



# **BANABAN CITIZENSHIP HANDBOOK**



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# 1

## BACKGROUND TO THE HANDBOOK



This Handbook is intended to provide the Banaban community with information about their rights to citizenship in Fiji and Kiribati. The Handbook is based on legislation, publicly available information on immigration procedures, and input from local lawyers.

The citizenship status of Banabans in different parts of the world is fraught with inequities resulting from displacement and colonialism. This Handbook is intended to clarify the status quo, while efforts are underway to ensure Banabans' human rights in both Kiribati and Fiji are protected.

ICAAD (International Center for Advocates Against Discrimination) is an international human rights advocacy and education center which has been working in partnership with the Banaban community since 2020.

Updated: November 2023



# 2

## YOUR RIGHT TO DUAL CITIZENSHIP

As a Banaban you have the right to be a dual citizen of Fiji and Kiribati. Banabans' right to dual citizenship is presently protected in both the Fijian and Kiribatian constitutions.

There has been some confusion on this because historically Fijian law prohibited dual citizenship. However, following the Citizenship of Fiji Act 2009, your right to hold dual citizenship is now clearly stated and protected in the law.

You can find the laws on dual citizenship here:

Kiribatian Constitution Section 24		
Fijian Constitution Art 5(4)	See "Citizenship"	Page 4
Citizenship of Fiji Act 2009	See "Citizenship by naturalisation"	Page 388



# 3

## APPLYING FOR CITIZENSHIP IN FIJI

There are three different routes you can take to become a citizen of Fiji:

1. **by birth** if you are born in Fiji to a parent that is a Fijian citizen;
2. **by registration** if you are born outside Fiji to a parent that is a Fijian citizen; or
3. **by naturalisation** if you have been lawfully present in Fiji for 5 of the 10 years immediately before you submit the application for naturalisation.

If you are a Banaban who does not have Fijian citizenship:

- work out whether route 2 or route 3 is for you;
- check the criteria to apply; and
- check if you have the supporting documents required for your application under that route.



## **ROUTE 1: BY BIRTH**

If you were born in Fiji to a parent who is a Fijian citizen, you should have become a citizen of Fiji automatically.

## **ROUTE 2: BY REGISTRATION**

### **(A) CRITERIA**

You can apply if you fall into one of these categories:

- If you were born outside Fiji to a parent that is a citizen of Fiji
- If you are a foreign child adopted by a citizen of Fiji when you were under the age of 18
- If you were under the age of 18 when one of your parents became a citizen of Fiji
- If you are a citizen of another country but were formerly a citizen of Fiji
- If you are or have been married to a citizen of Fiji and have been lawfully present in Fiji for a total of 3 of the 5 years immediately before the application

### **(B) HOW TO APPLY:**

1. Send your application to the nearest embassy or immigration office with the completed form and fee
2. The application can be made at any time during your lifetime, and by your parent or guardian if you are under 18
3. Ensure all non-English documents are translated into English

### **(C) FEE**

- Child of a Fijian citizen (under 18): F\$387.55
- Child of a Fijian citizen (over 18): F\$506.00
- Spouse of Fijian citizen: F\$525.55
- Former Fijian citizen: F\$3209.00

### **(D) SUPPORTING DOCUMENTS**

**If you are the child of a Fijian citizen:**

- Passport sized photos fewer than 6 months old (x2)
- Certified copy of birth certificate
- Certified copy of current passport biodata
- Certified copy of parents' Fijian citizenship certificates

- Certified copy of parents' current passport biodata, birth certificates and marriage certificate
- Adoption paper (if applicable)

In addition, if you are over the age of 18:

- Copy of permit
- Completed Oath of Allegiance form
- Qualifying calculation letter

**If you are a former Fijian citizen:**

- Passport sized photos fewer than 6 months old (x2)
- Certified copy of birth certificate
- Completed Oath of Allegiance form
- Police report from country of current citizenship or residence in the last 12 months, or local police report if you are already living in Fiji
- Copy of Fijian passport (optional)
- Deed poll (if name has changed)
- Proof of father's Fijian citizenship (if you are over 21)

**(E) GRANT OF APPLICATION**

After sending the application form and paying the fee, you will have to make an Oath of Allegiance.

