

Shadow NGO Report on Fiji's Second, Third and Fourth Combined Periodic Report to the Committee on the Elimination of Discrimination against Women

for submission to CEDAW's 46th Session

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This Shadow Report to the CEDAW Committee is prepared by the Coalition of Women's NGOs for the CEDAW Shadow Report, as well as other rights based NGOs. Some of our members have been persecuted by the military government; we therefore wish to remain anonymous for fear of further victimisation.

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At the end of each article there is a list of critical recommendations and challenges encountered in the implementation of the CEDAW Convention.

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ACRONYMS

ADB	Asian Development Bank
AIDS	Acquired immune deficiency syndrome
ALTA	Agricultural Land Lords and Tenants Act
APF	Asia Pacific Forum for National Human Rights Institutions
APWLD	Asia Pacific Forum on Women, Law and Development
BOR	Bill of Rights
CAP	Chapter of legislation
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
CLI	CEDAW Legislative Indicators
CRC	Convention on the Rights of the Child
CRMW	Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
CSO	Civil Society Organisation
DOW	Department of Women
DPP	Director of Public Prosecutions
DV	Domestic Violence
EEO	Equal Employment Opportunity
EPA	Economic Partnership Agreement
ERP	Employment Relations Promulgation
FLA	Family Law Act 2003
FJHC	Fiji High Court Reports
FHRC	Fiji Human Rights Commission
FiBS	Fiji Islands Bureau of Statistics
FICAC	Fiji Independent Commission against Corruption
FLP	Fiji Labour Party
FNA	Fiji Nursing Association
FWCC	Fiji Women's Crisis Centre

FWRM	Fiji Women's Rights Movement
GAD	Gender and Development
GCC	Great Council of Chiefs
GDP	Gross Domestic Product
GWC	Garment Wages Council
HIV	Human Immunodeficiency Virus
HPV	Human Papillomavirus Vaccination
IA	Interim Administration
ICC	United Nations International Coordinating Committee of National Institutions
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organisation
ICT	Information Communication Technology
IPU	Inter Parliamentary Union
KPI	Key Performance Indicator
LAC	Legal Aid Commission
LGBTFF	Lesbian, Gay, Bisexual, Transgender, Fa'afafine and Fakeleiti
MDGs	Millennium Development Goals
MoH	Ministry of Health
MoL	Ministry of Labour
MP	Member of Parliament
MWSWPA	Ministry for Women Social Welfare and Poverty Alleviation
NAP	National Alliance Party
NCBBF	National Council for Building a Better Fiji
NCWF	National Council of Women Fiji
NES	National Export Strategy
NGO	Non Governmental Organization
NLTB	Native Land Trust Board
NSAs	Non-State Actors

NZ	New Zealand
PACER	Pacific Agreement on Closer Economic
PEP	Post Exposure Prophylactic
PER	Public Emergency Regulation
PIC	Pacific Island country
PICTs	Pacific Island countries and territories
PNG	Papua New Guinea
PICs	Pacific Island Countries
PICTA	Pacific Island Countries Trade Agreement
PICTs	Pacific Island Countries
PIFS	Pacific Islands Forum Secretariat
PNG	Papua New Guinea
PNGLR	Papua New Guinea Law Reports
PPA	Pacific Platform for Action
PR	proportional representation
PSC	Parliamentary Select Committee
RBF	Reserve Bank of Fiji
RMI	Republic of the Marshall Islands
RRRT	Pacific Regional Rights Resource Team
SDL	Soqosoqo Duavata ni Lewenivanua
SDP	Strategic Development Plan
SEEDS	Sustainable Economic, Empowerment Development Strategic
SILR	Solomon Islands Law Reports
SPC	Secretariat of the Pacific Community
SSD	State Services Decree
SSV	Soqosoqo Vakamarama
STI	Sexually Transmitted Infections
TFZ	Tax Free Zones
TVET	Technical and Vocational Education and Training
UN DAW	United Nations Division for Advancement of Women

UNDP	United Nations Development Programme
UNIFEM	United Nations Development Fund for Women
UNRISD	United Nations Research Institute for Social Development
UPP	United Peoples Party
USP PIAS DG	University of the South Pacific : Pacific Institute of Advanced Studies in Development and Governance
USP	University of the South Pacific
VAT	Value Added Tax
VAW	Violence Against Women
VCCT	Voluntary Confidential Counselling and testing
WAC	Women's Action for Change
WIO	Women's Interest Officer
WIP	Women in Politics
WPA	Women's Plan of Action
WTO	World Trade Organisations

EXECUTIVE SUMMARY

General implementation of CEDAW principles is weak in Fiji and even where there is political commitment on the part of government; there are insufficient resources either available or allocated to implement the standards in CEDAW. Fiji has only demonstrated marked advancement in the implementation of CEDAW where strategic partnerships between government and women's NGOs have together effectively harnessed the most efficient technical capacities and resources for maximum impact. The Family Law Act 2003 (FLA) is one such example.

In the Concluding Comments of 2002 on Fiji, the CEDAW Committee recognized that periods of political instability, ethnic tensions, low economic growth and increasing poverty, in a period of economic transition, have impacted negatively on the State Party's efforts to implement the Convention. Since December 2006, Fiji is experiencing another such period of political and economic instability, brought about by a military putsch, making it very difficult, if not impossible, for women's rights to be advanced.

The following extract from the Report of the United Nations Special Rapporteur on VAW commenting on Fiji, is instructive:

A key characteristic of militarisation is the increased power given to the military to violate human rights under the guise of national security..... In many cases, militarisation becomes extremism, allowing no space for any dissent. Women activists who had been vocal about the coup in Fiji, for instance, were taken up to the military camp; some of them forced to run around the ground at the barracks, made to lie face down on the ground and lick the boots of the military officers while other women had their hair cut to humiliate them.....

The government civil service is militarised in key and strategic positions and Ministries in order to secure the military's stranglehold, as are statutory Boards and Tribunals. More than half of senior positions within the Ministries are held by military personnel, and 69% of Ministries have military personnel present in senior positions.

Poverty is rapidly increasing, as a result of negligent decisions on the part of the military government, as well as the impact of the global economic meltdown. Fiji's present economic crisis is mainly self inflicted, influenced largely by the domestic political events and less by the impact of the global financial crisis which has only started to take effect. Until democracy is restored, the country's current economic situation will persist due to a lack of investor confidence and the rule of law.

Since 10 April 2009, the political, legal, and human rights situation of the people of Fiji has deteriorated further. Following Fiji's Court of Appeal decision in April, ruling that the actions of Fiji's military in December 2006 were unlawful and unconstitutional, the military regime has purportedly abrogated the 1997 Constitution and imposed the full trappings of a military dictatorship through a

series of “decrees” replacing the law; and removing civil and political rights and freedoms in draconian Public Emergency Regulations (PER). There is no legal accountability for actions taken under the PER. The news is heavily censored and no opposing or negative views about Fiji are allowed to be published.

There is a general discrimination clause which covers gender discrimination and sexual orientation. However, the definition does not cover the multiple layers of discrimination faced by women eg. HIV/Health status, reproductive health status, and marital status are not included. From a gender justice perspective, Fiji has made some progress in implementing CEDAW since 2004, but mainly in the area of family law. The new law removes systemic discrimination against women and children consistent with CEDAW.

The Reserve Bank of Fiji has estimated that violence against women costs the Fijian economy close to FJD300 million a year, 7 per cent of the GDP. Of this, 97 million is in direct costs borne by victims and their families; and government spends a further 200 million annually on welfare, law enforcement and health care for complainants. If opportunity costs are added, the figure could be higher and possibly closer to FJD500 million

Cultural and religious fundamentalism is on the rise in Fiji. This promotes and reinforces conservative ideas and myths about women and their rights. The State reports, that a No Drop Policy to prosecution was introduced in 2008. The reality is that its reintroduction in 2008 referred to “No Dropping” of charges on all kinds of assault cases, and not specifically on domestic violence. This form of the No Drop Policy shifts the attention away from its initial purpose, which was to effectively deal with crimes of domestic violence against women.

In Fiji, in 2005, proposed draft legislation , backed by the Fiji Women’s Crisis Centre, was released into parliamentary papers. However, the coup de’tat of December 2006 and events following, limited the space for democratic law reform and has led to the standstill of any progress of work in this area. It is necessary that stand-alone comprehensive integrated legislation, addressing all forms of violence against women, including sexual assault, domestic violence, sexual harassment, trafficking, and harmful traditional practices is passed consistent with UN DAW’s Model Legislation on VAW. All legislation must be passed through a democratic parliamentary process, and not by military decree.

The current capacity of the national women’s machinery is of significant concern. Experienced key staff who have received extensive gender training have been moved to other Ministries, where their rare skills are wasted. This has led to loss of institutional memory and decreased the Ministry’s gender analysis capacity. There is an overall lack of political will and commitment to gender in key policy and planning documents of the government, since the last reporting period.

Apart from the Department of Women, the other primary mechanism for addressing women's human rights is the Fiji Human Rights Commission (FHRC). Gender and women's human rights have not been a primary concern of the FHRC, but it has attempted to address general non-discrimination and equality in a variety of ways. Its primary obstacle has been a lack of full time technical expertise and the resources to implement potential sound policies. However, since December 2006, it is widely believed that the FHRC is an arm of the military government. Thus very few violations are reported to it for investigation, or at least rights involving the military regime itself. Even if the FHRC were not compromised, an unlawful Human Rights Commission Decree 2009, promulgated by the military government came into force on 12th May 2009, limiting the powers of the Commission, both as to content and process.

The Social Justice Act provides a legal framework for the implementation of the Affirmative Action Policy of the State; however the programs and initiatives focused on support and fast tracking of Fijians and Rotumans into business. There has been a limited focus on gender.

The school curriculum needs to be carefully examined to assess the reinforcing of sexual stereotypes which is endemic in schools, right from the channelling of girls into certain streams, to the gendered division of labour at home and in school. There is no legislation creating special measures for education of girls, whether in the form of temporary special measures or the requirement of special budgets for female education, despite the law allowing such measures for disadvantaged groups.

