
Bills Consultation

From Lote Tawakece <lotetawakece@gmail.com>

Date Thu 6/25/2026 3:19 AM

To Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>

1. Rights of Indigenous People's Bill. a) right to have our own Indigenous Fijian flag like the Aboriginals of Australia and the Maoris of New Zealand. b) right to teach traditional and culture of the Fijian people from primary to secondary schools curriculum.

2. Commercial Use of Marine Areas. a) right to own our Land and Qoliqoli as Land Owning Unit (LOU) 100% ownership replacing the 1965 Colonial land laws of the Mining and Mineral Act owned by the State.

5. Police Bill. a) forming of a Para Military Police Unit to combat drugs and hard core crimes to replace the Combined Military and Police operations. b) recruiting experienced retired CIA and DEA agents to train our police officers locally and help investigating white collars crime and drug cartels.

Thanks.

Lote Rokovau.

(Turaga ni Yavusa Savula, Nasavu, Naitasiri)

Contact 9660787.

Public Submission on Bills Before the Standing Committee on Justice, Law and Human Rights

From Semesa Tuicolo <semesa86@gmail.com>

Date Tue 6/16/2026 2:02 AM

To Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>

Dear Chairperson and Members of the Standing Committee on Justice, Law and Human Rights,

Please accept this email as my written submission regarding the following Bills currently under consideration by the Committee:

1. Rights of Indigenous Peoples Bill (Bill No. 37 of 2025)
2. Commercial Use of Marine Areas Bill (Bill No. 42 of 2025)
3. Pacifika Communities University Bill (Bill No. 9 of 2026)
4. Statistics Bill (Bill No. 11 of 2026)
5. Fiji Police Bill (Bill No. 12 of 2026)

Firstly, I would like to commend Parliament for inviting public participation in the legislative process. Meaningful consultation strengthens democracy and ensures that laws reflect the needs and aspirations of the people of Fiji.

With respect to the Rights of Indigenous Peoples Bill, I support efforts to protect Indigenous culture, language, traditional knowledge and customs. However, the Bill should clearly define the rights it seeks to protect and ensure that these rights operate alongside the constitutional rights of all Fijians. It should also provide mechanisms for consultation and dispute resolution where competing interests arise.

Regarding the Commercial Use of Marine Areas Bill, Fiji's marine resources are central to the livelihoods of many communities. The Bill should require free, prior and informed consultation with affected communities, ensure fair benefit-sharing arrangements, protect customary fishing rights, and include strong environmental safeguards and penalties for non-compliance.

In relation to the Pacifika Communities University Bill, I believe any new university institution should meet the highest standards of academic quality and governance. Independent accreditation, transparent appointments, equal access to education, and accountability in the use of public funds should be key components of the legislation.

For the Statistics Bill, public confidence in official data is essential. The legislation should guarantee the independence of the national statistics authority, protect the confidentiality of personal information, prevent political interference, and promote transparency and accessibility of statistical information.

With regard to the Fiji Police Bill, I believe this is one of the most important Bills before the Committee. Public confidence in policing depends on professionalism, accountability and respect for human rights. The Bill should establish independent oversight of complaints against police officers, strengthen disciplinary procedures, require mandatory investigation of serious misconduct allegations, clearly define police powers and limitations, strengthen conflict-of-interest provisions

in investigations involving police personnel, and promote community policing initiatives. At the same time, police officers acting lawfully and professionally should also be protected from malicious or unfounded complaints.

Finally, I encourage Parliament to consider expanding future consultations beyond Suva so that citizens in the Western, Northern and Maritime Divisions, as well as Fijians living overseas, have greater opportunities to contribute to the legislative process.

The laws enacted today will shape Fiji's future for generations to come. I respectfully urge the Committee to ensure that these Bills uphold the principles of accountability, transparency, fairness, inclusiveness and respect for the rights and dignity of all people.

Thank you for considering my submission. I appreciate the opportunity to participate in this important process.

Yours faithfully,

Semesa Tuicolo

Semesa Tuicolo

Formal Submission: Total Resource Ownership and Power (Bill No. 37 and Bill No. 42)

From Aceni Tanumi Jnr <acenitanumi27@gmail.com>

Date Mon 6/15/2026 10:43 PM

To Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>; jackson_cakacaka@yahoo.com
<jackson_cakacaka@yahoo.com>

Dear Committee Secretariat,

My name is Aceni Tanumi Jnr, and I am submitting my formal position regarding the Bills currently before the Standing Committee on Justice, Law and Human Rights.

My unshakeable position as a resource owner and indigenous citizen is a demand for total power and ownership over our entire resource column—encompassing the sky, the land, the sea, the water beds, and the seabed floor.

Please record my specific views on the two relevant bills below:

1. Commercial Use of Marine Areas Bill (Bill No. 42 of 2025)

My Position: I strongly support this Bill because it strips commercial control of nearshore marine spaces away from the State and reverts full proprietary ownership back to the customary iTaukei resource owners.

