights.
Resource Management	Addresses sustainable development and climate change impacts on Indigenous communities.	Ensures equitable participation in economic activities derived from natural resources.
Accountability	Reports referred to parliamentary committees for review.	Reports tabled in Parliament within 14 sitting days after completion.

3.4 Submission received via public consultation

All the submissions received during the public consultation were considered and deliberated on extensively. The main points and issues noted from the submissions are summarised below.

1. Bua Urban Youth Network

The Bua Urban Youth Network argued that Fiji's circumstances differed from those that UNDRIP was designed to address. Indigenous rights, land ownership, and participation were already protected through existing laws, institutions, and customary systems, including legal protection of approximately 87% of the country's land under Indigenous ownership. Several iTaukei-specific laws were already in place, suggesting that many of the objectives of UNDRIP were already reflected in Fiji's legal framework.

Rather than adopting a standalone UNDRIP Act, attention could be focused on reviewing existing laws and policies to better protect Indigenous rights in practical areas such as mining, fisheries, environmental management, climate change, and emerging resource markets. It was also noted that UNDRIP is a non-binding declaration, while Fiji is already bound by several international agreements containing obligations relevant to Indigenous rights, suggesting that legislative reform should focus on addressing specific gaps in existing laws.

It further argued that the Bill did not clearly identify any rights that were currently unprotected, existing legislative gaps, unavailable remedies, or reasons why current laws were insufficient. A comprehensive review of existing legislation was recommended before introducing new laws to determine whether targeted amendments would be more effective.

Concerns were also raised about including an Action Plan in primary legislation, as this could limit future policy flexibility. The proposed 12-month timeframe was considered unrealistic for meaningful nationwide consultation with iTaukei communities, with 24 months suggested as a more practical timeframe. It was further recommended that the responsible Ministry develop the policy framework and Action Plan through standard policy processes, with legislation used only to establish the necessary legal powers, institutions, and mechanisms.

1.1. Defining Indigenous Peoples in Fiji

Concerns were raised that the Bill's definition of Indigenous Peoples was unclear, overly focused on race, and potentially inconsistent with existing laws and constitutional protections. While the Bill appeared to apply primarily to the iTaukei, its title and definitions could create uncertainty regarding the inclusion of other indigenous groups such as Rotumans, Banabans, and Tuvaluans.

It was also argued that the Bill relied on the iTaukei Affairs Board for implementation, effectively excluding other indigenous groups from its oversight framework. The definition of "*indigenous*" was considered too narrow, as Indigenous identity in Fiji is based not only on ancestry but also on customary relationships, kinship, governance structures, and connections to the *vanua*, including institutions such as the *yavusa*, *mataqali*, *tokatoka*, and the VKB.

Furthermore, the Bill was criticised for failing to recognise the diversity and inequalities that exist within the iTaukei population. Not all iTaukei communities have equal ownership of, or access to, land and resources, yet the Bill appeared to treat Indigenous communities as a single, uniform group. It also overlooked the established social and governance structures of iTaukei society, including the *yavusa*, *mataqali*, and *tokatoka*, by relying on broad and undefined references to "indigenous" peoples. In addition, the Bill lacked clarity regarding collective ownership and management of resources such as *qoliqoli*, leaving important customary rights and responsibilities open to interpretation.

1.2. Rights must be accompanied with responsibilities.

A key concern was that the Bill focused heavily on Indigenous rights without adequately recognising the corresponding responsibilities that are central to Indigenous Fijian values and customary governance. In the Fijian context, rights are closely linked to

responsibilities towards the *vanua*, cultural heritage, natural resources, customary institutions, and future generations.

It was argued that the Bill did not sufficiently reflect principles of stewardship, reciprocity, collective responsibility, and accountability that underpin iTaukei society. Additionally, while the Bill promoted mutual respect and understanding among different cultural groups, it was noted that, as the majority population, the iTaukei also have a responsibility to ensure that minority communities are not marginalised. Consequently, accountability should be recognised alongside rights, mutual respect, and understanding.

1.3. Gaps that require attention

Concerns were raised about the Bill's accountability and implementation mechanisms. Section 9 (Indemnification) was seen as potentially limiting accountability for those responsible for implementing the Act, particularly if the Action Plan was developed without adequate consultation. It was suggested that a remedial mechanism be included to ensure oversight and accountability. Section 10 (Regulations) should also ensure consistency with existing iTaukei Affairs legislation and governance structures.