If you are under the age of 18 at the time of making the application, you will not have to make an Oath of Allegiance but will have to do so as soon as possible after the age of 18.

You will receive a certificate of registration.

**ROUTE 3: BY NATURALISATION**

**(A) CRITERIA**

You can apply if you have been lawfully present in Fiji for 5 of the 10 years immediately before you submit the application for naturalisation.



## **(B) HOW TO APPLY:**

Send your application to nearest embassy or immigration office with the completed form and fee.

## **(C) FEE**

F\$5750.00

## **(D) GRANT OF APPLICATION**

After sending the application form and paying the fee, you will have to make an Oath of Allegiance.

You will receive a certificate of naturalisation.

## **ROUTES 2 AND 3:**

Your application may be refused if:

- You are not of good character
- You do not have of an adequate knowledge of the English language
- You do not intend to continue to reside in Fiji

### **Please use the following links to access further resources:**

Fijian Immigration Department

<http://www.immigration.gov.fj/apply-for-fijian-citizenship>

Please note that immigration lawyers in Fiji tend to work with overseas nationals, and Legal Aid is only accessible to current Fijian citizens.

For assistance with your application, contact the Rabi Council of Leaders or Fijian Immigration (directly by phone (local office numbers available at [http:// immigration.gov.fj/about-us/contact-us](http://immigration.gov.fj/about-us/contact-us)) or email ([immigration@govnet.gov.fj](mailto:immigration@govnet.gov.fj))).

# 4

## APPLYING FOR CITIZENSHIP IN KIRIBATI

Under the Kiribatian Constitution, a person of I-Kiribati descent has the right to become a citizen of Kiribati. A person is considered 'a person of I-Kiribati descent' if they have at least 1 ancestor born in Kiribati before the year 1900 (section 29(1)(a), Kiribatian Constitution). All members of the Banaban community should meet this definition as they will have ancestors who were born on Banaba (or elsewhere in Kiribati) before 1900.

**This part of the Handbook outlines how a person of I-Kiribati descent can become a citizen of Kiribati.**

### **ROUTE 1: CITIZENSHIP BY BIRTH**

#### **(A) If—**

- you were born in Kiribati before Independence Day (12 July 1979); and
- you are a person of I-Kiribati descent; and
- on the day before Independence Day you were a citizen of the United Kingdom and Colonies,

you became a citizen of Kiribati on Independence Day under section 20(1) of the Kiribati Constitution.

#### **(B) If—**

- you were born outside Kiribati before Independence Day (12 July 1979); and
- you are a person of I-Kiribati descent; and
- your father became a citizen of Kiribati on Independence Day under the previous category (or, if your father has died, he would have been entitled to become a citizen if he was alive); and
- on the day before Independence Day you were a citizen of the United Kingdom and Colonies,

you became a citizen of Kiribati on Independence Day under section 21(1) of the Kiribati Constitution.

**(C) If—**

- you were born in Kiribati on or after Independence Day (12 July 1979); and
- you are a person of I-Kiribati descent,

you became a citizen of Kiribati at birth under section 25(1) of the Kiribati Constitution.

**(D) If—**

- you were born outside Kiribati on or after Independence Day (12 July 1979); and
- your father was, at that time, a citizen of Kiribati (or, if your father has died, he would have been a citizen if he was alive),

you became a citizen of Kiribati at birth under section 25(2) of the Kiribati Constitution.

If you believe that you became a citizen by birth, and want to confirm your citizenship status, you can apply for a certificate of citizenship from the Minister under section 11 of the Citizenship Act (Cap.8A). There is no formal procedure for this application, but you should send all of the information relevant to your claim, together with all supporting documents, to the Ministry of Foreign Affairs and Immigration (contact details below).