Women's strong presence in parliaments has led to higher levels of gender equitable development and to reduced corruption. Moreover, local evidence suggests that a greater number of women in the legislature can be a catalyst for progressive legislation to be passed. Political leadership, by women, for women, can be an effective catalyst toward addressing discrimination against women. Gender equality in local municipal councils has also been affected by the 2006 military coup, whose new regime removed all local councils, thereby reducing the numbers of women in public and political life, and denying them a natural training ground for preparation for the national legislature. It is important that national and council elections be held immediately. There is also a need for the introduction of an affirmative action initiative for women with quotas or reserved seats for national and local government elections.

Gender discrimination in employment occurs in the wider context of the marginalisation of women in the negotiation and implementation of Fiji's trade and economic policy. Trade policy in Fiji does not incorporate measures to advance the status of women, while some economic opportunities have opened up for women, this has not been in ways that have supported women's labour rights, increased women's ability to access the labour market in an equitable way, or supported institutions in society that increase gender equity, such as universal healthcare, education and welfare services. The military regime has forcibly retired all civil

servants who have reached the age of 55, contrary to constitutional safeguards against age discrimination, and contrary to a court decision. This has affected women disproportionately.

Sexual harassment of women in the workplace is significant, widespread, varied in nature, and predominantly, a repeated pattern. Overall, the data reveals that the incidence of sexual harassment cuts across all workplace types and affects women from various socio-demographic groups.

Women's access to health services continues to deteriorate. According to media reports, before the censorship of the media, hospitals in Fiji are turning away patients because of the unavailability of basic drugs and equipment. The shortage of qualified doctors and nurses also affects the quality and availability of medical services. Poor working conditions and salaries have forced many qualified medical personnel to emigrate or work in private practice. Women are especially affected by this shortage as the acute shortage of obstetricians, gynaecologists, paediatricians and nurses, affect the care of mothers and babies.

The status of rural women has not improved since the State last reported in 2002. Rural dwellers make almost half of Fiji's total population. Political instability, natural disasters, displacement, deteriorating economic conditions and market restructuring have increased the vulnerability of rural women. The spiralling costs of resources and the collapse of the economy have resulted in limited opportunities in employment, decision making, education and health.

In regard to family law, the State has contributed no evaluation, or commentary on the *de facto* situation of women in family law under the new legislation. Maintenance enforcement is still a significant problem, despite the ample provisions in the FLA. The FLA's strategy for increasing the enforcement rates for financial support is the establishment of Maintenance Officers in all Magistrates Courts, but this has not been operationalised. The most significant obstacle to the effectiveness of the new legislation is the political crisis, which began in December 2006, and continues to date.

Advancement in women's rights must be viewed through the prism of a fully fledged military dictatorship in which the rule of law has been suspended, democratic elections are a mere chimera, and in the absence of human rights in Fiji.

INTRODUCTION

In the Concluding Comments of 2002 on Fiji the CEDAW Committee recognized that periods of political instability, ethnic tensions, low economic growth and increasing poverty in a period of economic transition have impacted negatively on the State Party's efforts to implement the Convention. Since December 2006, and then again since 10 April 2009, Fiji is experiencing another such period of political and economic instability brought about by a military putsch, making it very difficult, if not impossible, for women's rights to be advanced.

On 5 December 2006, the Military Forces headed by Commodore V Bainimarama removed the democratically elected government of Laisenia Qarase, citing racism, corruption and a country-wide "clean-up campaign" as the basis for its unlawful actions. From that date until June 2007, there was widespread, systemic human rights abuses committed including the detaining of ordinary citizens and human rights dissidents without warrants; restrictions on freedom of movement; expelling foreign journalists without due process; threatening local journalists; torturing/injuring those perceived to have committed mainstream crimes at military check points, military barracks and police stations; targeting people suspected of prostitution and transgender persons as part of "clean up" campaign; arresting/harassing/dismissing members of the public service, police force, Boards or Tribunals who were thought to sympathize with the deposed elected government or other individuals with tenuous links to the deposed elected government; dismissing and charging civil servants and heads of statutory companies without due process; charging various individuals for bogus and trumped up crimes; militarising the civil service in all sectors at senior levels; appointing to Boards and tribunals either military officers or those perceived to support the military; unlawfully suspending the Chief Justice without charges and instigating an unlawful Tribunal of Inquiry against him; appointing to the judiciary and magistracy those perceived to support it; and banning those opposing the regime from travelling outside Fiji, including prominent women's rights defenders.

The more vulnerable members of society have been subjected to extreme degrading treatment and torture, including of a sexual nature. During this period 4 persons were killed, Josefa Baleiloa, Tevita Malasebe, Sakiusa Rabaka and Nimilote Verebasaga and their perpetrators (mostly soldiers of the armed forces under the command of Bainimarama or police officers) have either not been brought to trial; or released from custody very early in their sentences by the military Prison Commissioner, put in place by the military regime. The Commissioner for Police is also a senior member of the military; effectively the Police Force is under the control of the military. In both cases the previous office holders were dismissed by Bainimarama and military officers were appointed.

During this period some women human rights defenders were specifically targeted by name in the media by Commodore Bainimarama, threatened with rape in anonymous phone calls from phone booths located close to the military barracks,

and/or detained overnight, harassed and intimidated. The offices of a prominent women's rights NGO were raided in March 2009, and tape recordings of interviews with victims of human rights abuses were stolen. No other items were taken.

The following extract from the Report of the Special Rapporteur on VAW on Fiji is instructive:

A key characteristic of militarisation is the increased power given to the military to violate human rights under the guise of national security. With the emergence of global conflicts, attention to crimes of violence against women is often given low priority whereas more and more attention is given towards national security issues which most of the time infringe on the human rights of people. For example, in Fiji when the military took over the government on December 5, 2006, check points were set up all over the country with heavily armed soldiers monitoring the traffic and movement of people.

In many cases, militarisation becomes extremism, allowing no space for any dissent. Women activists who had been vocal about the coup in Fiji, for instance, were taken up to the military camp; some of them forced to run around the ground at the barracks, made to lie face down on the ground and lick the boots of the military officers while other women had their hair cut to humiliate them by getting rid of what is considered one of the elements of beauty for women in Fiji.¹

The Report on the UN Special Representative on Human Rights Defenders stated that:

Concerns were expressed that acts of intimidation and harassment, as outlined above, form part of a campaign against human rights defenders in Fiji including Ms Heffernan. Further concerns were expressed that the afore-mentioned events and in particular threats of sexual violence, may be the latest attempt to silence women human rights defenders because of their legitimate activities in monitoring the human rights situation in Fiji.

The Special Representative regrets that the Government of Fiji did not respond to any of her communications. She urges the Government to provide her with detailed responses on investigations undertaken on these cases and the measures taken to bring the perpetrators to justice.²

The Director of the Fiji Human Rights Commission (FHRC), a former UN Special Rapporteur, in two baffling and legally suspect reports (4 January 2007; 31 August 2007) justified the military's takeover and in most cases defended its human rights violations, making it impossible for those whose rights had been violated by the military/police to use the FHRC for redress. The FHRC was forced to hastily resign from 2 international bodies, because both were about to investigate it, namely the UN International Coordinating Committee of National Institutions (ICC) and the Asia Pacific Forum for National Human Rights Institutions (APF). The FHRC continues to be compromised and has lost credibility in the general community in Fiji. Human rights defenders are unable to access the FHRC for protection as it has lost its independent capacity to promote, respect and defend human rights, the primary function for which it had been set up.

¹ Erturk, Y., 2007, 23.

² Jilani, H., 2008

Fiji is a historically racially polarised society, with significant racial tensions between the two largest groups, the indigenous Fijians (57%) and Indian Fijians (37%). The Military’s rhetoric has been that its intervention was necessary to end racism and corruption. Many Fiji citizens, particularly Indian Fijians, believed that rhetoric initially, but there is anecdotal evidence that there is growing disillusionment amongst those who initially supported the military, particularly amongst Indian-Fijians. There is still a widespread belief amongst indigenous Fijians, that the vast-majority of Indian Fijians support the military. At least one minority, but prominent, Christian denomination supports the military, and has been part of the euphemistically titled “National Council for Building a Better Fiji (NCBFF)”, co-chaired by the self-appointed PM Comm Bainimarama, and the head of that Christian Church. These racial tensions have the potential to erupt into ethnic conflict. The future for genuine multi-racialism and tolerance in Fiji would appear bleak.

The leadership of at least 3 civil society organisations, had openly supported the military actions, unfortunately, believing in the rhetoric that the military was genuinely committed to non-racism and reducing corruption; and that the military solution was the only answer to ending racism in Fiji. However, one NGO of the 3, has recently distanced itself from the military’s actions, having grown disillusioned with it and joined those NGOs opposing the regime. The rift between NGOs has left a schism in civil society, preventing an effective coalition to oppose the military regime and to promote women’s rights.

The government civil service is militarised in key and strategic positions and Ministries in order to secure the military’s stranglehold. So too are statutory Boards and Tribunals which are part of the overall governance structure in Fiji. More than half of senior positions within the Ministries are held by military personnel and 69% of Ministries have military personnel present in senior positions.(A fuller picture of militarisation appears in Appendix 1). These figures do not include the number of military officers appointed to statutory Boards and tribunals, nor the numbers of those civilians appointed in the civil service, Boards and Tribunals due to nepotism and cronyism, including the appointment of the dentist wife of a prominent military officer to the most senior position in the Department of Women. The militarisation of the civil service, statutory Boards and Tribunals are a significant set back to the cause of gender equality. Those who are appointed to Boards and Tribunals tend to be blind functionaries of the regime, rarely questioning government or demanding accountability. If they do question, they are very quickly removed and replaced by other cronies.