My Condition: The final law must firmly lock in the rights of family trusts and clans to directly lease, manage, and collect 100% of the rental income from commercial tourism, floating structures, and seabed carbon-credit projects, completely bypassing the government as a middleman.

2. Rights of Indigenous Peoples Bill (Bill No. 37 of 2025)

My Position: I support the alignment of national law with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

My Condition: The law must strictly enforce the rule of "Free, Prior, and Informed Consent." This means the State cannot authorize any development, extract minerals under any water bed, or exploit our airwaves and sky wealth (including atmospheric carbon credits) without explicit authorization and a legally guaranteed, equitable financial share flowing directly back to the traditional owners.

This week's consultation at BCR 2 is our opportunity to correct 152 years of state control over our inheritance. I request that my position on these two Bills be formally written into the committee's final report to Parliament.

Yaca: Aceni Tanumi Jnr

Yavusa: Nakoroisoso

Mataqali: Naivakacuru

Tokatoka: Daku

District/Province: Naceva, Kadavu

Contact Mobile: [9460551]

Yours sincerely,

Aceni Tanumi Jnr

Written Submission to the Standing Committee on Justice, Law and Human Rights

Rights of Indigenous Peoples Bill 2025 (Bill No. 37 of 2025)

Submitted by: Alisi Rabukawaqa - Bua Urban Youth Network

We welcome the opportunity to provide comments on the Rights of Indigenous Peoples Bill 2025.

We strongly support the recognition, protection and advancement of Indigenous Peoples' rights in Fiji. Our submission is therefore not about whether Indigenous rights should be strengthened, but whether this Bill is the most effective legal mechanism to achieve that objective.

Our primary concern is that the Bill does not clearly identify a legislative gap that requires the creation of a new standalone Act.

Respectfully, the issue should not be whether Fiji needs stronger recognition of Indigenous rights. The question is whether a new umbrella Act is the best use of Parliament's time when there are existing laws that contain genuine gaps.

Fiji's Context is Different

The Bill seeks to give effect to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). While UNDRIP is an important international instrument, it was largely developed in response to circumstances where Indigenous Peoples were dispossessed of their lands, excluded from governance systems, denied legal recognition and lacked meaningful participation in decision-making.

Fiji's circumstances are fundamentally different.

The Indigenous Peoples of Fiji are already recognised through law, governance institutions, customary systems and land tenure arrangements. Indigenous ownership of approximately 87% of the land remains protected, making it one of the strongest examples of customary tenure recognition globally.

Fiji already has several legislations protecting Indigenous interests, including the following:

- iTaukei Affairs Act;
- iTaukei Lands Act;
- iTaukei Land Trust Act;
- iTaukei Development Fund Act;
- iTaukei Trust Fund Act;

and to some extent -

- Environment Management Act;
- Fisheries Act;
- Forest Act; and
- Climate Change Act.

Unlike countries such as Canada, Australia and New Zealand, Fiji's challenge is not recognition of Indigenous Peoples. Rather, it is ensuring that Indigenous communities can meaningfully exercise authority over matters affecting their lands, waters, resources, culture, knowledge systems and development pathways.

We would encourage a systematic review of the Mining Act, Rivers and Streams Act, Environment Management Act, Fisheries Act, and emerging areas such as carbon markets, biodiversity credits, traditional knowledge protection, and the Climate Change Act. These are areas where Indigenous rights, participation, and stewardship can be strengthened in practical, measurable ways.

While UNDRIP provides valuable guidance on Indigenous rights, it is important to recognise that it is a declaration rather than a convention or treaty. As such, it establishes international standards and aspirations but does not create binding legal obligations in the same manner as conventions that Fiji has ratified. Fiji is already bound by a number of international agreements that contain provisions directly relevant to Indigenous Peoples, including the Convention on Biological Diversity, which recognises the importance of traditional knowledge and customary resource management; the United Nations Convention on the Law of the Sea, which governs marine resources and coastal stewardship; the United Nations Framework Convention on Climate Change and Paris Agreement, which increasingly recognise Indigenous knowledge and participation in climate action; the Convention on the Rights of the Child; the Convention on the Elimination of All Forms of Discrimination Against Women; and various International Labour Organization conventions concerning participation, equality and social protections. Rather than reproducing the language of UNDRIP through a standalone Act, Parliament may wish to assess whether existing legislation adequately implements Fiji's obligations under these binding international instruments and identify specific gaps requiring reform.

Lack of Demonstrated Legislative Need

Neither the Bill nor the explanatory note adequately identifies:

- What rights are currently unprotected;
- What legislative gaps exist;
- What remedies Indigenous Peoples currently lack, or
- Why existing legislation is insufficient.

Before introducing new legislation, a comprehensive review of existing laws should be undertaken to identify genuine gaps and determine whether targeted amendments would be more effective.