While the need for a standalone Rights of Indigenous Peoples Act was questioned, several important issues were identified as requiring attention.

The submitters noted that Fiji does not have a consistent national framework for Free, Prior and Informed Consent (FPIC), especially in areas such as mining, conservation, renewable energy, carbon markets, and other major development projects. This can create uncertainty for Indigenous communities and customary resource owners when decisions are made about the use of their land and resources.

The submittee considered that greater attention should be given to developing practical FPIC and Access and Benefit-Sharing (ABS) frameworks to ensure that Indigenous communities are properly consulted, their traditional knowledge is protected, and they receive fair benefits from the use of their resources.

The Committee also noted from the submission that current laws do not adequately cover emerging sectors such as carbon markets, biodiversity credits, blue carbon projects, and conservation financing. Clear legal rules are therefore needed to define ownership rights, consent processes, benefit-sharing arrangements, and accountability measures so that communities can participate meaningfully and benefit fairly from these new economic opportunities.

It was argued that these contemporary challenges may be more effectively addressed through targeted legislative reforms and regulatory improvements rather than through a new standalone Act.

The Bua Youth Urban Network recommended that the Government undertake a comprehensive review of existing legislation affecting Indigenous Peoples, taking into account Fiji's obligations under relevant international treaties and conventions, to identify any genuine legislative or policy gaps that require reform. The youth further recommended that, where gaps are identified, consideration be given to targeted amendments to existing laws rather than the enactment of a separate Rights of Indigenous Peoples Act. This approach would allow for the strengthening of Indigenous rights, participation, stewardship, and self-determination within established legal frameworks while avoiding unnecessary duplication.

The Youth Network also recommended that priority be given to developing national frameworks for Free, Prior and Informed Consent (FPIC) and Access and Benefit-Sharing (ABS). Such frameworks would provide clearer protections for Indigenous communities, safeguard traditional knowledge and resources, and support Fiji's commitments under international and national biodiversity obligations.

In addition, the submitter recommended a review of key natural resource management legislation, including the Mining Act, Rivers and Streams Act, Environment Management Act, and Fisheries Act, to ensure that these laws adequately recognise Indigenous participation in decision-making, respect customary stewardship, provide for meaningful consent processes, and promote fair and equitable benefit-sharing.

Finally, it was suggested that the Bill's definition of Indigenous Peoples be reviewed to better reflect Indigenous Fijian concepts of identity, kinship, customary governance, and stewardship. In doing so, consideration should be given to recognised customary systems and institutions, including the Vola ni Kawa Bula (VKB), so that the definition is grounded in Indigenous Fijian social and cultural realities rather than relying primarily on a racial classification.

2. Ministry of iTaukei Affairs

The Ministry highlighted that the submission by the Bua Urban Youth supported the strengthening of indigenous rights but questioned whether a standalone Act was necessary. Instead, it recommended a comprehensive review of existing legislation, targeted amendments to relevant laws, the development of Free, Prior and Informed Consent (FPIC) and Access and Benefit-Sharing (ABS) frameworks, a review of resource governance legislation, and a refinement of the definition of Indigenous Peoples.

The Ministry further noted that while the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was a non-binding declaration and formed part of international "soft law", its aspirational principles could nevertheless serve as an important interpretive guide for the recognition and protection of indigenous rights within Fiji's legal framework. In this regard, those principles provided a lens through

which existing rights and freedoms could be interpreted and applied, consistent with sections 3 and 7(1)(b) of the Constitution of the Republic of Fiji.

The Ministry agreed that several of the issues raised were constructive and warranted further consideration, particularly in relation to:

- i. the development of clearer processes for Free, Prior and Informed Consent (FPIC);
- ii. access and benefit-sharing arrangements relating to traditional knowledge, genetic resources, and cultural resources;
- iii. resource governance across key sectors, including mining, fisheries, river management, environmental management, carbon markets, and biodiversity credit schemes;
- iv. the establishment of effective benefit-sharing and accountability mechanisms; and
- v. ensuring that the definition of “indigenous” was legally sound, culturally appropriate, and sufficiently precise.

The Ministry noted that the Bill already provided an enabling framework for an Action Plan and for a comprehensive review of legislation affecting indigenous interests. The Bill defined the Action Plan as a plan to implement the objectives of UNDRIP, and clause 5 expressly included measures relating to equitable benefit-sharing from natural resources, genetic resources, cultural resources, and traditional knowledge. In this regard, the Ministry did not agree that these matters necessarily required the withdrawal of the Bill as proposed.

