



1. Are the Australian born children of a Fijian citizen themselves Fijian citizens and if not, what do they need to do to become citizens?

The *Citizenship Act (Amendment) Decree 2009* states that a child born outside of Fiji can be registered for Fijian citizenship at any time during its lifetime, as long as one parent was a Fijian citizen at the time of the child's birth.¹ The relevant section of the *Decree* has been set out below:

Citizenship by registration

21.

(1) A child born outside Fiji on or after the commencement of this Decree may become a citizen by registration if, at the date of the child's birth **either parent was a citizen.**

(2) A foreign child adopted by a citizen when the child was under the age of 18 may become a citizen by registration.

(3) A child who was under the age of 21 when either parent became a citizen may become a citizen by registration.

(4) An application for registration under subsection (1), (2) or (3) may be made at any time during the **child's lifetime** and, if he or she is **under the age of 21 at the date of the application, may be made on his or her behalf by a parent** or guardian

For the child to be registered for citizenship, an application must be made on an approved form, located at Schedule 1 of the *Citizenship of Fiji Regulations 2009*, with the prescribed fee of \$FJD248 or \$AUD169 if the approved form is lodged in Australia.²

2. Is it an offence to have applied for protection in Australia or any other country under the *Crimes Decree 2009*?

There is nothing within the *Crimes Decree 2009* to indicate that a person applying for protection in Australia or any other country would be committing a punishable offence.³

¹ Citizenship of Fiji 2009 (Decree No.23) Fiji Government 2009, *Citizenship of Fiji Decree 2009*, 8 July, <http://www.immigration.gov.fj/images/stories/pdf/Decree2009.pdf> – Accessed 5 May 2011 Attachment 1

² Citizenship of Fiji Regulations 2009, Fiji Government 2009, *Citizenship Act (Amendment) Decree 2000*, 8 July, <http://www.immigration.gov.fj/images/stories/pdf/Regulations2009.pdf> – Accessed 28 April 2011 – Attachment 2 ; Application for Fiji Citizenship, (undated) Immigration Department, Government of the Fiji Islands <http://www.fijihighcommission.org.uk/forms/Citizenship%20form.pdf> – Accessed 5 May 2011 Attachment 3

³ Crimes Decree 2009 (Decree No. 44 of 2009) Fiji Government 2009, 5 November, http://www.fiji.gov.fj/index.php?option=com_docman&task=doc_download&gid=100&Itemid=158 *fiji crimes decree 2009* – Accessed 5 May 2011 Attachment 4

The content of the *Crimes Decree 2009* was reviewed and a search of the document undertaken using the following key terms:

- refugee; protection; return; asylum; abroad; foreign; harm and visa.

3. Can any reporting be located to indicate that the act of applying for protection in Australia (or elsewhere) may fall within any of the offences of the Crimes Decree? If so, is there any evidence of these provisions having been enforced in Fiji?

No reports were located in the sources consulted to indicate that a person who had claimed protection based on the Refugee Convention in Australia or elsewhere, may have committed an offence under the *Crimes Decree 2009*.

No reference has been made in current human rights reports on Fiji published in 2010 of the *Crimes Decree 2009* being interpreted to reflect negatively on protection visa applicants (Freedom House, US Department of State, and Amnesty International).⁴

On 6 July 2010 the Department of Foreign Affairs and Trade provided a report which included the following advice in relation to Fijian returnees from Australia who had been unsuccessful in their claims for protection:

What risk of harm is faced by the following categories of people on return to Fiji (including how such people might be identified or targeted and whether the risks are the same throughout Fiji)...

(g) People who have unsuccessfully sought protection as refugees in Australia.

We are not aware of cases where unsuccessful protection visa applicants have been subject to harm by the regime unless they are also otherwise high profile regime opponents.

Given applications for protection visas are confidential, it would be difficult for the regime to become aware of these individuals unless the applicant chose to reveal information about their application to others in the Fiji community.

In the event unsuccessful applicants were identified, they would most likely be subject to monitoring and intimidatory threats and potentially restrictions on travel...

(i) People who have been returned to Fiji from Australia, whether or not as unsuccessful protection visa application applicants, or those who are simply returning from periods abroad.

We are not aware of cases where individuals have been subject to harm simply as a result of travelling abroad, including to Australia.

Such individuals could be easily identified through the Fiji Immigration Department's records, although travel abroad alone would be very unlikely to result in harm.⁵

⁴ Freedom House 2010, *Freedom in the World 2010–Fiji*, 30 June Attachment 5 ; US Department of State 2011, *2010 Country Reports on Human Rights Practices*, 8 April, Attachment 6 ; Amnesty International 2010, *Annual Report 2010–Fiji*, 28 May, Attachment 7

⁵ Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1167 – Fiji: RRT Information Request: FJI36727*, 6 July. Attachment 8.

Attachments

1. Citizenship of Fiji 2009 (Decree No.23) Fiji Government 2009, *Citizenship of Fiji Decree 2009*, 8 July, <http://www.immigration.gov.fj/images/stories/pdf/Decree2009.pdf> - Accessed 5 May 2011.
2. Citizenship of Fiji Regulations 2009, Fiji Government 2009, *Citizenship Act (Amendment) Decree 2000*, 8 July, <http://www.immigration.gov.fj/images/stories/pdf/Regulations2009.pdf> – Accessed 28 April 2011.
3. Application for Fiji Citizenship, (undated) Immigration Department, Government of the Fiji Islands <http://www.fijihighcommission.org.uk/forms/Citizenship%20form.pdf> – Accessed 5 May 2011.
4. Crimes Decree 2009 (Decree No. 44 of 2009) Fiji Government 2009, 5 November, http://www.fiji.gov.fj/index.php?option=com_docman&task=doc_download&gid=100&Itemid=158 *fiji crimes decree 2009* – Accessed 5 May 2011.
5. Freedom House 2010, *Freedom in the World 2010–Fiji*, 30 June.
6. US Department of State 2011, *2010 Country Reports on Human Rights Practices*, 8 April.
7. Amnesty International 2010, *Annual Report 2010–Fiji*, 28 May.
8. Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1167 – Fiji: RRT Information Request: FJI36727*, 6 July.