In addition, from a policy and legislative design standpoint, we would also note that embedding an Action Plan within primary legislation is generally not advisable. It risks constraining future policy development and represents an inefficient use of legislative

authority. For example, the Bill's requirement to complete the Action Plan within 12 months is highly ambitious if the intention is to fully engage iTaukei communities across Fiji. As a first foundational document, 24 months would be more sensible. A cost and legal analysis should also be completed to assess how this may affect Ministry of iTaukei Affairs operations and resourcing. A more coherent approach would be for the responsible Ministry to develop the overarching policy framework, including any associated Action Plan, through the standard policy process. Legislation should then be used to provide the necessary legal mandate to the institutions, mechanisms, and functions arising from those policies.

Defining Indigenous Peoples in Fiji

A further concern is the Bill's definition of Indigenous Peoples as "every member of the aboriginal race indigenous to Fiji."

Section 1—(1) of the Bill states: "This Act may be cited as the Rights of Indigenous Peoples Act 2025." This section is vague and may contradict successive sections of the Bill, as its focus appears to be on the iTaukei, rather than other indigenous groups in Fiji such as Rotumans, Banabans (Rabi), and Tuvaluans (Kioa). It may be preferable to explicitly state this as the Rights of iTaukei Peoples Act, but this raises questions of duality and overlap with existing legislation, such as the iTaukei Affairs Act, which already recognises iTaukei rights and resource ownership. A thorough legal analysis should have been conducted against existing iTaukei-related legislative pieces before formulating this Bill to ensure it does not undermine or conflict with legal protections already in place for the iTaukei.

Additionally, under Section 2 Interpretation, the definition of "Board" as the iTaukei Affairs Board constituted under section 4 of the iTaukei Affairs Act 1944, clearly demarcates the role of the iTaukei Affairs Board in implementing the intentions of this Act. This officially removes oversight of other indigenous groups, such as Rotumans, Banabans (Rabi), and Tuvaluans (Kioa), who fall under special administrative mandates (legally under the ambit of the Prime Minister's Office, not the iTaukei Affairs Board). This exclusion should be explicitly flagged to avoid marginalising other indigenous groups.

Similarly, under Section 2, the definition of "indigenous" for the purposes of this Act refers to every member of the aboriginal race indigenous to Fiji. It is important to recognise that UNDRIP is vague with its definition of the word "indigenous," and this ambiguity is reflected in the Bill. The Bill's definition may possibly conflict with the definitions within the iTaukei Affairs Act, which stipulate land rights according to registered members within the VKB, not simply by being indigenous. For example, this raises questions about indigenous women marrying outside the iTaukei group, and the boundaries of the Bill's definition remain unclear. This ambiguity creates sensitive issues around classifying someone as indigenous and may, to some degree, breach Fiji's Constitution, which explicitly forbids racial bias and discrimination under Section 23.

This definition is overly narrow and reduces Indigenous identity primarily to ancestry. For Indigenous Fijians, identity is not defined solely by race but by kinship, belonging, and reciprocal relationships grounded in the vanua and expressed through customary structures such as the yavusa, mataqali, and tokatoka. These relationships are reflected in recognised systems of identity and affiliation, including the Vola ni Kawa Bula (VKB), customary governance institutions, traditional knowledge systems, and collective responsibilities for the

stewardship of lands, waters and resources. It is these interconnected relationships that underpin Indigenous self-determination in Fiji.

Any legislation relating to Indigenous Peoples should therefore recognise the cultural, customary, governance, and relational dimensions of Indigenous identity rather than relying on a purely racial definition. Additionally, the Bill overlooks the existing social inequalities within the iTaukei population itself—not all iTaukei communities have ownership or access to large tracts of land. It also fails to accommodate the nuanced structure of iTaukei society, assuming vague groupings of “indigenous” sufficiently cover established structures such as the yavusa, mataqali, and tokatoka levels. Beyond land, collective ownership of spaces like qoliqolis is also left vague and open to interpretation.

Rights Must Be Accompanied by Responsibilities

Another significant omission is the absence of Indigenous responsibilities.

In Fiji, rights are inseparable from responsibilities to the vanua, future generations, customary institutions, cultural heritage and natural resources.

The Bill adopts a predominantly rights-based approach but does not adequately reflect Indigenous Fijian concepts of stewardship, reciprocity and collective responsibility which underpin customary governance systems. For example, under Section 3(d), which seeks to promote mutual respect and understanding, as well as good relations, among various cultures or groups through human rights education, it is important to acknowledge that Fiji's iTaukei population is the dominant group in the country (unlike contexts where indigenous communities are marginalised). Therefore, mutual respect and understanding must be accompanied by "accountability." As the dominant group, the iTaukei have an inherent responsibility not to marginalise minority racial groups and to demonstrate accountability alongside mutual respect and understanding.