Table 1. Militirisation of the Civil Service	Mil	Non-mil	%
Cabinet positions held by military personnel	9	11	47
Senior ministry positions held by military personnel	17	33	34
Ministries with military personnel present in senior positions	13	6	69

Poverty is rapidly increasing, as a result of negligent decisions on the part of the military government, as well as the impact of the global economic meltdown. The state of poverty in Fiji has worsened since the military coup in December 2006 and will continue in the foreseeable future. Following the coup, GDP declined by 6.6% in 2007 and annual economic growth has been negative since. There has been a substantial loss of investment, negative growth in all economic sectors and exports, increasing business hardships, increasing unemployment, increasing inflation and food prices, reduction in government social welfare support and increasing social problems. Fiji's present economic crisis was influenced largely by the domestic political events and less by the impact of the global financial crisis which has only started to take effect. In other words, Fiji's economic crisis was mainly self-inflicted, but which the military regime has conveniently blamed on the global financial crisis. Respected local economists hold the general view that until democracy is restored, the country's current economic situation will persist due to a lack of investor confidence and the rule of law. Fiji's long term economic growth will also depend on the economic fundamentals being addressed immediately.³

The regime removed the last vestiges of democracy in Fiji when on 31 of January 2009, it dissolved all city councils, taking away the right of the citizens of Fiji to have a say in local governance. Eighteen of the 130 deposed councillors were women, and three of the female councillors were deputy mayors. Fiji has had only 1 female Mayor in the past. In February 2009, the interim regime appointed administrators to run the councils; none of whom are women.

The regime has proposed a "National Charter for Building a Better Fiji (NCBBF)", a well-meaning document containing Utopian provisions for a future multiracial, corruption-free democracy, which it says it has widely consulted on. However in the absence of a free and open media, and owing to a well-founded fear of retribution, it is impossible to say whether people in Fiji support it. Although there is generally little to take issue with in the NCBBF, two troublesome features include the muzzling of the media through licensing and other controls, and the enlarged and disproportionate role for the military in the civic governance of Fiji.

"Enact Freedom of Information legislation and establish a Media Tribunal.

Re-align the role of the RFMF to include Human Security: enhance the RFMF-community development partnership by strengthening its developmental role to ensure that its professional, technical and social potential is fully realised"⁴

For women human rights defenders both propositions present a chilling picture of a future Fiji; one in which the media is controlled for the next decade, and in which the military plays a dominant role in civic governance, entrenching a potential permanent militarised society. Women human rights defenders are deeply concerned about their children, and the yet-to-be born generations of Fiji Islanders who will grow up believing that a militarised society is normal and mainstream, and

³ Narsey, W., 2009.

⁴ Fiji Government, 2008, pg 14-15

that guns are the way to solve problems, rather than negotiation, discussion, compromise, social pacts between ethnic groups, the rule of law, human rights and democracy.

The Fiji Independent Commission against Corruption (FICAC) is the prosecuting wing of the military and is headed by Col. George Langman. It prosecutes those who probably deserve prosecution (but by the Director or Public Prosecution) as well as those who the regime politically opposes. FICAC is therefore being used also as a political device for malicious prosecution, to suppress those who oppose the regime, and to quieten political and other dissidents. Under Fiji's Constitution, the office charged with the responsibility of prosecuting all crimes, is the Director of Public Prosecutions (DPP). A state prosecution by the DPP must proceed with no personal interest in the outcome, without vendetta, without malice, almost neutrally. The interests being protected are those of the State, not individuals. If a prosecution were to proceed on the basis of a personal vendetta, that would be *prima facie*, a malicious prosecution and therefore unlawful. FICAC was illegally set up by the military to prosecute corruption which Bainimarama stated was one of the main reasons he was removing the democratically elected government of Laisenia Qarase in December 2006. The High Court of Fiji has ruled that FICAC is illegal and unconstitutional⁵. As well, the famous recent 9 April 2009 Court of Appeal decision, composed of 3 Judges, has ruled Bainimarama's government and activities as illegal and unconstitutional. This decision led to the purported April 2009 abrogation of the Constitution and the dismissal of all Judges and Magistrates.

Since 10 April 2009, the political, legal, and human rights situation of the people of Fiji has deteriorated further. Following Fiji's Court of Appeal decision in April, ruling that the actions of Fiji's military in December 2006 were unlawful and unconstitutional, the illegal Fiji interim military regime has purportedly abrogated the 1997 Constitution and imposed the full trappings of a military dictatorship through a series of "decrees" replacing the law, and the draconian Public Emergency Regulations (PER). With both illegal instruments, the military declared a State of Emergency; gave the military the right to use lethal force with impunity, banned political/NGO meetings, instituted a permit system for meetings and conferences; sacked Fiji's judiciary reappointing those perceived to be sympathetic to it; imposed severe restrictions on local and international media by putting military censors in all newsrooms, expelled foreign journalists; curtailed freedom of expression and opinion; and arbitrarily detained people.

The new Commissioner of Police, the second highest ranking military officer, has also required Hindu and Muslim police officers to participate in evangelistic Christian so-called "crusades" with the indirect and subtle threat of victimisation in job security if they did not participate. Mainstream police work on domestic violence and other cases has stalled due to the crusades. The Police forces are publicly acting in concert with the military, and is under the direct control of it.

⁵ Civil Appeal No. ABU0077 OF 2008S

Like all media, the country's most popular newspaper, *The Fiji Times*, is subject to tight censorship with censors in the newsroom. An associate editor gave a speech noting that her own newspaper could not report independent news. Censors arrive in the newsroom each day at 6pm and systematically erase any trace of disaffection; "they shred to pieces our intrinsic right to freedom of expression."⁶ Military censors are in every newspaper, radio and television outlet, tightly censoring news, as well as not allowing any "negative" news about Fiji, for example economic forecasts that portray the military government in a uncomplimentary light, from being published. Women's Community based media organisations which cover women's news through community radio, are also censored.⁷

The regime has also indicated its plans to establish a State controlled Fiji Women's Federation (name uncertain); and to bring all women's NGOs under its wing, replacing umbrella organisations such as the National Council of Women. It is believed, although not proven, that unless women's NGOs agree to be under this umbrella they will be de-registered. This plan, if carried through will affect the capacity of women and human rights NGOs to function effectively.

In May 2009 the right to issue legal practising certificates was taken away from the independent Fiji Law Society and placed directly under the military regime's control. Fiji's has now been suspended from the Pacific Islands Forum, a regional intergovernmental grouping of 22 Pacific island countries, with the unanimous agreement of Pacific Forum Leaders. As noted by the Forum Chair: "A regime which displays such a total disregard for basic human rights, democracy and freedom has no place in the Pacific Islands Forum. Nevertheless, we look forward with great hope to Fiji's earliest possible return to constitutional democracy, through free and fair elections".⁸

The military government has hailed public silence and the absence of open dissent as evidence of acceptance by the general public of its rule, and "happiness". However some individuals are resisting censorship and speaking out, not only publicly, but via the proliferation of blogs resisting the regime. As a response, the military has closed down internet cafes after 5pm, diminishing the capacity of those without personal computers/internet, access to information. These actions in total constitute a violation of free speech and its concomitant right, to receive and impart information.

Box 1. The Military's Plans for Fiji's Future - A Permanent Militarised Society?

On July 1, 2009 the head of the military regime Commodore Bainimarama, announced a "strategic framework for change" that lays out a timeline for his government's plans over the next five years. Bainimarama announced key dates and the thrust of the regime's planned policy changes.

⁶ Foster, S., 2009.

⁷ femLINKPACIFIC, suitcase radio station, femTalk 89.2 FM

⁸ Pacific Islands Forum Secretariat, Press Statement, Statement by Forum Chair on suspension of Fiji Military regime from the Pacific Islands Forum, 2nd May, 2009.

"A new legal order exists, a new government exists and September 2014 has been set down as the date by which elections must take place. This is the reality." Bainimarama said in his public address:

Key dates in the "strategic framework"

- **September 2012:** Work begins on a new constitution. Fiji's progressive 1997 Constitution was purportedly abrogated on April 10, 2009.
- **September 2013:** New constitution in place
- **September 2014:** Elections under the regime's new constitution

Major policy changes:

Law reform:

The unelected military regime, which came to power in an illegal coup on December 5th, 2006, is planning to reform various laws over the next five years, including:

- Reform of the Penal Code
- Land reform (to be implemented by the beginning of 2010) *Note: This is a particularly sensitive area in Fiji, where indigenous Fijian identity is strongly tied to the land, and where traditional land-holding groups own over 85% of all land.*
- Domestic violence legislation
- Access to justice
- Reform aimed at opening up access to ocean resources

Electoral reform:

The military regime is also planning major electoral reform, including:

- Removal of ethnic-based voting
- Lowering the voting age to 18

New wave of structural adjustment programmes:

The major policy direction appears to be a revival of structural adjustment programmes of the 1980s and 1990s. In an echo of Fiji's experience under its last military dictator Sitiveni Rabuka, who came to power in 1987, this military regime is also planning structural adjustment, including over the next three years:

- Fast-tracking divestment of government shares
- Closure and/or amalgamation of different government departments and entities
- Outsourcing to the private sector "shall also be pursued vigorously"
- Overall cutting back of government expenditure and "modernizing" of government systems...

There is no reason to delay elections for a further 5 years. While Bainimarama's speech mentions "dialogue" and "consultation", the regime's current suppression of the media, public debate and civil society action, with the Public Emergency Regulations (2009), means there can be no real consultation, discussion or mandate given for these changes. The military has repeatedly made it clear that opposing views are neither welcome nor permitted. This is an ongoing violation of freedom of expression, and the right to participate in the decisions that affect the lives of Fiji citizens, and further marginalises vulnerable groups, including women. The proposed process of law reform by the military regime is merely window dressing for its true agenda of legitimising its hold on power.

Structural adjustment:

These economic measures suggested by Bainimarama, are mainstream structural adjustment policies. The structural adjustment programmes of the 1980s and 1990s, left a devastating impact on the lives of Fiji's people and to some extent the reverberations continue to be felt today. One of the crudest consequences of structural adjustment in Fiji was our transition from a middle-income country to a low-wage economy five years after the 1987 coup. In Fiji at the time, wage and salaried workers constituted only one third of the total labour force. The majority of adults were subsistence workers (with no or negligible income), unpaid homemakers or officially unemployed. With no fixed or regular cash incomes, they nevertheless increasingly depended on the market economy for their subsistence. When consumer prices increase or when income levels deteriorate, they directly erode the condition of life for people in the subsistence as well as the formal sectors of the economy.