The Ministry noted the concern that the Action Plan was required to be completed within 12 months. Given the need for meaningful consultation with iTaukei communities, customary institutions, and other relevant stakeholders, the Ministry considered that the Committee could examine the option of extending the timeframe to 24 months or adopting a phased approach, whereby an initial framework would be developed within 12 months, followed by detailed sectoral implementation plans.

Alternatively, the Ministry noted that the commencement of the Act could be deferred. As commencement was to occur by notice in the Gazette, the timing of the Act coming into force would have remained within the control of the responsible Minister.

The Ministry noted concerns regarding the definition of “indigenous” in the Bill. It observed that the Bill referred to “*every member of the aboriginal race indigenous to Fiji*” and assigned key functions to the iTaukei Affairs Board and the Great Council of Chiefs.

The Ministry recommended that the Committee seek further legal clarification on whether the definition should be refined to avoid ambiguity and to ensure consistency

with existing iTaukei legislation, the Vola ni Kawa Bula, Rotuman governance arrangements, and any other special administrative arrangements recognised under law.

The Ministry noted concerns regarding the indemnity provision in clause 9. It observed that the clause did not provide absolute immunity, as it did not extend protection to actions undertaken in bad faith or without reasonable care.

The Ministry further highlighted that the Committee may wish to consider whether the clause should expressly state that it does not limit the availability of judicial review, constitutional remedies, or other mechanisms for accountability.

The Ministry acknowledged that several recommendations by the Bua Urban Youth submission can and will be addressed through the development of the Action Plan, which will entail a targeted review of existing legislation.

3. University of Fiji

The University of Fiji highlighted that, while it supported the recognition and protection of indigenous peoples' rights, cultures, traditions, and institutions, the Bill raised a fundamental policy and legislative question that had not been adequately addressed. In particular, the University questioned whether the enactment of a new standalone statute was necessary, given the existence of legal, constitutional, and institutional frameworks in Fiji that already provided for the protection and advancement of indigenous rights and interests. The University suggested that further consideration be given to the extent to which the objectives of the Bill could be achieved through existing mechanisms, or through targeted legislative reforms, rather than by establishing an entirely new legislative framework.

The University of Fiji noted that Fiji's circumstances differed significantly from those of many countries where indigenous rights legislation had been introduced in response to historical dispossession, marginalisation, and exclusion of indigenous populations. The University observed that the iTaukei constitute the indigenous majority in Fiji, retain ownership of the vast majority of customary land, and already benefit from extensive constitutional, legislative, and institutional protections relating to their land, culture, language, natural resources, and traditional governance structures.

In light of these existing protections, the University suggested that careful consideration be given to the necessity and added value of a standalone Rights of Indigenous Peoples Act, including whether its objectives could be achieved more effectively through existing legal frameworks or through targeted legislative reforms.

4. Trans Affirmative Action Guild (TAAG)

TAAG stated that traditional governance systems and human rights frameworks should work together to better protect all members of the iTaukei community and fully implement the rights contained in the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*.

The submitter emphasized that the implementation of indigenous rights should reflect the experiences and needs of all indigenous people, including those who may not always be represented in traditional decision-making processes.

To achieve this, the submitter recommended amending clause 5(1) to require the National Action Plan to specifically consider the needs of indigenous women, youth, and *Vakasa, Sian, Trans, and Non-binary (VST+)* persons. The submitter also recommended amending clauses 5 and 6 to ensure that grassroots organisations, youth groups, and other marginalised civil society groups are included in consultations on the development and implementation of the Action Plan.

The submitter believed that these changes would make decision-making more inclusive and ensure that the Bill reflects the different experiences, views, and needs of all members of indigenous communities.

4.1 Clause 5

TAAG further submitted that clause 5, which outlines the content of the National Action Plan for implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), contained broad objectives for the promotion and protection of indigenous rights. However, it argued that the clause did not adequately address inequalities that may exist within indigenous communities themselves.

Accordingly, TAAG recommended that clause 5 be strengthened to require an intersectional approach to the protection and promotion of indigenous rights. TAAG considered that this would help ensure that the National Action Plan recognised and responded to the experiences and needs of all indigenous people, including groups that may face additional barriers or disadvantage. In TAAG's view, such an approach would promote more equitable outcomes and ensure that the benefits of the Bill were shared fairly across the diverse members of indigenous communities.