Genuine Gaps That Require Attention

Other sections in the Bill also raise important issues that should be addressed. For instance, Section 9 (Indemnification) should be reviewed, especially regarding accountability. The current wording appears to grant free rein to implementation without accountability, particularly if the Action Plan is rushed or non-consultative. A remedial clause should be included to hold those implementing the Act accountable. Section 10 (Regulations) should ensure that any regulations made under this Act are harmonised with existing iTaukei Affairs legislation, as this is foundational to current iTaukei governance structures.

While we question the necessity of a standalone Rights of Indigenous Peoples Act, several important issues warrant attention.

1. Free, Prior and Informed Consent (FPIC)

There is currently no nationally consistent framework governing Free, Prior and Informed Consent.

As Fiji expands its activities in conservation, carbon markets, biodiversity credits, renewable energy, mining, deep-sea mining, and large-scale development, greater clarity is needed regarding consultation standards, consent processes, and dispute-resolution mechanisms.

2. Protection of Traditional Knowledge and Genetic Resources

Fiji has already identified Access and Benefit Sharing (ABS) and Free, Prior and Informed Consent (FPIC) as national priorities through its commitments under the Convention on Biological Diversity, the Nagoya Protocol and the National Biodiversity Strategy and Action Plan. Rather than creating a new umbrella Rights of Indigenous Peoples Act, Parliament may wish to prioritise the development and implementation of comprehensive FPIC and ABS frameworks that provide practical protections for Indigenous communities, traditional knowledge holders and customary resource owners.

3. Benefit-Sharing and Emerging Nature Economies

Existing legislation was developed before the emergence of carbon markets, blue carbon initiatives, biodiversity credits and conservation finance mechanisms.

Clear legal frameworks are needed to address community consent, ownership, benefit-sharing, transparency and accountability in these emerging sectors.

These are genuine contemporary challenges affecting Indigenous self-determination and may be better addressed through targeted legislative review and regulatory reform than through a new standalone Act.

Recommendations

We respectfully recommend that the Committee:

1. Undertake a comprehensive review of existing legislation affecting Indigenous Peoples, including an assessment of Fiji's obligations under relevant international conventions and treaties, to identify genuine legal and policy gaps before progressing the Bill.
2. Consider targeted amendments to existing legislation, rather than a new standalone Act, when specific gaps in Indigenous rights, participation, stewardship, and self-determination are identified.
3. Prioritise the development and implementation of comprehensive national frameworks for Free, Prior and Informed Consent (FPIC) and Access and Benefit Sharing (ABS), consistent with Fiji's commitments under the Convention on Biological Diversity, the Nagoya Protocol and the National Biodiversity Strategy and Action Plan.
4. Review resource governance legislation, including the Mining Act, Rivers and Streams Act, Environment Management Act, and Fisheries Act, to ensure that Indigenous participation, stewardship, consent, and equitable benefit-sharing are adequately recognised.
5. Review the Bill's definition of Indigenous Peoples to ensure it reflects Indigenous Fijian concepts of identity, kinship, customary governance, affiliation and stewardship, including recognised systems such as the Vola ni Kawa Bula (VKB), rather than relying solely on a racial definition.

Conclusion

We support strengthening Indigenous rights and Indigenous self-determination in Fiji.

However, the Rights of Indigenous Peoples Bill 2025 does not clearly identify the legal gaps it seeks to address, duplicates aspects of existing legislation, and provides limited practical mechanisms for implementation.

The Committee should therefore consider whether Indigenous self-determination would be better advanced through targeted reform of existing legislation and regulations, informed by a comprehensive gap analysis, rather than through the creation of a new standalone Act.

The ultimate objective should not simply be the recognition of rights, but the practical strengthening of Indigenous authority, participation, stewardship, and decision-making in ways that reflect Fiji's unique legal, cultural, and historical context.

Public Submission on Bills Before the Standing Committee on Justice, Law and Human Rights

From Semesa Tuicolo <semesa86@gmail.com>

Date Tue 6/16/2026 2:02 AM

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Thank you for considering my submission. I appreciate the opportunity to participate in this important process.

Yours faithfully,

Semesa Tuicolo

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To Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>; jackson_cakacaka@yahoo.com
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Yaca: Aceni Tanumi Jnr

Yavusa: Nakoroisoso

Mataqali: Naivakacuru

Tokatoka: Daku

District/Province: Naceva, Kadavu

Contact Mobile: [9460551]

Yours sincerely,

Aceni Tanumi Jnr

Re: Review of the Rights of Indigenous Peoples Bill 2025 (Bill No. 37 of 2025)

From Jackson cakacaka <jackson_cakacaka@yahoo.com>
Date Sun 6/21/2026 4:30 PM
To Simi Racolo <racolosimi@gmail.com>
Cc Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>

Ni Bula Vinaka,
I acknowledge receipt of your email and submission is well received.
Thank you.