Structural adjustment programmes essentially violate human rights by shifting the responsibility away from the State for ensuring an adequate standard of living for all, instead assuming that "the market will provide". Experience from around the world has shown that the roll-back of the state and putting essential services into the hands of private profit-driven entities does not ensure better services, but instead further restricts access to these services – particularly for the poor, including women, rural dwellers and other marginalised groups. Fiji's civil society is particularly concerned about the early moves towards the privatisation of water services. Under the current regime, where community voices are silenced, there will be little redress for Fiji's people. This second round of severe economic policies by a military dictator in Fiji will only help further entrench the conflict cycle, as people struggle with the frustration of trying to meet their daily needs. As noted in the 1990s, this type of structural adjustment "has the potential to undermine the very basis of democracy that we are trying so hard to restore."⁹

Advancement in women's rights must be viewed through the prism of a fully fledged military dictatorship in which the rule of law has been suspended, democratic elections are a mere chimera, and in the absence of human rights in Fiji.

Article 1: Definition of discrimination

The Concluding Comments on Fiji (2002) recommends that the Constitution contain a specific definition of discrimination against women. There is a general discrimination clause which covers gender discrimination and sexual orientation, as well as direct and indirect discrimination in section 38 as pointed out in the State Report. However, the definition does not cover the multiple layers of discrimination faced by women eg. HIV/Health status, reproductive health status, and marital status are not included.

⁹ Ram, K., 1994. The analysis on structural adjustment is taken from FWRM human rights update to partners, 2nd July, 2009.

The NGOs represented in this Report do not accept the purported abrogation of the democratic Constitution of 1997, and maintain that the rule of law is the bedrock of democracy and human rights. We go about our daily lives not because we acquiesce in Bainimarama's so-called new legal order, but because we have no choice but to conduct our lives with some semblance of order, so that our children can have some normality of existence. Until an independent court of law rules otherwise, we regard the Bill of Rights and the Constitution of Fiji 1997 as extant.

The State Report does not present a full picture of the legal framework and the status quo. Fiji's constitution does not grant women full equality in substantive terms. Protection against sex or gender discrimination is not the same thing as full equality. It is therefore critical that women's rights to equality, as well as non-discrimination, are secured in the constitution itself and not only in other legislation.

Fiji does not have stand-alone, comprehensive anti-discrimination legislation. However, some elements of anti-discrimination are covered in the Human Rights Commission Act 1999.

The effective enforcement of constitutional rights is affected by the lack of easy access to the courts of law and the costs of lawyers or the need to use the FHRC. Due to the actions of its former Director (not the Commissioners), the FHRC since early 2006 is a compromised institution which has openly aligned itself with the military regime, and is able to choose cases at its own discretion. Its various published Reports (cited in the current State Report itself) make this unequivocal. So far no cases on gender equality or non-discrimination on the grounds of gender have been filed in court since the inception of the FHRC. For constitutional redress there are complicated rules of procedure which depend on access to lawyers and funds.

We note the mention of the Employment Relations Promulgation 2007 (ERP) by military decree in the State Report, which purports to extend various grounds of non-discrimination to the employment sector. We do not recognise the validity of the ERP as it was imposed through an illegal process and on 10 April 2009, the Court of Appeal ruled that the actions of the Interim Military Government headed by Commodore Bainimarama were all illegal. As a result of the court decision, Bainimarama purported to abrogate the Constitution and dismiss the judiciary, through a puppet President controlled by the military, as ostensible Head of State. Fiji is effectively a fully fledged military dictatorship.

The Constitution of Fiji, together with the Fiji Human Rights Commission Act 1999, would appear to allow for the horizontal enforceability of rights. However this interpretation is yet to be properly tested. There is no clear court case explicitly stating that the private sector or other NSAs are also bound by the Bill of Rights. For example, in the tax exemption zones in Fiji, which hire extremely large numbers of women in privately owned garment or other manufacturing factories, it is not clear whether exploitative labour conditions can be challenged on constitutional or human

rights grounds. This legal impediment needs to be addressed legislatively with clear and unambiguous language.

Sexual Orientation

“Fiji is one of only a handful of states that has given constitutional recognition to the rights of sexual minority groups.”¹⁰ Fiji's 1997 constitution bans discrimination on the basis of sexual orientation. In particular, Section 38 (2) of the Bill of Rights reads as follows:

2) *A person must not be unfairly discriminated against, directly or indirectly on the ground of his or her:*

a) *actual or supposed personal characteristics or circumstances including race, ethnic origin, colour, place of origin, gender, sexual orientation, birth, primary language, economic status, age or disability.*

However, under the Penal Code of Fiji, s 175 (a) and (c) sodomy is a criminal act. In the landmark case of *Nadan v McCosckar*,¹¹ two adult men were prosecuted under the Penal Code, Cap 17, for engaging in a homosexual act in a hotel room. The Penal Code only allows for prosecution of men, not women.¹² The Fijian High Court ruled that the Bill of Rights, supported by international human rights standards, granted protection of the right to privacy for sexual minorities. The court made it clear that its decision was based on the privacy provisions of the constitution rather than non-discrimination provisions. Although the right to non-discrimination on the ground of sexual orientation was raised in submissions, it was not canvassed in the judgment. The issue of whether the relevant provisions are discriminatory awaits further argument. There is some basis for suggesting that the apparent neutral character of the legislation is contradicted by the actual practice of applying them only in sodomy cases involving males. The Director of Public Prosecutions could not point to any example of prosecution against a heterosexual person for sodomy and the court accepted the argument raised by the Fiji Human Rights Commission that the law was selectively enforced against male homosexuals.¹³

Despite the protection of sexual minority rights under the Constitution of Fiji, there has been backlash from prominent churches such as the Methodist Church of Fiji as well as well-known politicians and leaders. The Methodist Church held a rally in 2006 protesting same-sex marriage regardless of the fact that Fiji's constitution contains no provisions that would allow for gay marriage. When the group applied to the government to hold a second rally, their application was refused¹⁴ reportedly because the Fiji Human Rights Commission warned that permitting further marches

¹⁰ George, N., 2008. pg 163

¹¹ Criminal Appeal Case Nos: HAA 85 & 86 of 2005, 6 August 2005 (Fiji) analysed in Jalal and Madraiwiwi 2005, 30.

¹² Sections 175 and 177 Penal Code Cap 17, acts of carnal knowledge against the order of nature and acts of gross indecency.

¹³ Jalal, 2009. pg 53

¹⁴ Amnesty International Report, 2006.

by the group would be tantamount to encouraging hate crimes¹⁵. A reverend from the Methodist Church in Fiji and the vice president of a Muslim organization reportedly issued a release that said that gay people should be killed.¹⁶ Public statements such as homosexuals should be ‘put to death and destroyed’¹⁷ reinforce hatred and myths about homosexuals. Another Methodist church organizer recently stated that condoning homosexuality would bring “our country” under a curse ... a tsunami like that which hit Indonesia.”¹⁸

On a recent TV show *Stanley at 7* that was aired on Wednesday 15th July, 2009, Pastor Atu Vulaono, brother of the military Commissioner of Police, head of the New Methodist Church, whose particular brand of Methodism is being propagated in the Police forces, commented that homosexuals and lesbians will not inherit the Kingdom of God and are polluting the nation. He also made remarks about kicking and punching people who committed such acts.¹⁹ Such public statements have led to human rights violations of the LGTBI community and many have been verbally, psychologically and even physically abused.

Women and Disability

General Recommendation 18 highlighted the concern that women with disabilities suffer from double discrimination linked to their living conditions and should be considered as a vulnerable groups under the heading “areas of special concern.” Disability groups report a high incidence of disabilities caused by police brutality. Fiji has a National Policy on Persons Living with Disabilities [2008 - 2018]. This policy was endorsed by the Interim Administration on the 4th of November 2008. The policy has 16 strategic priorities and objectives; priority 5 relates to women and children with disabilities. However there is lack of awareness on this policy. The major challenge is the implementation of this policy by the Interim Administration. Fiji has neither signed nor ratified the Convention on the Rights of Persons with Disabilities [CRPD].

Although discrimination on the grounds of disability is prohibited in the constitution women and girls with disabilities continue to be one of the most marginalised groups in our society as they are multiply disadvantaged through their status as women, as persons with disabilities and are over represented amongst persons living in poverty. Women and girls with disabilities to a greater extent than boys and men with disabilities, face discrimination within the family, are denied access to health care, education, vocational training, employment and income generation opportunities and are excluded from social and community activities. It is critical that comprehensive legislation making the right to a life free from discrimination a reality, is passed and enforced.

¹⁵ Amnesty International Report, 2006.

¹⁶ International Lesbian and Gay Association, 2005.

¹⁷ Women’s Action for Change, Sexual Minorities Project Press Release 2 September 2005

¹⁸ Fiji Sun, 23 June 2005

¹⁹ Phone interview (Thursday 16th July, 2009) with Stanley Simpson, host of *Stanleys at 7, Mai TV*

Recommendations:

1.1 That the definition of discrimination be democratically amended to include non-discrimination on the grounds of marital status, health status and reproductive health status.

1.2 That the Constitution be democratically amended to include a specific definition of discrimination against women as embodied in CEDAW.

1.3 That the Constitution be democratically amended to ensure the right to substantive equality in the Bill of Rights. It is critical that women's rights to equality are secured in the Constitution itself and not only in other subordinate legislation so that it is difficult to change it.

1.4 That the Constitution be democratically amended to make human rights in the constitution specifically apply to the private sector as well as the public sector, without ambiguity. For example, the amendment could read - 'This Bill of Rights applies equally to all citizens including the public and private sector' or words to that effect.

1.5 That there be access to the courts of law directly without the need for lawyers or the FHRC by a simple petition process, as in India, on constitutional matters.