4.2. Clause 5 or Clause 6

TAAG further submitted that, while the Bill vested responsibility for the preparation of the National Action Plan in the Minister and recognised institutions such as the iTaukei Affairs Board and the Great Council of Chiefs, it did not expressly require the

participation of marginalised indigenous groups, grassroots organisations, or broader civil society representatives in the drafting process.

Traditional leadership and governance structures have historically been influenced by patriarchal and elder-centred decision-making practices. While acknowledging and respecting the important role of *matua* (elders), traditional councils, and customary institutions in guiding indigenous communities, TAAG argued that contemporary legislation should also ensure that the views and experiences of indigenous youth and gender-diverse persons are meaningfully represented in policy development and decision-making processes.

4.3. Clause 10

TAAG submitted that clause 10, which empowers the Minister to make regulations for the purposes of the Act, should be accompanied by clearer safeguards to ensure that any regulations made under the legislation remain consistent with human rights principles and the objectives of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Additionally, it was expressed that if such regulations were developed without consideration of gender and intersectional factors, certain groups within indigenous communities could continue to experience systemic barriers in accessing state benefits, support programmes, customary protections, and opportunities for participation in decision-making processes. In particular, the potential vulnerability of low-income, displaced, and *Vakasa, Sian, Trans, and Non-binary* (VST+) indigenous persons whose experiences and needs may not be adequately reflected in regulatory frameworks based solely on broad or traditional conceptions of indigenous rights. In this regard, TAAG had recommended that clause 10 of the Bill be amended to include a compliance threshold.

5. Lote Rokovau

Another submitter recommended that the Bill expressly recognise the right of Indigenous Fijians to an indigenous national flag and provide for the promotion and preservation of indigenous identity through education. The submitter proposed that traditional iTaukei culture, history, customs, values, and heritage be incorporated into the primary and secondary school curriculum to strengthen cultural awareness and ensure the transmission of indigenous knowledge to future generations.

6. Fred Wehrenberg

The submitter opposed the Bill and expressed concern that indigenous rights legislation could contribute to ethnic division and undermine the principle of equal rights for all citizens.

The submitter argued that political developments since 1987, which was characterised as promoting iTaukei ethno-nationalism, had contributed to political instability, economic hardship, discrimination, violence, and migration from Fiji. Fiji had accepted the principles of the Universal Declaration of Human Rights (UDHR) upon joining the United Nations and highlighted the importance of equality, dignity, and non-discrimination as fundamental human rights principles.

The submitter further noted that Fiji is a multi-ethnic and multicultural society and urged consideration of the *United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*. The individual referred in particular to provisions emphasising freedom from discrimination and the obligation of States to ensure that persons belonging to minorities are able to enjoy their rights and freedoms on an equal basis before the law.

The submitter therefore suggested that there be an approach that prioritised universal human rights, equality before the law, and the protection of all ethnic and cultural communities within Fiji.

6.1. Clause 5

In relation to clause 5, the submitter noted that the proposed *National Action Plan* should be implemented in a manner consistent with Article 46(3) of the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, which emphasises the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance, and good faith. The submitter also referred to the *United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, arguing that any measures adopted under the Bill should ensure equality before the law and the full enjoyment of human rights and fundamental freedoms by all persons without discrimination.

6.2. Clause 9

The submitter objected to the indemnity provision contained in clause 9, arguing that public officials exercising powers under the Act should remain accountable for their actions, whether civil or criminal in nature. In their view, accountability mechanisms should be maintained to ensure transparency and oversight in the exercise of statutory powers.

More broadly, the submitter emphasised that the implementation of the Bill should be consistent with the principles of equality and non-discrimination contained in the Universal Declaration of Human Rights (UDHR). Appropriate safeguards should be in place to ensure that the rights of all communities in Fiji continued to be protected on an equal basis before the law.

7. Provincial Council Meeting in Nadroga/Navosa, Ra and Macuata

The Standing Committee undertook consultations with the Provincial Councils of Nadroga/Navosa, Ra, and Macuata on 10 June, 12 June, and 24 June 2026, respectively. During these consultations the Provincial Councils generally supported the objectives of the Bill and welcomed the establishment of a legislative framework to facilitate the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) within the Fijian context.

The Provincial Councils raised concerns about the increasing number of indigenous landowners entering into lease agreements without fully understanding their long-term legal and economic implications. It was submitted that, in many instances, lessees subsequently subdivided and commercially developed leased land for significant profit, while the original landowners retained limited control over the future use of their customary land and received minimal long-term benefits.