**Note that, if—**

- you are a person of I-Kiribati descent; but
- you did not automatically become a citizen of Kiribati by birth,

you are still entitled to apply to be registered as a citizen of Kiribati under section 23 of the Kiribati Constitution and the Citizenship (Registration) Regulations 1983 (see below).

## **ROUTE 2: CITIZENSHIP BY REGISTRATION**

The process for applying for citizenship of Kiribati by registration is set out in the Citizenship (Registration) Regulations 1983. A copy of the Regulations can be obtained from the Rabi Council of Leaders. Applications are made to the Citizenship Commission. As of 2023, the Citizenship Commission is under the Ministry of Foreign Affairs and Immigration. The contact details for the Ministry are as follows:

**Website** – [www.mfa.gov.ki](http://www.mfa.gov.ki)

**Email** – [registry@mfa.gov.ki](mailto:registry@mfa.gov.ki)

**Phone** – (+686) 7502 1342/7502 1365/7502 1368

You may find it easier to go to Tarawa to submit your application in person, although this will obviously be expensive, and could be a lengthy process.

You apply for citizenship by registration by submitting a completed application form, which can be found in the Regulations. You must provide the following:

- the grounds for why you claim to be a person of I-Kiribati descent. Here you set out your family tree, tracing your descent from a person born in Kiribati before 1900, and specifying (as much as possible) names and addresses and dates of birth and death of your ancestors;
- certificates of birth and death and any other documents which support your claim (wherever possible);
- the names and contact details for people who will be able to support your claim.

Your signature on the application form must be witnessed by 2 people who are not related to you. There is no fee for the application, but you are required to pay the cost of publishing notice of your application in the newspaper and on Radio Kiribati. If your application is successful, there is a fee of \$10 for the certificate of registration.

A person of I-Kiribati descent is allowed to be a dual citizen. (In other words, a person of I-Kiribati descent is not required to surrender any other citizenship or passport they hold in order to become a citizen of Kiribati.)

Applications for citizenship by registration are rare. It is important to be mindful that officials may be unfamiliar with the specific law and procedures. It is possible that you may encounter inconsistencies in the way the law is applied. The steps outlined in this Handbook set out the process according to the law.<sup>1</sup>

If you need help with your application or have questions, you can contact the Office of Public Legal Services (Aobitin te Ibuobuoki n te Tua). The Office's contact details are as follows:

**Website** – [www.opl.org.ki](http://www.opl.org.ki)

**Email** – [oplkiribati@opl.org.ki](mailto:oplkiribati@opl.org.ki)

**Phone** – (+686) 7512 6312/7512 5303.

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<sup>1</sup> The Ministry of Foreign Affairs and Immigration was contacted in October 2023 to review this Handbook. They elected to not review the Handbook and have not provided any feedback.

# OBTAINING A KIRIBATIAN PASSPORT

Once you have obtained your certificate of registration as a citizen, you can apply for a passport.

As of 2023, the Ministry of Foreign Affairs and Immigration is responsible for issuing passports to citizens of Kiribati. Information about how to apply for a passport and a link to the application form can be found at: [www.mfa.gov.ki/immigration/](http://www.mfa.gov.ki/immigration/)

In section F of the passport application form (titled 'My entitlement to a passport'), you should tick the box next to 'Registration' and state the date on which you were registered as a citizen by the Citizenship Commission. You will need to attach a copy of your certificate of registration.





# 5

## THE BANABAN DIASPORA

Members of the Banaban diaspora are persons that have Banaban heritage but who are not nationals of Fiji or Kiribati, instead they are citizens in a third country (e.g., Australia, New Zealand etc.).

If you are a member of the Banaban diaspora and want to apply for citizenship in Fiji or Kiribati, first you need to consider if your country allows you to hold dual citizenship.

The rules are different in each country. For example, Australia and New Zealand allow its citizens to hold dual citizenship, whereas China and Malaysia do not.