1.6 That given the link between women's human rights, the rule of law and democracy, that the Concluding Comments recommend to the State, a speedy return to constitutional democracy through immediate elections. and that any changes to legislation will take place within the rule of law and a legislative democracy.

1.7. That the state respect and uphold the 1997 Constitution of Fiji that guarantees the protection of sexual minority rights.

1.8 That the Penal Code s 175 - s 176 be amended to reflect the protection of minority rights granted in the Constitution,

1.9 That the State holds state actors and non state actors accountable for making hate speeches and inciting violence against sexual minorities.

1.10 That the State ratify the Convention on the Rights of People with Disabilities and pass concomitant legislation realising the goals of the Convention.

Article 2: Obligations to eliminate discrimination

VAW Questions will be addressed mainly under GR19 below. In the State Report the Fiji Human Rights Commission (FHRC) is dealt with here. We will deal with it under Art 3.

From a gender justice perspective, Fiji has made some progress in implementing CEDAW since 2004, but mainly in the area of family law.²⁰ In November 2005 the Family Law Act 2003 was implemented with the opening of the new Family Law divisions of the courts. The new law removes systemic discrimination against women and children consistent with CEDAW Articles 1, 2, 3, 5, 14, 15 and 16. By passing this law, Fiji immediately improved its legislative compliance with CEDAW up to 44 per cent, making it the leading country in the region of the nine assessed on legislative compliance.²¹

Women's NGOs in Fiji successfully mobilised around the Concluding Comments of the CEDAW Committee on Fiji's First State Report 2002, which recommended that Fiji pass new family law legislation to get family law reform back on the legislative agenda after the coup d'état of 2000. The State has incorporated CEDAW specifically in the Family Law Act 2003 by reflecting principles of equality in substantive provisions of the Act and by specifically requiring the application of CEDAW and CRC to family law, 'A court exercising jurisdiction ...must...have regard to(e) the Convention on the Rights of the Child (1989) and the Convention on the Elimination of All Forms of Discrimination against Women (1979)'.²² No other legislation reflects CEDAW principles or standards. The question of de facto compliance in family law will be addressed in Article 16.

General implementation of CEDAW principles is weak in Fiji and even where there is political commitment on the part of government; there are insufficient resources either available or allocated to implement the standards in CEDAW. Fiji has only demonstrated marked advancement in the implementation of CEDAW where strategic partnerships between government and women's NGOs have together effectively harnessed the most efficient technical capacities and resources for maximum impact. The Family Law Act 2003 is one such example.

Article 43 (2) of the Bill of Rights in the Constitution of Fiji states:

*In interpreting the provisions of this Chapter, the courts must promote the values that underlie a democratic society based on freedom and equality and must, if relevant, **have regard to public international law applicable to the protection of the rights set out in this Chapter.***

The courts have not been reticent about using such a provision to apply conventions to domestic law in innovative and creative ways. Examples from Fiji include the case

²⁰ UNIFEM Pacific, 2007.

²¹ Jalal, 2009.

²² Fiji Family Law Act (2003), Section 26 (e)

of *State v Bechu*,²³ in which the Magistrate chastised the accused during rape sentencing stating:

*Women are your equal and therefore must not be discriminated against on the basis of gender. Men should be aware of ... CEDAW which our country ratified ... Under the convention the state shall ensure that all forms of discrimination against women must be eliminated at all costs. The courts shall be the watchdog of this obligation. The old school of thought that women were inferior to men or part of their personal property, that can be discarded or treated unfairly at will, is now obsolete and should no longer be accepted by our society.*²⁴

These attitudes are not commonplace in the magistracy and ought not to be taken as indicative of magisterial attitudes in general. However they are reflective of a growing trend of willingness to apply women's international human rights standards if domestic legal provisions allow it, and if lawyers make the appropriate submissions.²⁵

A number of other cases have referred to the use of various UN human rights Conventions, reflecting sound gender and human rights training of Judges and Magistrates.²⁶ This indicates that lawyers and advocates are able to directly cite the CEDAW Convention in court. These impacts are a result of judicial and lawyers' training by organisations such as the Pacific Regional Rights Resource Team (RRRT/SPC). However there is still need for sustained training on CEDAW and other international human rights laws, as domestic application is varied and inconsistent.

The State Report is accurate on the research done in various areas. However, this has not translated into new policy or legislation even before Parliament was unlawfully removed in December 2006. In all other areas except family law, there are substantial conflicts between national laws or practices and the CEDAW Convention – VAW in both criminal and civil codes, employment, health, land rights for women etc. Where there is a conflict between national laws and the CEDAW Convention, national laws automatically take precedence. If there is a plan for legal reform such bills must go through a legislative process in a democratically elected Parliament.

Apart from the Family Law Act 2003 there has been no legislation enacted as a means of incorporating the CEDAW Convention into domestic law and to make discriminatory acts in the public and private actors actionable. There is no such legislation as an Equal Opportunities Act, Gender Equality Act or Anti-Sex Discrimination Act. The majority of steps that have been taken to ensure that women are informed about their rights are done by NGOs and other organisations. There has been some good collaboration between the national machinery of women and women's NGOs prior to December 2006 when the military regime took over government. The Government process for measuring the practical realisation of the

²³ Magistrate Nadakuitavuki, Criminal Case No 79/94

²⁴ Jalal, 2009.

²⁵ Jalal, 2009.

²⁶ Jalal & Madraiwiwi, 2005, 2008

principles of equality and non-discrimination and for monitoring discriminatory practices is not known.

CEDAW General Recommendation 19 and VAW

The 2002 Concluding Comments noted with concern the high incidence of VAW; the social customs on the husband's right of chastisement; the traditional "*i-bulu bulu*", giving social legitimacy to violence; proposed reforms on sexual violence which had not been adopted; the need for new laws on domestic violence and the need for the early passage and entry into force of the Evidence Bill.

The Reserve Bank of Fiji has estimated that violence against women costs the Fijian economy close to FJD300 million a year, 7 per cent of the GDP. Of this, 97 million is in direct costs borne by victims and their families; and government spends a further 200 million annually on welfare, law enforcement and health care for complainants. If opportunity costs are added, the figure could be higher and possibly closer to FJD500 million. It was concluded that the estimated direct cost of violence against women of about FJD300 million was equivalent to the Fiji government's budget deficit; the government total borrowing; the total government capital expenditure; the total income taxes expected to be collected; the total Value Added Tax estimated to be collected; and was greater than the total budget allocated to all the law and order agencies of government in 2003.²⁷

Cultural and religious fundamentalism is on the rise in Fiji. This promotes and reinforces conservative ideas and myths about women and their rights. Some chiefs and leaders are reinforcing the traditional role of women as primary caregivers and homemakers. The assertion of rights by women is often blamed for family breakdown, sexual abuse within the family and also for violence against women. Sexual assault and violence against women is condoned, reporting of violence is discouraged and women are counselled that it is a "sin" to divorce or separate by many religious leaders. The Ministry for Women has set up a "Zero Tolerance to Violence Community" in Lautoka, the second largest town in Fiji. This pilot project focuses on training the community to minimise violence against women in the community. However the emphasis is on women's behaviour and non-reporting of violence. As one woman said in her testimony about the project, "*I have learnt about my role and how I can prevent violence. I should do my work in the house and not gossip.*"²⁸

Sexual Assault

The State Report accurately refers to the *Balelala* decision. The Office of the DPP's public prosecutor argued for the removal of the discriminatory corroboration legal practice using amongst other things, Section 38 of the Constitution and CEDAW. The Court agreed that the legal practice was unconstitutional but advised that legislation

²⁷ Narube 2002, discussed in Jalal, 2009.

²⁸ Fiji TV One, News Item, 25 November 2008.

might be necessary to put any residual question to rest. Legislation to remove the practice has not been passed to date.²⁹

Apart from the removal of the discriminatory corroboration practices in sexual assault cases through a new precedent in the **Balelala** case, the following features of sexual assault laws remain and include – defining rape as limited to penile/vagina rape and not including assault with other objects, rape with other objects become ‘indecent assaults’ subject to lesser penalties; not specifically providing for prosecutions for marital rape (i.e. specifically removing marital immunity); defining consent from the view of the offender rather than the female complainant; allowing the complainant’s past consensual sexual experience to be admitted as evidence against her credibility and/or not specifically legislating against it ; not legislating against the common law practice of the requirement of physical ‘proof of resistance’ which requires complainants to prove that they fought their assailants to escape, in order to be believed that they were raped.³⁰

Box 2. Fiji Sexual Offences Unit

Fiji has the Sexual offences Unit (SOU) which has trained police officers to interview the victims of sexual offences. There are 3 SOUs for the whole of the country - located in Suva, Lautoka and Labasa. While the SOU Officers deal with the victims, they do not investigate the individual cases. The cases are referred back to the local police station where the incident occurred and Investigating Officers are tasked with carrying out further investigations for the case. This leaves room for many gaps as well as delays for most cases.

The SOUs are poorly resourced and limited to certain geographical areas- only three throughout the whole country. This often means that there are many sexual offences cases where the victim/ survivor is being dealt with by untrained police officers who are not aware of police procedures. For example in some cases, the victim is not taken for a medical examination on time (within 72 hours when she does report within this timeframe) and this leads to the loss of potential evidence. In addition, prevailing attitudes continue to be that of non-belief of the victim’s story and lack of appropriate support provided to those who do report. For example in a recent case of rape of a 12 year-old girl by a 27 year-old family friend, the Investigating Officer asked the mother of the victim to bring her daughter in for further questioning. The complainant was made to face the offender and the offender was asked “Did you rape this girl?” (testimony to an FWCC counsellor) This was all done in the Police Station where other Police Officers were present and some of the fellow neighbours from the settlement who were there to support the offender. Unless cases are monitored, victims are likely to be dealt with in such a manner.

Anecdotal evidence suggests that there are slightly higher rates of detection prosecution and conviction, where such units exist but there is no methodical research in the area. It is likely that a combination of policies and special units will enhance rates of detection and conviction of VAW generally.