The Provincial Councils further emphasised the importance of strengthening and legally protecting indigenous rights in Fiji to ensure that Indigenous Peoples exercised greater control over their lands, resources, and customary rights. Participants expressed support for the Peoples Bill and called for its effective implementation through a comprehensive action plan that would provide practical mechanisms for the protection and promotion of indigenous rights.

Participants also recommended that the Bill be expanded to expressly recognise indigenous interests in marine areas, including the Exclusive Economic Zone (EEZ), continental shelf, and other maritime zones. It was submitted that Indigenous Peoples should be recognised, respected, and meaningfully involved in decision-making processes concerning the management, conservation, development, and use of marine resources and areas that have cultural, traditional, or economic significance to them.

In addition, the Provincial Councils advocated for the full recognition and restoration of indigenous ownership rights over lands, marine areas, and natural resources. It was argued that indigenous communities should be afforded stronger legal recognition of their traditional connections to these resources and greater participation in decisions affecting their ownership, management, and use.

Overall, participants expressed strong support for the enhanced recognition and protection of Indigenous Peoples rights through domestic legislation and the implementation of the principles contained in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Support for the Bill was widely indicated on the basis that it recognised and affirmed the rights, dignity, identity, culture, and

aspirations of Indigenous Peoples in Fiji and provided an important framework for advancing their protection and participation in national development.

Participants in other province had differing opinion and raised concerns regarding the overall approach of the Rights of Indigenous Peoples Bill and expressed opposition to aspects of the proposed legislation. It was submitted that human rights and indigenous rights were distinct concepts and should not be treated as synonymous. Participants emphasised that indigenous rights arise from the unique historical, cultural, customary, and land-based relationships of Indigenous Peoples and therefore require separate recognition and protection beyond the general human rights framework.

A participant also sought clarification on the relationship between the Rights of Indigenous Peoples Bill and existing legislation governing Customary Marine Areas (CUMA), particularly in relation to questions of ownership, control, and management of customary marine resources. Concerns were raised regarding how the Bill would interact with existing legal frameworks and whether it would strengthen or alter existing indigenous ownership and governance arrangements.

Concerns were further expressed regarding Section 5(1) of the Bill. Participants opposed the provision that vested decision-making authority in the Minister in consultation with the Council and the Board. It was argued that the concentration of such powers in the Minister could undermine independence, accountability, and meaningful participation by indigenous communities. Greater autonomy and community involvement in decision-making processes were recommended to ensure that indigenous interests were adequately represented and protected.

Participants also objected to Section 9 of the Bill, which provides protections from liability for certain actions undertaken under the legislation. It was recommended that citizens should retain the right to seek legal redress against any person or authority whose actions adversely affect their rights or interests. Participants argued that accountability mechanisms should remain available and that no individual or public official should be shielded from judicial scrutiny where legitimate grievances exist.

In addition, a participant, recommended the reinstatement of the iTaukei Court. It was submitted that the restoration of the iTaukei Court would strengthen the recognition and administration of customary law, provide a culturally appropriate forum for resolving disputes relating to indigenous matters, and enhance access to justice for indigenous communities. The reinstatement of the Court was viewed as an important mechanism for preserving customary governance structures and ensuring that indigenous issues could be determined within a framework that recognises and respects iTaukei customs, traditions, and practices.

8. Social Empowerment and Education Programme (SEEP)

SEEP submitted that the Rights of Indigenous Peoples Bill should not proceed to enactment until several constitutional, legal, and governance concerns had been adequately addressed. While acknowledging the Bill's objective of strengthening the protection of Indigenous Peoples' rights in Fiji, SEEP argued that its current form risked creating legal uncertainty and implementation challenges. It noted that the Bill potentially conflicted with existing constitutional provisions, particularly those relating to ownership and control of natural resources and indigenous rights. Given that the Constitution Review Commission was still undertaking its review and constitutional reform processes had not yet been completed, SEEP recommended that the legislative process be deferred until the review and any subsequent referendum had concluded, thereby ensuring that the Bill would be fully aligned with the Constitution and would avoid future legal inconsistencies.

SEEP further submitted that the Bill lacked a comprehensive and legally enforceable framework for Free, Prior and Informed Consent (FPIC). Although FPIC was referenced in the Bill, SEEP observed that there was insufficient clarity regarding its definition, the procedures for obtaining consent, and the legal consequences of withholding consent. It also noted that existing laws continued to permit State intervention in matters affecting indigenous lands and resources. SEEP therefore recommended that FPIC be expressly defined in legislation and supported by clear procedures, safeguards against coercion and undue influence, and legal recognition of the right of iTaukei communities to withhold consent where proposed activities could adversely affect their lands, resources, culture, or traditional way of life.