On Saturday, June 20, 2026 at 05:02:25 PM GMT+12, Simi Racolo <racolosimi@gmail.com> wrote:

SUBMISSION TO THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

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

Submitted by: Simione Racolo Fijian Citizen and Indigenous iTaukei
Date: 20th June 2026

EXECUTIVE SUMMARY

I respectfully submit this contribution in support of the Rights of Indigenous Peoples Bill 2025. As an indigenous iTaukei Fijian, I believe this Bill represents an important step towards recognising, protecting and promoting the rights, identity, culture, traditions, institutions and collective interests of the indigenous people of Fiji. While many indigenous rights are already recognised through existing laws and institutions, this Bill provides an opportunity to strengthen those protections and align Fiji with internationally recognised standards under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

At the same time, I believe the Bill should be carefully crafted to ensure that it promotes indigenous rights without diminishing the rights of other communities, maintains national unity, and provides clear mechanisms for implementation.

INTRODUCTION

The indigenous iTaukei people are the original inhabitants of Fiji. Our identity, customs, language, traditional governance structures, land ownership systems and communal way of life have shaped Fiji's history and continue to contribute significantly to the nation's social, cultural and economic development. For generations, indigenous communities have served as custodians of the land, oceans, forests and natural resources of Fiji. These resources are not merely economic assets; they are deeply connected to our culture, spirituality, heritage and future generations. The Rights of Indigenous Peoples Bill 2025 presents an opportunity to formally recognise these realities and to ensure that indigenous rights are preserved in a modern democratic Fiji. The Bill seeks to align Fiji's laws with UNDRIP and strengthen protections relating to indigenous culture, language, participation and traditional resources.

KEY ISSUES AND RECOMMENDATIONS

1. Protection of Indigenous Land and Resources

Land is central to indigenous identity. For the iTaukei people, land is not simply property; it is an inheritance from our ancestors and a trust for future generations.

I strongly support provisions that recognise the traditional relationship between indigenous communities and their lands, waters and natural resources. However, the Bill should clearly state that recognition of indigenous rights must operate within Fiji's constitutional framework and should not create uncertainty regarding existing legal land classifications.

Recommendation:

- Strengthen protections against the permanent alienation of indigenous land.

- Ensure meaningful participation of landowners in decisions affecting their lands and resources.
- Require transparent consultation processes for developments affecting indigenous communities.
- Ensure fair and equitable sharing of benefits arising from the use of indigenous resources.

2. Free, Prior and Informed Consent

One of the key principles of UNDRIP is Free, Prior and Informed Consent (FPIC). This principle does not mean that indigenous communities should possess an absolute veto over national development. Rather, it means that communities must be properly informed, genuinely consulted and treated as equal partners before major decisions are made.

Recommendation:

- Clearly define consultation procedures.
- Establish timelines and standards for engagement.
- Require evidence that affected communities have received full information before decisions are finalised.
- Promote dialogue and partnership rather than conflict.

3. Protection of Indigenous Language, Culture and Traditional Knowledge

The survival of indigenous identity depends on the survival of language, customs and traditional knowledge. Many young indigenous Fijians are becoming disconnected from traditional practices, customs and language. The Bill should therefore provide stronger mechanisms to preserve and revitalise indigenous culture.

Recommendation:

- Increase support for indigenous language education.
- Protect traditional knowledge from commercial exploitation.
- Support cultural education programmes in schools and communities.
- Promote the recording and preservation of oral histories and traditional practices.

4. Strengthening Traditional Leadership and Institutions

Traditional institutions continue to play an important role in indigenous communities. The recognition of traditional leadership structures should be viewed as complementary to modern democratic governance rather than as a replacement for it.

Recommendation:

- Strengthen collaboration between traditional leaders and government agencies.
- Promote leadership development for future indigenous leaders.
- Support indigenous institutions that preserve culture, customs and community wellbeing.

5. Indigenous Participation in National Decision-Making

Indigenous people should not merely be consulted after decisions have been made. They should have opportunities to participate meaningfully in discussions that affect their future.

Recommendation:

- Create structured mechanisms for indigenous representation in policy development.
- Improve participation of rural and maritime communities in national consultations.
- Support greater involvement of indigenous youth and women in decision-making processes.

6. Maintaining National Unity and Equal Citizenship

While I strongly support indigenous rights, I also believe that Fiji's strength lies in its diversity and unity. The Bill should not be viewed as granting superiority to one group over another. Instead, it should recognise the unique rights of indigenous people while maintaining equal respect and dignity for all citizens of Fiji. Government ministers supporting the Bill have similarly stated that it is intended to strengthen indigenous protections without diminishing the rights of other communities.

Recommendation:

- Include a clear statement affirming equality, national unity and mutual respect among all communities.
- Ensure implementation of the Bill promotes inclusion rather than division.
- Encourage intercultural understanding and cooperation.