Source: Fiji Women’s Crisis Centre, 2009

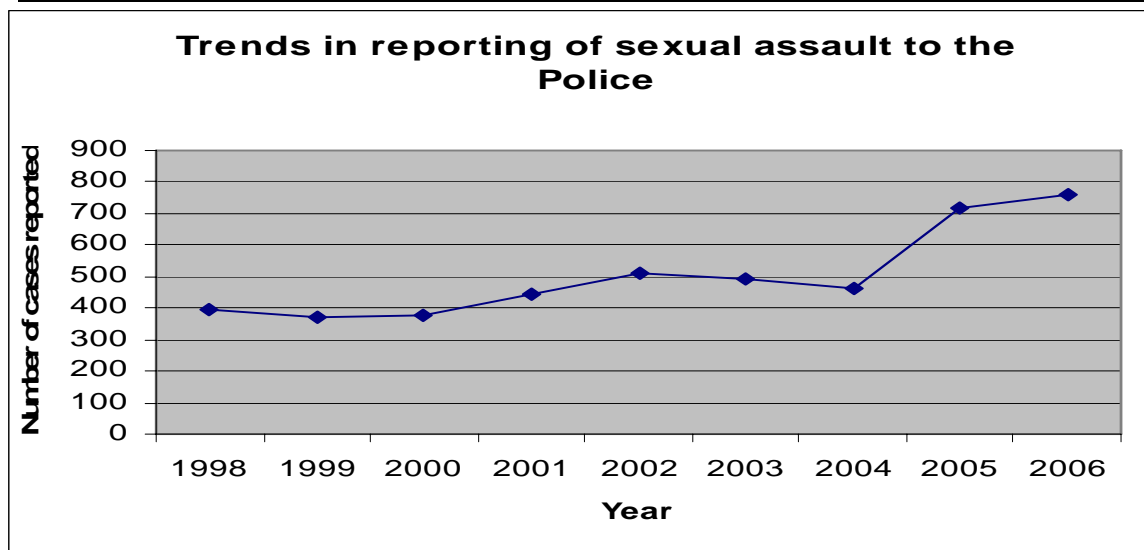
²⁹ Jalal, 2009.

³⁰ Criminal Code, Cap.1, 1966, s.153 93;

Table 2. Crimes of “Public Morality” Offences	1998	1999	2000	2001	2002	2003	2004	2005	2006
Rape & attempted rape	91	88	95	78	112	88	92	138	162
Indecent Assault	107	104	90	118	145	113	120	142	156
Defilement of girl under 13	3	13	14	6	11	13	8	7	25
Defilement of girl between 16-13	74	59	52	50	73	93	67	74	59
Incest	10	9	10	8	15	9	3	2	7
Unnatural Offences	18	7	8	18	18	19	14	15	5
Other crimes against public morality	94	88	107	163	137	155	157	340	349
Total	397	368	376	441	511	490	461	718	763

Source: Fiji Police Force made data available to the Fiji Women’s Crisis Centre

Table 3. Reporting Trends



The data above demonstrates increased rates of reporting and possibly increased incidences of sexual violence in Fiji overall. It is not clear whether only the reporting

rates have increased, or there are also greater rates of sexual violence. It is widely accepted that the vast majority of sexual violence is probably not reported.

Although under the rubric of “defilement”, the vast majority of such cases are actually what is known as “statutory rape” in most Western countries. Prosecutions tend to proceed under defilement rather than rape because for Police Prosecutors and other prosecuting lawyers from the Office of the Director of Public Prosecutions (DPP) it is legally and technically simpler to prosecute defilement, which does not require proving lack of consent, than rape, which does. Defilement attracts significantly lower sentences than rape which has a maximum term of life imprisonment. This is unacceptable and all forms of sexual violence ought to be prosecuted under one offence of sexual assault with graded harm and commensurate sentencing depending on the level of harm and injury.

Domestic Violence

The following table reveals some patterns of domestic violence in Fiji.

Table 4. Fiji Women’s Crisis Centre (FWCC) National Survey on Violence Against Women³¹	
Women who had been beaten at least once	66%
Women who had experienced repeated physical abuse	30%
Women who reported being hit while pregnant	44%
Women who report to FWCC who also reported to the Police	40%

The Fiji Police Force statistics have recorded a downward trend in cases of domestic over the past 6 years, from 2001-2007. The police data also shows that domestic violence makes up around 13% of all crimes against the person in the period from 2003-2007. During this period women made up about 82% of victims while men made up around 18%. For 2007, the Police recorded a total of 457 cases of domestic violence throughout Fiji.

³¹ Fiji Women’s Crisis Centre, 2002, Sample size: 1540

Table 5. Domestic Violence by Sex 2001-2007 ³²									
Year/Sex	Murder	Attempted murder	Man Slaughter	AWITCGH*	AOABH*	Common Assault	Other Offences Against Person	Total	% Rep Total
Male	0	0	0	14	94	25	1	134	14%
2001									
Female	0	0	0	45	698	54	10	807	86%
Total	0			59	792	79	10	941	
Male	1	0	0	12	19	28	0	60	7%
2002									
Female	1	0	0	62	626	57	3	749	93%
Total	2	0	0	74	645	85	3	809	
Male	2	0	0	11	127	20	11	171	22%
2003									
Female	3	2	1	54	463	52	29	604	78%
Total	5	2	1	65	590		40	775	
Male	0	0	0	12	107	19	6	144	21%
2004									
Female	3	0	0	51	422	43	19	538	79%
Total	3	0	0	63	529	62	25	682	
Male	0	0	0	8	37	16	5	66	10%
2005									
Female	2	0	0	32	470	59	11	574	90%
Total	2	0	0	40	507	75	16	640	

³² AOABH (Assault occasioning actual bodily harm); AWITCGH (Act to cause grievous bodily harm). The table represents the total no of domestic violence cases recorded by the Police as crime reported from 2001-2007. AOBH is the most common offence. Source: Fiji Police Annual Report, 2007

Male	0	0	0	10	93	7	6	116	22%
2006									
Female	2	0	0	31	320	35	12	400	78%
Total	2		0	41	413	42	18	516	
Male	0	0	0	14	38	9	6	67	15%
2007									
Female	1	0	0	33	311	34	11	390	85%
Total	1	0	0	47	349	43	17	475	

It is important to analyse these figures in relation to the context in Fiji, as well as the reporting by women to other agencies. For example the Fiji Women's Crisis Centre and its branches in Ba, Labasa and Nadi, recorded a total of 685 new clients³³ for domestic violence, 228 more than that reported to the police. A further 811 women came to FWCC and its branches for repeat visits, in relation to domestic violence. The fact that the Fiji Women's Crisis Centre and its branches do not have the extent of outreach of the Fiji Police Force, is a very clear indication that domestic violence is hugely under reported to the Police. This is particularly acute given that only approximately 40% of women accessing FWCC services for domestic violence, report to the police. Not all women who report cases of domestic violence to the Fiji Women's Crisis Centre and its branches choose to report to the Police even though this option is discussed with them. Overall the percentage of new FWCC and Branch clients reporting domestic violence to the Police has declined from 2006 to 2007. This is not surprising, given that even before the coup of 2006, there were already many problems with long delays in cases being processed by Police and dealt with by the Courts.

Since 2002 there have been no legislative changes in the area of VAW except that the new Family Law Act 2003 provides for the granting of protection orders by courts. Implementation of the Family Law Act in Fiji has improved protection for women through the use of restraining orders. However, the overall approach taken by court counsellors' favours reconciliation, even in cases of extreme violence. This approach to resolving custody and maintenance disputes systematically undermines women's rights. Other challenges include lack of action and delays by all service-providers including the police in dealing with victims/survivors of VAW, and a lack of enforcement of Family Court orders by the Police, some of whom remain unaware of the most basic provisions of the new legislation and their responsibilities for implementation.

³³ Fiji Women's Crisis Centre, 2009, new clients refers to women reporting to the FWCC for the first time.

There is no legislation specifically legislating against the use of customary or traditional forgiveness ceremonies affecting sentencing and punishment as was recommended in the Concluding Comments. The constitution needs to be amended to state that where there is a conflict between women's rights to equality and custom, the former should prevail.

Domestic violence laws

The following features of disadvantageous domestic violence laws and practices remain and have not been addressed since the last Report in 2002 despite high quality research by various organisations, especially that by the Fiji Women's Crisis Centre:

- there is no specific domestic violence criminal or civil legislation and domestic assault is prosecuted under general assault laws, giving domestic violence no special status, nor treatment, by justice agencies;
- Traditional and modern reconciliation, forgiveness practices and ceremonies are still implicitly used to legitimise VAW, and justice agencies widely encourage forgiveness and reconciliation, both in the informal or village courts, or the national level courts which administer formal law. The effect of this is that there is either no prosecution, finding of guilt and punishment deserving of the crime or the forgiveness is used to lessen the punishment.

The attitude of the police and courts to domestic violence

With some notable exceptions there is still a general unwillingness to exercise powers of arrest, to lay charges and to follow through with criminal prosecutions. As domestic violence is considered a minor criminal assault, prosecutions are generally conducted by untrained non-lawyer police prosecutors in the lower courts. This decreases the likelihood of securing criminal convictions. In a Fiji case in the Magistrate's Court recently, a female prosecutor lawyer said that the magistrate had asked the complainant wife: 'Why did you get beaten?' rather than to ask the husband why he beat his wife.³⁴

No drop prosecution policies

There has been some anecdotal evidence to suggest improvements to rates of prosecutions in PICTs where police and prosecution offices have introduced 'No Drop' policies of prosecution, regardless of the view of the forgiving wife/partner. This means that the Police are not permitted to drop the prosecution of the offender even if the spouse is unwilling to pursue a prosecution after first having laid criminal charges. However, these are policy decisions, which cannot be enforced by the courts, as they are internal organizational policy. Such policies can be enforced by internal disciplinary measures only. The policies require police to follow through with prosecution following incidences of domestic violence, without any discretion

³⁴ Pacific Regional Rights Resource Team (RRRT), Annual Regional Lawyers' Human Rights Training, Port Vila, Vanuatu, 13-17 October, 2008. Discussed in Jalal, 2009.

being exercised. These policies have been applied inconsistently depending on the commitment of the police commissioners and the monitoring by women's NGOs. Some police officers continue to reconcile cases that are reported to them. According to one senior Police Officer, if they reconciled cases this would assist in reducing the overall crime rate. Many women's NGOs are of opinion that prosecutions and sentencing must be mandatory and secured in legislation.