SEEP also highlighted that the effectiveness of the Bill would be significantly limited unless it was reconciled with the broader legislative framework. It noted that numerous existing statutes continued to grant extensive powers to the State over indigenous lands, resources, and decision-making processes, thereby undermining the protections sought by the Bill. SEEP recommended the inclusion of a legislative reconciliation provision requiring the systematic review and amendment of all laws that were inconsistent with the rights recognized under the Bill. It further proposed that the Bill should prevail over conflicting legislation, subject to the Constitution, and that interim measures should be implemented to safeguard indigenous rights while the legislative harmonisation process was undertaken.

In relation to governance and implementation, SEEP expressed concern that the Bill concentrated substantial authority in the Minister for iTaukei Affairs, with limited oversight mechanisms and insufficient coordination across relevant government agencies. SEEP argued that such an approach risked politicisation and did not adequately reflect Fiji's multicultural and multi-ethnic context. Consequently, it recommended that executive and administrative powers be vested in the Permanent Secretary for iTaukei Affairs, that a fixed commencement date be established to provide certainty, and that a

Multi-Ministry Coordination Committee be created to oversee implementation. SEEP additionally recommended that meaningful consultation be conducted with all affected communities and stakeholders to ensure that the Bill advanced indigenous rights while promoting social cohesion and inclusive governance.

SEEP further submitted that the Bill required stronger enforcement, accountability, and oversight mechanisms to ensure that the rights and protections contained within the legislation were legally enforceable rather than merely aspirational. It observed that, in its current form, the Bill did not provide an independent oversight body, an effective grievance mechanism, or sufficient enforcement powers to ensure compliance with its provisions. In this regard, SEEP noted the absence of any role for the Fiji Human Rights and Anti-Discrimination Commission (FHRADC), despite its constitutional mandate to investigate complaints and promote human rights compliance. SEEP therefore recommended that the Bill be amended to formally appoint the FHRADC as the independent oversight body responsible for monitoring implementation, receiving and investigating complaints, and applying to the High Court for enforcement orders where breaches of the Act occurred. It also recommended that the FHRADC be included as a key stakeholder in the development and review of the Action Plan provided for under the Bill.

SEEP also submitted that the Bill's Action Plan provisions were insufficient to ensure meaningful implementation of Indigenous Peoples' rights. While the Bill imposed a range of duties and obligations, it lacked the legal infrastructure necessary to measure compliance, guarantee accountability, or provide immediate protection pending implementation of the Action Plan. SEEP noted that important socio-economic issues affecting iTaukei communities, including poverty, underutilisation of land, unequal access to economic opportunities, and climate-induced displacement, were not adequately addressed. In addition, it expressed concern that consultation processes had been limited and risked excluding vulnerable and underrepresented groups. To address these shortcomings, SEEP recommended the inclusion of an Interim Protection Clause requiring all government agencies and public authorities to respect the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) pending the completion of the Action Plan. It further proposed that no project affecting iTaukei lands, territories, or resources should proceed without obtaining Free, Prior and Informed Consent (FPIC), and that these interim protections should be enforceable through the courts.

In relation to the Action Plan itself, SEEP recommended that the Bill require the establishment of specific, measurable, achievable, relevant, and time-bound targets to address key development challenges affecting indigenous communities. These targets should include measurable outcomes relating to poverty reduction, land utilisation, education, economic participation, benefit-sharing from resource development, and broader social and cultural wellbeing. SEEP further proposed that the Action Plan include dedicated programmes to support entrepreneurship, scholarships, capacity building,

climate resilience, and adaptation initiatives within iTaukei communities. To ensure that commitments could be effectively implemented, SEEP recommended that the Bill require the allocation of adequate funding through a detailed budget supported by parliamentary appropriation. It also submitted that the Action Plan development process should be based on broad and inclusive consultation with all affected communities, including women, youth, elders, and other traditionally underrepresented groups.

SEEP additionally expressed concern regarding Section 9 of the Bill, which provided indemnity protections to the responsible Minister. It argued that this provision undermined accountability and the rule of law by shielding ministerial decisions from effective legal scrutiny while simultaneously exposing ordinary citizens to criminal liability under the Act. SEEP submitted that such an approach was inconsistent with principles of equality before the law and good governance. Accordingly, it recommended the removal of Section 9 and the establishment of a clear accountability framework under which all public officials would be subject to the same legal standards and obligations as other persons. It further proposed that any individual aggrieved by a decision or action taken under the Act should have the right to seek judicial review before the High Court, including access to remedies such as declarations, injunctions, and damages where appropriate.