CONCLUSION

I support the Rights of Indigenous Peoples Bill 2025 because it provides an important opportunity to strengthen the recognition, protection and promotion of indigenous rights in Fiji.

The indigenous people of Fiji have a unique historical, cultural and spiritual relationship with this land. Protecting indigenous rights is not about exclusion or privilege. It is about preserving identity, culture, language, heritage and traditional stewardship for future generations.

I respectfully urge the Standing Committee on Justice, Law and Human Rights to support the objectives of the Bill while ensuring that its provisions are clear, practical, fair and consistent with Fiji's commitment to democracy, human rights, equality and national unity.

May this legislation help build a Fiji where indigenous rights are respected, cultural heritage is protected, and all citizens can move forward together in peace, dignity and mutual respect.

Submitted respectfully,
Simione Racolo
Fijian Citizen and Indigenous iTaukei



University of Fiji's Submission

Rights of the Indigenous Peoples Bill 2025

Contributors:

The Vice Chancellor, Professor Shaista Shameem FRSA, SJD, PhD, LLM, MA, LLB, BA

with the University of Fiji Legal Team: Manager Legal Office of the Vice Chancellor, Ms. Alishah Ali; Legal Officer of the Vice Chancellor, Ms. Natalie Raikadroka and Legal and Research Assistant Office of the Vice Chancellor, Mr. Alsheik Ashad Ali and Ms. Swasti Chand, Treaty Bodies Education Advisor of the Office of the Vice-Chancellor

1. Introduction

The University of Fiji welcomes the opportunity to provide comments on the Rights of Indigenous Peoples Bill 2025 (the Bill).

The Bill seeks to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) within Fiji's domestic legal framework and establish mechanisms for the promotion, protection and implementation of Indigenous rights.

The University acknowledges the importance of recognizing and protecting the rights, culture, traditions and institutions of Indigenous peoples. However, the proposed legislation raises a fundamental policy and legislative question that is not expressly addressed in the Bill:

What specific legal, institutional, policy or other form of discrimination, disadvantage or legislative gap is the Bill intended to address?

Unlike many jurisdictions where Indigenous rights instruments developed in response to the historical dispossession, marginalization and exclusion of Indigenous peoples, Fiji presents a unique constitutional and demographic context. The iTaukei are the Indigenous people of Fiji, constitute the majority population, retain ownership of most customary land, and already benefit from extensive constitutional and legislative protections relating to land, culture, language, natural resources and traditional institutions.

The rights recognized under UNDRIP are already reflected in Fiji's constitutional and legislative framework. The Bill does not clearly identify any deficiency in the existing legal framework, explain why the current protections are inadequate, or specify which rights,

interests or outcomes cannot be achieved under the existing constitutional and legislative framework.

This submission therefore focuses on three preliminary questions:

- A. Who constitutes the "*Aboriginal race indigenous to Fiji*" for the purposes of the Bill, and who are "Indigenous peoples" within the meaning of UNDRIP and the Bill?
- B. What specific legal, institutional gap or other form of discrimination or disadvantage is the Bill intended to address?
- C. Does the Bill introduce new substantive rights and obligations beyond those already recognized and protected under the International Law?

2. Policy Consideration

2.1 Definition of "Aboriginal Race Indigenous to Fiji"

The Bill defines its beneficiaries as the "*aboriginal race indigenous to Fiji*." The University notes that this terminology differs from that used in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and from the terminology commonly used in Fiji's constitutional and legislative framework.

The phrase "*aboriginal race indigenous to Fiji*" is not defined in the Bill and is unusual in the contemporary context of Indigenous rights. In Fiji, terms such as "**iTaukei**," "**Indigenous Fijians**," and "**Indigenous peoples**" are more commonly used in legislation, policy and international instruments. The nomenclature "aboriginal" normally refers to Australians and we cannot claim it.

2.2 Who is an Indigenous Person under UNDRIP?

The University notes that the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) does not contain a formal or authoritative definition of "*Indigenous peoples*". Instead, Articles 9 and 33 recognize the right of Indigenous peoples and Indigenous individuals to determine their own identity and membership in accordance with the customs and traditions of the community or nation concerned.

Rather than adopting a fixed legal definition, the United Nations Permanent Forum on Indigenous Issues, identifies a number of commonly recognized characteristics, including:

- Self-identification as indigenous peoples at the individual level and accepted by the community as their member.
- Historical continuity with pre-colonial and/or pre-settler societies • Strong link to territories and surrounding natural resources
- Distinct social, economic or political systems
- Distinct language, culture and beliefs

- **Form non-dominant groups of society**

- Resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.