2008 Reintroduction of No Drop Policy

The "No Drop Policy" was first established in 1995 under Police Commissioner Savou after close collaboration with FWCC. The reason for its implementation was mainly due to the fact that a huge number of women withdrew their complaints of criminal assault in the home, after filing or charging. The issue of criminal assault in the home should be approached with great sensitivity and understanding about gender stereotypes and gender inequality. Enhanced knowledge on the dynamics of criminal assault in the home and its effects on women, allows the Police or any other organization working in the area of violence against women to understand why many cases are dropped or withdrawn by the complainant. This saw an increasing need for a policy which would disallow the Police to drop charges if the complaints were withdrawn. Simply put this would mean that once a case was filed it would ultimately end in Court.

The State reports, that the No Drop Policy was introduced in 2008. This is misleading in terms of a gender analysis. The reality is that its reintroduction in 2008 referred to "No Dropping" of charges to all kinds of assault cases and NOT specifically to criminal assault on women in the home. The main reason for this was that there was an alleged attack on a police vehicle. The present Police Commissioner is a former senior military officer, who has introduced a military-style enforced discipline within the Police, whose primary purpose is to serve and protect the public.

This reintroduction of the No Drop Policy shifts the attention away from its initial purpose, to effectively deal with crimes of domestic violence against women.

Sentencing of offenders

A considerable challenge is courts rarely award custodial (prison) sentences that reflect the seriousness of the crime; despite the fact that domestic violence is a recidivist or repeated, habitual crime. Courts tend to give bind-over (probationary type) orders, which command the offender not to commit another crime for a specified period. If the offender does commit the crime again, he will be punished for the original crime. It is in effect a 'keep the peace' order. However, in practice, the courts usually refuse to imprison a 'breadwinner' even when a further crime is committed. Crimes against theft or damage of property regularly attract greater sentences. Courts routinely say that that if they imprison a breadwinner there will be no-one to financially support the family. Interestingly, the only time this justification is ever used is in domestic violence cases and not in mainstream criminal cases. As a matter of policy courts should order a 24-hour jail sentence to mitigate the breadwinner argument or imprison at night only. There have been some haphazard

improvements to lengths of sentences for domestic violence offenders, but this is still dependent on individual judicial attitudes. The - no imprisonment of the 'breadwinner' philosophy still largely prevails.

Legislation on protection orders in family law

Fiji has a new legislative basis for civil protective orders in the family law. The problems with the new provisions in Fiji lie not in its legislative framework, but in the inability of enforcement agencies to understand the new legislation, to leave the unwieldy and inefficient old system of enforcement behind, and in the attitudes of police officers who are supposed to enforce the new legislation. Powers in the legislation are broad and sweeping, but the police and various court officials appear not to understand what is required of them under the new law, despite the clear and simple procedures. The new law has enjoyed moderate success in Suva where there is a full time dedicated Family Court, with four dedicated family court magistrates, and effective NGOs which closely monitor the implementation of the new law.³⁵ The legislation is gender-neutral and applies only to persons married by law.

Magistrates and women's NGOs say that the biggest problems are a lack of training in the new legal regime, and the historic recalcitrance of police and enforcement officials to imprison men for what has always been regarded as culturally acceptable behaviour. However, for the tenacious domestic violence survivor, and the women's NGOs that support them, the new provisions have been innovative and useful.³⁶

In Fiji, in 2005, the report of the review of laws relating to domestic violence, and backed by the Fiji Women's Crisis Centre, and proposed draft legislation was released into parliamentary papers. This provided women's rights groups with a specific tool to initiate the lobbying process. However, the coup de'tat of December 2006 and events following limited the space for democratic law reform and has led to the standstill of any progress of work in this area. The draft is sweeping and its innovations include - the covering of a variety of intimate relationships and various forms of abuse; for police to have the power to apply for a restraining order and to assist with the collection of personal property. There is also a provision to enable a police officer to make an application for a restraining order by telephone, in the victim's presence, to a presiding judicial officer.³⁷

Recommendations on VAW:

2.1 That stand-alone comprehensive integrated legislation addressing all forms of violence against women, including sexual assault, domestic violence, sexual harassment, and trafficking, harmful traditional practices is passed consistent with that proposed by UN DAW's Model Legislation of VAW.³⁸

³⁵ Fiji Women's Crisis Centre and the Fiji Women's Rights Movement.

³⁶ Jalal 2008.

³⁷ Kotoisuva, E., Fiji Womens' Crisis Centre, Suva, Fiji, personal comm., May 2008

³⁸ Report of the expert group meeting on good practices in legislation on violence against Women, 2008

The draft sexual assault legislation proposed by the Fiji Women's Rights Movement and largely accepted by the Fiji Law Reform Commission at the time has some of the following necessary features:

- 2.1.1 The grading of sexual assault to reflect degrees of harm including penetration of all orifices;
- 2.1.2 Expanding the definition of assault to include all forms of sexual assault including assault with an object;
- 2.1.3 Removing the corroboration warning by legislation;
- 2.1.4 The removal of the need to demonstrate proof of resistance on the part of the complainant to demonstrate lack of consent;
- 2.1.5 The forbidding of questions of the complainant's past sexual history with men other than the accused by the accused person's lawyer;
- 2.1.6 Allowing the prosecution of marital rape, that is, removing marital immunity and making spouses competent and compellable witnesses;
- 2.1.7 Forbidding the use of ceremonies of forgiveness like the *bulubulu*, to influence prosecution, the trial and sentencing; and
- 2.1.8 The recognition of sexual harassment as a civil offence within the workplace.

2.2 That amendments to domestic violence law proposed by the Fiji Women's Crisis Centre, include but are not limited to the following:

- 2.2.1 Making domestic violence both a specific criminal offence punishable by imprisonment; and a civil offence attracting protection orders;
- 2.2.2 Making prosecution mandatory;
- 2.2.3 Making all forms of marriage legally recognized so that any person in a domestic relationship of some sort is entitled to a protection order;
- 2.2.4 Granting authority to trained 'authorized persons' in remote villages to give special temporary protection orders to women who are being beaten;
- 2.2.5 Making it illegal to use culture, custom or the payment of compensation as a defence to a prosecution or the granting of protection orders;
- 2.2.6 Allowing for court orders and hearing dates to be obtained by telephone or fax;
- 2.2.7 Removing various legal impediments which prevent successful prosecution. The Police must have extensive powers to arrest without a warrant. They ought to be able to investigate an offence and charge on the basis of a specific domestic violence offence.
- 2.2.8 As a matter of policy courts should order a minimum 24 hour jail sentence to mitigate the "breadwinner" argument, or imprison at night only.

Article 3: Guarantee of basic human rights and fundamental freedoms

The Ministry for Social Welfare, Women and Poverty Alleviation has set in place the Women's Plan of Action 1998-2008 (WPA), however there has been a limited budget set aside for the Women's Plan of Action. A review was conducted in 2005 and the Government has approved the recommendations to include two new areas of concerns 1) Formal sector employment and livelihoods and 2) health and reproductive health. The revised WPA for 2009-2018 areas of concern are:

- a) Women and the Law (retained)
- b) Formal sector employment and livelihoods (new)
- c) Health and Reproductive Health (new)
- d) Women and Gender and Decision Making;
- e) Elimination of Violence Against Women and Children (retained)

The national women's machinery initially began as a Department of Women that grew out of the long established Women's Interest office established in colonial times as an arm of the Department of Native (Fijian) Affairs and later grew under the Regional Development Ministry. The main focus was programs aimed at encouraging Fijian social development and family welfare.

The Women's Interest Officers (WIOs) worked mainly at divisional and district levels to encourage the development or rural women's skills in cooking, sewing, child care, health, hygiene, nutrition and handicrafts.³⁹ The major NGO partner was the Soqosoqo Vaka Marama (SVM), a non government indigenous Fijian women's organisation with branches in most Fijian villages, led by women from the Fiji Island's chiefly ranks.

The first ministerial representation of women began in 1987 and the Department became known as a Ministry for Women. The Ministry for Women portfolio has moved administratively six times. It is now known as the Ministry for Women Social Welfare and Poverty Alleviation (MWSWPA). It is headed by an interim Minister who is a woman. The Director is a woman.

The Ministry has a Permanent Secretary, a Director, two Principal Administration Officers and 46 established and nine un-established staff. Of the 16 Women's Interest Officers, only one is Rotuman and two are Indo Fijians. Race continues to be an issue. Due to the history of the establishment of the national women's machinery and the absence of a proactive EEO policy, the implementation and rural outreach of the Women's Interest officers have continued to be primarily with rural Fijian women.

The 2009 budget allocated to the Department for women was approximately \$1.7 million.⁴⁰ This represents 0.15% of the Government's operating budget. The military budget is \$94,332 million which is 8.6% of the total operating budget.

³⁹ Asian Development Bank, 2006, Country Gender Assessment, Republic of the Fiji Islands

⁴⁰ Fiji Budget Estimates 2009

Of this budget \$350, 000 was allocated to implementing the Women’s Plan of Action. There was an NGO grant of \$100,000.

The role of the Department of Women within the Ministry of Social Welfare, Women and Poverty Alleviation is to reduce poverty through the empowerment of women and mainstreaming of women and gender issues.

Unfortunately the National Women’s Machinery is under resourced and is responsible for the gender policy goals, KRA and KPIs in the overall mid term Sustainable Economic, Empowerment Development Strategic (SEEDS) Plan 2008-2010. As the Ministry is not a policy agency, but a line department mainly providing community based development services to largely Fijian women, this is a huge challenge. The Ministry is responsible for the implementation of the women’s Plan of Action however they face gender mainstreaming constraints in that there are weak inter-sectoral linkages at high levels to facilitate mainstreaming and other WPA goals.⁴¹ The WPA goals are linked to the SEEDS but are not sufficiently linked into the key sectors of the SEEDS. Therefore it becomes the responsibility of the Department to deliver on the Plan as opposed to the ownership and accountability to the whole of the government.