To further strengthen enforcement, SEEP recommended that the Bill expressly prohibit special immunities or evidentiary presumptions in favour of public officials and provide accessible avenues for complaints through the FHRADC. It also proposed the introduction of more robust penalties for non-compliance, including fines of up to \$50,000 and imprisonment for up to five years for any person, including government officials, who knowingly contravened the provisions of the Act. In SEEP's view, these measures were necessary to ensure that the protections afforded under the Bill were accompanied by meaningful consequences for violations and that Indigenous Peoples would have access to effective remedies where their rights were infringed.

Overall, SEEP submitted that although it supported the objective of strengthening the protection of Indigenous Peoples rights in Fiji, the Bill required further refinement before enactment. It maintained that deferring the Bill pending completion of the constitutional review, establishing a robust FPIC framework, harmonising relevant legislation, and strengthening governance and accountability mechanisms were necessary steps to ensure that the legislation would be legally sound, effective, and inclusive. According to SEEP, these reforms would provide a stronger foundation for the recognition and protection of indigenous rights while maintaining constitutional integrity and national unity.

A copy of the oral and written submission can be obtained from the online Appendices of the Report, which can be accessed via the Parliament website: www.parliament.gov.fj

3.6 Sustainable Development Goals Impact Analysis

Consideration was placed on SDGs 11, 15, and 17, as these goals align with the Bill's focus on the protection of cultural heritage, sustainable management of land and natural resources, and the strengthening of partnerships and cooperation between the State and indigenous communities.

SDG 11.4 – Protect The World's Cultural and Natural Heritage

The Bill promotes the protection and preservation of indigenous culture, heritage, language and traditions. It also supports the revitalisation of indigenous cultural heritage and traditional knowledge. These measures contribute to safeguarding cultural heritage and strengthening sustainable communities.

SDG 15 – Life on Land

The Bill and UNDRIP provisions recognise indigenous rights relating to lands, territories, waters and natural resources. The recognition of traditional stewardship practices supports biodiversity conservation and sustainable land management.

SDG 17 – Partnerships for the Goals

The Bill requires consultation and cooperation between the Minister, the Great Council of Chiefs, the iTaukei Affairs Board and indigenous communities in implementing the Action Plan. This reflects partnership-based governance and collaboration consistent with SDG 17.

In this regard, the Committee following its review of the Bill, fulfilled its obligation as prescribed under Section 110(2) of the Standing Orders of Parliament.

3.7 Outcome of Review

The Committee reviewed all submissions received during the consultation process and identified the common issues, concerns, and recommendations raised by stakeholders. These matters were carefully considered and extensively deliberated upon by the Committee in assessing the provisions of the Bill. The Committee's review focused on areas of broad consensus among submitters, including the protection of indigenous rights, implementation and enforcement mechanisms, consultation processes, accountability measures, and the development of the National Action Plan.

The outcomes of the review are reflected in the revisions to the Right of Indigenous Peoples Bill proposed by the Committee to Parliament.

We are firmly of the view that the revisions made maintain the spirit of the intent of the original bill, whilst making improvements in key areas that have been highlighted in this report.

Action Plan

Some submitters considered the proposed 12-month timeframe for the preparation of the National Action Plan under clause 6 to be unrealistic, noting that meaningful nationwide consultation with *iTaukei* communities would require significant time and resources. It was submitted that a period of 24 months would be more practical and would allow for comprehensive engagement with communities across Fiji. Furthermore, the Bill did not expressly require the participation of marginalised indigenous groups, grassroots organisations, youth groups, or wider civil society representatives in the drafting and consultation process.

The Committee, however, was of the view that the 12-month timeframe specified in clause 6 was reasonable and sufficient. The Committee noted that the Ministry would be expected to undertake all necessary preparatory work, including stakeholder engagement and consultations, before the Act came into force. Furthermore, the proposed timeframe would allow adequate opportunity for consultation and planning while ensuring that implementation of the Bill was not unnecessarily delayed. The Committee therefore considered that extending the timeframe to 24 months was not required.