(Highlight added)

Applying these characteristics, the iTaukei are recognized as the Indigenous people of Fiji by virtue of their historical continuity with the original inhabitants of Fiji, their customary land tenure system, distinct language and culture, traditional governance institutions, and enduring connection with their ancestral lands. **Unlike the position in many jurisdictions, the iTaukei are the dominant Indigenous group in Fiji, constituting the demographic majority and enjoying constitutional recognition and protection of their land, culture and institutions.**

For the assistance of the Committee, the United Nations Permanent Forum on Indigenous Issues, Fact Sheet is attached as **Attachment A**.

3. Fiji's Unique Constitutional Context

The Constitution of the Republic of Fiji¹ already provides significant protections for Indigenous interests, including:

- Rights of ownership and protection of iTaukei, Rotuman and Banaban lands (section 28)
- Protection of ownership and interests in land (section 29)
- Freedom from compulsory or arbitrary acquisition of property (section 27);
- Right of landowners to fair share of royalties for extraction of minerals (section 30);
- Right to equality and freedom from discrimination (section 26);
- Political rights (section 23);
- Freedom of religion, conscience and belief (section 22)
- Right to economic participation (section 32)
- Access to justice (section 15); and
- Recognition in the Preamble of the ownership of iTaukei land and the unique culture, customs, traditions and language of the iTaukei and Rotuman peoples.

The rights recognized under UNDRIP, including rights relating to land, culture, identity, language, participation and protection from discrimination, therefore are substantially reflected in Fiji's constitutional framework. A detailed assessment of the Fijian Constitution annexed as **Attachment B**.

4. What Legislative Gap or Discrimination is the Bill Intended to Address?

The Committee may wish to consider a fundamental policy question:

¹ Constitution of the Republic of Fiji

If the rights recognized under UNDRIP are already protected under the Constitution and existing legislation, what specific legal, institutional or policy deficiency or discrimination has been identified that necessitates the enactment of a standalone Rights of Indigenous Peoples Act?

Policy Questions for the Committee

In light of Fiji's existing constitutional protections and the proposed adoption of UNDRIP through the Bill, the Committee may wish to consider the following questions:

- 1. What specific legal, institutional or policy discrimination is the Bill intended to cover?**

Given the extensive constitutional and legislative protections already afforded to Indigenous peoples in Fiji, what deficiency in the current framework necessitates the enactment of a standalone Rights of Indigenous Peoples Act?

- 2. Which rights recognized under UNDRIP are not presently protected under the Constitution or existing legislation?**

Can those rights be identified with precision, and how would the Bill address those gaps?

- 3. Has AG's Office & Fiji Law Reform Commission undertaken any assessment, review or gap analysis to determine whether existing constitutional and legislative protections are insufficient?**

If so, what deficiencies were identified and how does the Bill propose to address them?

- 4. How are the concepts of self-determination and autonomy under Articles 3 and 4 of UNDRIP intended to operate within Fiji's constitutional framework?**

If these provisions are intended to have legal effect, how will they interact with constitutional supremacy, representative democracy, and the principle of equal citizenship? Could their implementation create differential rights, obligations or treatment, and if so, how would this be reconciled with the Constitution?

- 5. Could implementation of certain UNDRIP provisions create legal uncertainty or give rise to conflicts with existing constitutional provisions or statutory frameworks?**

If so, how does the Bill propose to address or reconcile such issues?

- 6. Has Fiji considered international implementation models before proposing this legislation?**

7. **Why has Fiji chosen a standalone legislative approach rather than targeted amendments to existing legislation?**

Could the objectives of the Bill be achieved through strengthening existing statutory or administrative mechanisms?

8. **What measurable outcomes is the Bill intended to achieve that cannot be achieved under the current legal framework?**

How will Parliament assess whether the legislation has successfully addressed the issues it seeks to remedy?

5. Final Observation

Recently, in its submission to the Constitutional Review Commission, the iTaukei Land Trust Board called for repeal of section 29(5) of the 2013 Constitution. Should this be accepted by the Commission, the purpose of the Rights of Indigenous Peoples Bill will no longer be to protect as intended by international human rights law but to aggressively violate the rights of all Fijians to their property, contrary to section 27(2) and (3). This will justify complaints lodged with the International Criminal Court, pursuant to Fiji's obligations under the Rome Statute.

6. Conclusion

The University of Fiji recognizes the importance of implementing international law within Fiji's domestic legal framework. However, Fiji's constitutional context differs from that of many jurisdictions in which Indigenous rights instruments have developed. The Constitution already provides extensive protection for Indigenous land ownership, property rights, culture, language, political participation, access to justice, and protection from discrimination.

The central question for Parliament is therefore:

What specific legal, institutional, policy or other form of discrimination or legislative gap is the Bill intended to address that is not already addressed by the Constitution, existing legislation, or current institutional arrangements?

If such a gap exists, it should be clearly identified and supported by evidence demonstrating why the existing constitutional and legislative framework is inadequate and why a standalone Rights of Indigenous Peoples Act is necessary, rather than addressing any identified deficiencies through targeted amendments to existing legislation.