Please refer to the following table for more information:

<b>Country</b>	<b>Is dual citizenship allowed?</b>
<a href="#">Australia</a>	Yes
<a href="#">New Zealand</a>	Yes
<a href="#">United Kingdom</a>	Yes
<a href="#">United States</a>	Yes

If your country allows dual citizenship and you want to proceed with applying for citizenship in Fiji and/or Kiribati, please refer to sections 3 and/or 4.



# 6

## FREQUENTLY ASKED QUESTIONS

### Eligibility

**1. One of my parents is Banaban and one is not. Can I apply for citizenship of Kiribati?**

Yes, the same provisions apply for citizenship by registration as outlined in section 4.

**2. I do not have citizenship of Fiji or Kiribati. I am living in Fiji. What should I do?**

Please refer to section 3. You need to consider if you meet the criteria and can provide all supporting documents to claim citizenship in Fiji. If you need help, you may want to consult with the Rabi Council of Leaders for your specific circumstances.

**3. I don't have citizenship of Fiji or Kiribati. I am living in Kiribati. What should I do?**

Please refer to section 4. You need to consider if you meet the criteria and can provide all supporting documents to claim citizenship in Kiribati. If you need help, you may want to consult with the Office of Public Legal Services.

**4. One of my parents is a Fijian citizen, but I was born in Kiribati. Can I apply for citizenship of Fiji?**

Yes, please refer to section 3 for more information.

**5. One of my parents is a Kiribatian citizen, but I was born in Fiji. Can I apply for citizenship of Kiribati?**

If your father was a citizen of Kiribati at the time of your birth, you automatically became a citizen at that time. If your father was not a citizen, but either parent is a person of I-Kiribati descent, you can apply for citizenship by registration. Please refer to section 4 for more information.

**6. I previously surrendered my Fijian citizenship because at that time dual citizenship was not allowed. What should I do?**

You can apply to become a Fijian citizen by registration. Please refer to section 3 for more information.

**7. I am Banaban but my wife/husband is not. Can they apply for citizenship of Fiji or Kiribati?**

**Fiji:** Yes, if you otherwise meet all of the criteria outlined in section 3.

**Kiribati:** A woman who is married to a person who is or becomes a citizen of Kiribati is entitled to become a citizen of Kiribati by registration (see section 4), whether or not she is a person of I-Kiribati descent (section 26, Kiribati Constitution). A man who is married to a citizen of Kiribati does not have the same entitlement, and will need to apply for citizenship by naturalisation (which requires, among other things, at least 7 years' residence in Kiribati).

**8. Can I make an application on behalf of my children?**

**Fiji:** Yes, follow the steps outlined in section 3.

**Kiribati:** Yes, follow the steps outlined in section 4.

**9. Do I need to travel to Fiji/Kiribati to make my application?**

**Fiji:** No. You can file your application at your nearest Fijian Embassy or Immigration Office. See section 3 for further information.

**Kiribati:** You could mail your documents to relatives in Tarawa to submit on your behalf. It may be possible to submit your application by email, but that will be up to the Ministry of Foreign Affairs and Immigration. You may find it easier to go to Tarawa to submit your application in person, although this will obviously be expensive, and could be a lengthy process.

**10. How can I prove my Banaban heritage for the purposing of obtaining Kiribatian citizenship?**

In the past, Kiribati has treated this as an honour system. You may be able to rely on your relatives living in Kiribati to support your claim and your application. We recommend that you provide as much information as you can about your I-Kiribati ancestors back to before 1900, including names and dates of birth and death. The more information you can provide (including supporting documents), the better.

**11. How long will it take to process my application?**

**Fiji:** Estimates suggest about one to two years.

**Kiribati:** There are no estimates available, but applying in-country can speed up the process.

## **12. How can I check the status of my application?**

In both Fiji and Kiribati, you can check the status of your application or ask questions by contacting the relevant immigration department.