With respect to participation of marginalised groups, the Committee noted that these concerns were adequately addressed through the provisions of clause 5(2). In particular, the Committee noted that clause 5(2)(a) requires the National Action Plan to include measures to address injustices, combat prejudice, and eliminate all forms of violence and discrimination, including systemic discrimination, against Indigenous Peoples. The Committee considered that this provision was sufficiently broad to encompass the concerns of marginalised groups within indigenous communities and to ensure that the Action Plan promotes equitable outcomes for all Indigenous Peoples.

The Committee further noted that clause 5(2)(b) requires the Action Plan to include measures aimed at promoting mutual respect, understanding, and good relations, including through human rights education. In the Committee's view, these requirements support an inclusive approach to the implementation of the Bill and provide a framework for ensuring that diverse perspectives and experiences are considered in the development of policies and programmes under the Action Plan.

Accordingly, the Committee was satisfied that clauses 5(2)(a) and 5(2)(b) adequately address concerns relating to discrimination, inclusion, and participation, and did not consider it necessary to amend the Bill to specifically identify particular groups or organisations for consultation.

Indemnification

Concerns were raised by some submitters regarding Section 9 (Indemnification), with the view that the provision could limit accountability for those responsible for implementing the Act. It was argued that, particularly in circumstances where the National Action Plan may be developed without adequate consultation or proper consideration of stakeholder views, the indemnification clause could make it more difficult to hold decision-makers accountable for their actions.

The Committee, however, was of the view that Section 9 does not provide absolute or complete immunity to public officials. The Committee noted that the indemnification applies only to actions undertaken in good faith in the exercise of functions under the Act and does not prevent individuals from seeking legal remedies where decisions are unlawful or unreasonable. In particular, the Committee considered that aggrieved persons would continue to have access to judicial review proceedings before the courts, providing an important mechanism for challenging administrative decisions and ensuring accountability in the implementation of the Act.

Therefore, the Committee was satisfied that sufficient avenues for redress remained available and did not consider it necessary to amend or remove Section 9 on this basis.

Fiji Human Rights and Anti-Discrimination Commission

There were concerns that the Bill did not provide an independent oversight body such as the Fiji Human Rights and Anti-Discrimination Commission (FHRADC) to ensure compliance with its provisions for the purpose receiving and investigating complaints on violation of human rights.

The Committee was of the view that the Fiji Human Rights and Anti-Discrimination Commission already possesses broad constitutional powers to address human rights issues and complaints. The Committee noted that section 45(4)(d) of the Constitution empowers the Commission to make recommendations to Government on matters affecting the rights and freedoms recognised under the Constitution, including recommendations relating to existing or proposed legislation. The Committee further

noted that section 45(4)(f) empowers the Commission to receive and investigate complaints concerning alleged human rights violations and to take appropriate steps to secure redress, including making applications to the courts for remedies or other forms of relief.

In the Committee's view, these constitutional functions provide the Commission with sufficient authority to consider matters arising under the Rights of Indigenous Peoples Bill where human rights concerns are involved. Accordingly, the Committee considered that it was unnecessary for the Bill to expressly designate the FHRADC as an independent oversight body, as the Commission's existing constitutional mandate already enables it to investigate complaints, make recommendations, and seek judicial remedies where appropriate.

The Committee was therefore satisfied that adequate mechanisms for oversight and redress already exist within Fiji's constitutional framework.

Committee's suggested amendment to the *Rights of Indigenous Peoples Bill 2025*.

1. Clause 5(2)(e):

The Committee recommends that the term "traditional" be inserted in the clause and be read as "*measures in relation to the development of genetic resources, cultural resources and **traditional** knowledge*".

4.0 CONCLUSION

As highlighted above in its deliberations, the Committee has conducted extensive public consultations and consulted independent legal experts in the Solicitor-General's Office for the purpose of improving the current draft Bill.

At the conclusion of the review, the Committee believes that the proposed amendments are adequate for achieving the objectives of the **Right of Indigenous Peoples Bill 2025**.

The Committee through this report commends the ***Right of Indigenous Peoples Bill (Bill No. 37 of 2025)*** to the Parliament.

MEMBER'S SIGNATURES



.....
Hon. Ratu Rakuira Vakalalabure
(Chairperson)



.....
Hon. Faiyaz Koya
(Deputy Chairperson)



.....
Hon. Jone Usamate
(Member)



.....
Hon. Ratu Josaia Niudamu
(Member)



.....
Hon. Sachida Nand
(Member)



.....
Hon. Ratu Isikeli Tuiwailevu
(Member)

DATE: 17/08/2026