The University further submits that Parliament should determine whether the Bill merely recognizes and implements rights already protected under the Constitution or whether it creates new legal rights, obligations or remedies, and if so, clearly identify their scope and legal effect.

Legislation should respond to clearly identified legal or policy problems. Without a demonstrated need, there is a risk of duplicating existing constitutional protections or introducing rights and obligations whose legal effect and interaction with Fiji's constitutional framework remain uncertain.

The University therefore respectfully submits that, before enacting the Bill, Parliament should clearly identify the legal, institutional, policy or other form of discrimination or deficiency the Bill seeks to address, explain why existing constitutional and legislative protections are insufficient, and clarify the legal consequences of incorporating UNDRIP principles into Fiji's domestic legal framework. Only then can Parliament properly assess the necessity, scope and legal implications of the proposed legislation.



INDIGENOUS PEOPLES, INDIGENOUS VOICES

FACTSHEET

Who are indigenous peoples?

It is estimated that there are more than 370 million indigenous people spread across 70 countries worldwide. Practicing unique traditions, they retain social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live. Spread across the world from the Arctic to the South Pacific, they are the descendants - according to a common definition - of those who inhabited a country or a geographical region at the time when people of different cultures or ethnic origins arrived. The new arrivals later became dominant through conquest, occupation, settlement or other means.

Among the indigenous peoples are those of the Americas (for example, the Lakota in the USA, the Mayas in Guatemala or the Aymaras in Bolivia), the Inuit and Aleutians of the circumpolar region, the Saami of northern Europe, the Aborigines and Torres Strait Islanders of Australia and the Maori of New Zealand. These and most other indigenous peoples have retained distinct characteristics which are clearly different from those of other segments of the national populations.

Understanding the term “indigenous”

Considering the diversity of indigenous peoples, an official definition of “indigenous” has not been adopted by any UN-system body. Instead the system has developed a modern understanding of this term based on the following:

- Self-identification as indigenous peoples at the individual level and accepted by the community as their member.
- Historical continuity with pre-colonial and/or pre-settler societies
- Strong link to territories and surrounding natural resources
- Distinct social, economic or political systems
- Distinct language, culture and beliefs
- Form non-dominant groups of society
- Resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.

A question of identity

- According to the UN the most fruitful approach is to identify, rather than define indigenous peoples. This is based on the fundamental criterion of self-identification as underlined in a number of human rights documents.



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- The term “indigenous” has prevailed as a generic term for many years. In some countries, there may be preference for other terms including tribes, first peoples/nations, aboriginals, ethnic groups, *adivasi*, *janajati*. Occupational and geographical terms like hunter-gatherers, nomads, peasants, hill people, etc., also exist and for all practical purposes can be used interchangeably with “indigenous peoples”.
 - In many cases, the notion of being termed “indigenous” has negative connotations and some people may choose not to reveal or define their origin. Others must respect such choices, while at the same time working against the discrimination of indigenous peoples.

Culture and Knowledge

Indigenous peoples are the holders of unique languages, knowledge systems and beliefs and possess invaluable knowledge of practices for the sustainable management of natural resources. They have a special relation to and use of their traditional land. Their ancestral land has a fundamental importance for their collective physical and cultural survival as peoples. Indigenous peoples hold their own diverse concepts of development, based on their traditional values, visions, needs and priorities.

Political participation

Indigenous peoples often have much in common with other neglected segments of societies, i.e. lack of political representation and participation, economic marginalization and poverty, lack of access to social services and discrimination. Despite their cultural differences, the diverse indigenous peoples share common problems also related to the protection of their rights. They strive for recognition of their identities, their ways of life and their right to traditional lands, territories and natural resources.

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Attachment B

Subject Matter	Fiji Constitution 2013	Status?
Recognition of Indigenous Peoples	Preamble recognizes the indigenous people or iTaukei, their ownership of land, culture, customs, traditions and language.	Covered.
Equality and Non-Discrimination?	Section 26 – Right to equality and freedom from discrimination.	Covered.
Culture and Identity	Preamble; Sections 17, 22 protect expression, culture, beliefs and community institutions.	Covered.
Language	Constitution recognizes language and cultural identity of indigenous people, iTaukei or Rotuman, in the Preamble.	Covered.
Indigenous Land Ownership	• Section 28 – Rights of ownership and protection of iTaukei, Rotuman and Banaban lands. • Section 29 – Protection of ownership and interests in land.	Covered.
Protection Against Dispossession	Section 27 – Freedom from compulsory or arbitrary acquisition of property.	Covered.
Royalties from Natural Resources	Section 30 – Right of landowners to fair share of royalties from extraction of minerals.	Covered.
Participation in Public Affairs	Sections 18, 19, 23 protect assembly, association and political participation.	Covered.
Traditional Institutions	Constitution recognizes Indigenous communities and institutions in Preamble and legislation.	Covered.
Education	Section 31 Right to Education.	Covered.