## **13. I am struggling with my application. Who can help me?**

If you are applying for Kiribatian citizenship, you can discuss your application with someone at the Office of Public Legal Services. Please note they do not offer administrative or logistical assistance for applications. If you are applying for Fijian citizenship, you can discuss your application with someone at the Rabi Council of Leaders.

## **14. What if my application is unsuccessful?**

**Fiji:** If your application for Fijian citizenship is unsuccessful, you have a right to appeal to the Citizenship Appeals Tribunal within 14 days of being notified of the decision. Your appeal must be lodged at the Civil Division Registry of the High Court of Fiji, Government Buildings, Suva and you must serve that appeal with the Ministry of Immigration no later than 14 days after you have filed your appeal.

**Kiribati:** If your application for citizenship by registration is refused, you will not be able to apply again for 6 months. If you believe that your application has been refused wrongly, you may be able to apply to the High Court for judicial review of the Citizenship Commission's decision. You will need legal help to do this, and you will need to act quickly, as an application for judicial review must be brought within 6 months of the decision.

## **15. I am unable to provide some of the supporting documents for my application. What can I do?**

**Fiji:** Do your best to submit everything. If you are missing any documents, an immigration official may follow up with you. However, this may lead to delays.

**Kiribati:** Reach out to the Office of Public Legal Services for additional assistance with your application. Please note they do not offer administrative or logistical assistance for applications.

## **16. My application is approved. How do I get a passport?**

**Fiji:** You can apply for a Fijian passport once you have received the Fijian Citizenship Certificate from the Fijian Immigration Department. You can apply for a passport online through the Fiji Immigration Department website and you must appear in person at your designated passport office for biometrics (except for children under 12).

**Kiribati:** Please refer to section 4.

**17. If my application is successful, which passport should I use when I travel?**

The passport you choose to travel on may impact your visa process when travelling to other countries. For example, with a Kiribatian passport, you can travel visa-free to approximately 122 destinations, compared to 89 on a Fijian passport. Research your destination to make your decision. Importantly, you will need to travel both directions on the same passport regardless of which one you choose.

**18. I am Banaban and an Australian national, and I travel to Fiji once a year. Should I apply for Fijian citizenship?**

It depends. Becoming a citizen of Fiji will enable you to enter/exit the country freely without restrictions on frequency or duration of stay. However, you first need to check if you meet the criteria and can provide all relevant supporting documents to claim Fijian citizenship. Please refer to section 3 of the Handbook for more information. You will also need to consider any administrative burdens/disadvantages (e.g., liability to pay taxes in Fiji) if you decide to take up Fijian citizenship.

If you don't want to become a Fijian citizen or do not meet the criteria, you can still visit Fiji on a visitor permit for up to 4 months (your stay can be extended for another 2 months if an application has been made for an extension and fees paid). Visitor permits for the purpose of visiting a relative or a friend that lives in Fiji are given on Immigration Clearance. Fiji keeps a list of visa-exempted countries and Australia is included, so you will not need a visa or approval letter from Immigration for your visit. More information can be found here: <https://www.immigration.gov.fj/travel-options/visit-transit-in-fiji>.

**19. I am Banaban and a New Zealand national, and I travel to Kiribati once a year. Should I apply for Kiribatian citizenship?**

Under section 19 of the Kiribatian constitution, a person of I-Kiribati descent has the right to enter and reside in Kiribati indefinitely, whether or not they are a citizen. Unfortunately this right is not well understood by immigration officials, which may create problems when trying to enter the country. A citizen of New Zealand will ordinarily be issued with a 1-month visitor's visa on arrival in Kiribati, and can stay for up to 4 months in any 12-month period. If you are looking to stay indefinitely, or to access other citizenship benefits, you may choose to apply for Kiribatian citizenship.

**20. I cannot find an answer to my question in the FAQs. What can I do?**

If you have a question that is not covered by these FAQs, you may want to discuss your specific situation with someone at the Office of Public Legal Services or Rabi Council of Leaders.









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