The state had not included women with disabilities in the Women’s Plan of Action. However the revised Plan of Action 2009-2018, disabilities is listed in the health section under priority area no four “Access to Basic Services”

The capacity of the national women’s machinery is of key concern. Key staff that has gender training, expertise and experience has been reshuffled. This has led to loss of institutional memory and decreased gender analysis capacity.

There is an overall lack of political will and commitment to gender in the key policy and planning documents of the government since the last reporting period.

As at 2004 the Fiji Government currently has two development plans, the *Strategic Development Plan 2003-2005*, and an affirmative action plan for ethnic Fijians, *50/50 By Year 2020”: A 20-Year Development Plan For The Enhancement Of Participation Of Indigenous Fijians And Rotumans In The Socio-Economic Development Of Fiji*. These two planning documents are intended to be complementary. Both give a high priority to addressing issues of poverty and hardship in particular sections of Fiji society⁴². Since then the government has put in place the medium term plan SEEDS Development Plan.

In a gender analysis of Fiji’s Strategic Development Plan 2007-2011 there was very limited sex disaggregated data or gender analysis outside of the section on Gender Equality and women and development. Lack of gender analysis and a commitment to gender is evident in the sections. For example in the section on HIV it outlines the key concern but the gender issues such as the lack of autonomy and empowerment

⁴¹ Asian Development Bank, 2006, Country Gender Assessment, Republic of the Fiji Islands

⁴² United Nations, 2004, Fiji Millennium Development Goal Report, pg 9

are not highlighted with an accompanying strategy to address the gender disadvantage.

While eight of the 15 sectors in the Review of Social Development at least mention gender or women's issues, nearly all of the gender content is in the section on Gender, including content relevant to other sectors.⁴³

In the presentation of the Medium Term Strategy, 20 of the 27 sections do not mention gender at all; and the section on Gender Equality and Women in Development again contains nearly all the gender-related content. Only one other section has a strategy which mentions gender and only one indicator not in the section on gender includes gender. The SDP 2007-2011 does not mainstream gender. The SDP 2007-2011 addresses a number of sexual and reproductive health issues and gender-based violence is discussed. The data and analysis in the sections on health are limited, however, and men's reproductive health is not mentioned. The plan does not explicitly mention reproductive rights, but some can be inferred. The SDP 2007-2011 does clearly endorse equality for women and explicitly recognizes Gender Mainstreaming.

The main overall medium term plan is the Sustainable Economic Empowerment Development Strategies (SEEDS) of which Chapter 9.9 addresses the states commitment to the advancements of women. While a whole chapter is dedicated to the key strategies to addressing the GAD policy as well as key performance indicators what is lacking is a commitment to gender equality in the vision and guiding principles in the vision mission and guiding principles. It is not explicitly mentioned however the plan does note the international commitments made to the MDGs of which goal three states to Promote gender equality and empower women. Moreover there is no mention of the state's commitment to international human rights conventions and treaties.

Gender budget initiatives analyse how government raise and spend public money. The aim is to secure gender equality in decision making about public resource allocation and gender equality in the distribution of the impact of government budgets both in their benefits and in their burdens. Particular attention should be paid to women who form the most disadvantaged group.

The state has constantly highlighted the role played by women; however the rhetoric does not match the outcomes. Statements in support of "engendering budgets" are not actioned. Attempts to mainstream gender are limited. The attempts to mainstream gender have been limited. This is evident with the lack of special initiatives in respective line ministries towards gender mainstreaming initiatives that support gender equality.

Since the last reporting period, there have been positive initiatives to encourage and capture gender related data and statistics.⁴⁴ For example there has been the 2005

⁴³ Andrea I., 2008, pg 12-13

⁴⁴ Narsey, W., 2007 and Narsey, W., 2008.

publication of the “Women and Men of Fiji Islands”, a statistical gender profile, but the information needs to be assimilated and monitored at the central ministry - Fiji Islands Bureau of Statistics (FIBS). There is no clear policy of requiring statistics to be sex disaggregated at the FIBS office, yet this is an integral part of a gender mainstreaming strategy. All ministries must take on the role of collecting good sex disaggregated data for gender policy planning and analysis.

Chandra, the gender data analyst ⁴⁵ highlights that the gender statistical profile was based on different secondary data sources such as the Fiji census data for 1986 and 1996, survey reports on various topics such as employment household income and expenditure survey, annual reports from government departments and unpublished data gathered from government ministries, tertiary institutions and non government organisations. There are difficulties accessing all different sources of data to establish trends in key social and economic indicators of the population. The analyst advised that some gender data was easily available; however accessing data on gender and health statistics, gender and business participation and gender and economic activities have been problematic.

It is also highlighted that the major drawback to using census data is the time lag between the time that census data is collected, and the two year delay in the data becoming available. For example, the census data is collected every 10 years and it takes two to four years for the data to become available. This is a long time to integrate gender biased social and economic indicators on public policy and planning when basic information on demographic social and economic indicators is needed. Furthermore it is highlighted that the published census data does not provide much needed detailed information on key social themes such as education, health and economic activity (especially informal sector activity in which large numbers of Fiji’s women are employed. Sample surveys can be conducted but this is costly and irregular. There is a lack of priority given to gender data and this is often neglected in surveys. ⁴⁶ The last census was conducted in 2007 and the tables of analysis have only just been released.

Properly collected sex disaggregated statistics must form the basis for gender analysis and policy. It is evident that while there are many gender issues highlighted in the strategic plan, there is a lack of gender analysis and accompanying strategies to address the constraints. For example, in the section in the Strategic Development Plan (2007-2011) on women in decision making⁴⁷, the plan highlights that the proportion of female’s teachers in the first line of management is 28%. As they progress into the middle and upper management positions the proportion of female principal administrators drops from 12% to 8%. It does not then reflect the constraints and gender issues relating to the lack of women in the higher administration. Addressing the gender issues would then require key strategies and indicators to address the gender gap.

⁴⁵ Chandra, D., Lewai, V., 2005, pg 155

⁴⁶ Chandra, D., Lewai, V., 2005, pg 155

⁴⁷ Fiji Strategic Development Plan 2007-2011

Following the coup of 2006, some women's NGOs who have taken a strong position on the rule of law and return to democracy, have been cautious about being involved with mechanisms and processes such as the military controlled "National Council for Building a Better Fiji" and People's Charter consultation and endorsement process established by the regime.

The Women's Task Forces set up to assist in the implementation of the Women's Plan of Action has met intermittently since December 2006 (noting that these task forces were initially disbanded in 2004). While it is made up of key ministries and women's NGOs, the task forces have failed to meet at times due to a lack of quota plus the low priority given to the task forces by the Ministries. Furthermore there is a lack of the required financial and technical resources to support the key recommendations of the WPA, particularly to ensure compliance with CEDAW. For example the Deputy Permanent Secretary of the Public Service Commission should be the Chairperson of the Shared Decision Making Task Force, rather than a representative of the Department of Women, so that the Task Force gets the importance and focus it deserves from the relevant line Ministry.

It should be noted that as a result of the military coup of 2006 there has been limited implementation of the 2006 Griffin report which was a comprehensive review of the Department of Women and a series of recommendations on the implementation of the WPA including identification of critical areas of priorities. Subsequently, this review process has been replicated in 2009 by the DOW but the current political climate does not augur well for the substantive discussions on women's human rights etc

The Fiji Human Rights Commission (FHRC)

Apart from the Department of Women, the other primary mechanism or machinery responsible for addressing women's human rights is the FHRC. Gender and women's human rights has not been a primary concern of the FHRC, but it has attempted to address general non-discrimination and equality in a variety of ways. Its primary obstacle has been a lack of full time technical expertise and the resources to implement potential sound policies.

However, since December 2006 the FHRC, has lost its credibility amongst women's human rights defenders by its former Director openly aligning the FHRC with the military regime of Bainimarama, and by failing to act when the rights of women human rights defenders were being violated in the aftermath of the coup-de'tat in December 2006. From that date to date, the FHRC under the leadership of its former Director has consistently defended the actions of military government in a whole range of rights violations. It is widely believed that the FHRC is an arm of the military government thus very few violations are reported to it for investigation, or at least rights involving the military regime itself.

Even if the FHRC were not compromised, an unlawful Human Rights Commission Decree 2009, promulgated by the military government came into force on 12th May, limiting the powers of the Commission both as to content and process:

Complaints about contravention of human rights

27(2) Notwithstanding anything contained in this Decree, the Commission shall not receive, nor shall it investigate on its own motion, any complaints questioning or challenging the legality or validity of the Fiji Constitution Amendment Act 1997 Revocation Decree 2009, or such other Decrees made or as may be made by the President

Disclosure of certain matters not to be required

35(1) If the Attorney General certifies that the disclosure of information concerning a specified matter (including the furnishing of information in answer to a question or the disclosure to the Commission or a Commissioner of the contents of a specified document or record or the production of a specified thing) would be contrary to the public interest because it would-

- (a) seriously harm the commercial interests of any person or body;*
- (b) prejudice the security, defence or international relations of the State;*
- (c) involve the disclosure of deliberations or decisions of the Cabinet or of a committee of the Cabinet;*

or

(d) claim of State privilege could be made in relation to the information concerned the Commission or a Commissioner can not require a person to give information concerning the matter, to answer questions concerning the matter or to produce the document, record or thing.

(2) The Commission must withhold publication of any written material which comes into its possession in the course of an investigation and which is the subject of the certificate by the Attorney General under subsection (1).

Recommendations:⁴⁸

3.1 We strongly support the implementation of the GAD Policies with an emphasis on gender mainstreaming with a clear strategy on how to address the challenges and obstacles.

3.2 We call for a commitment of technical support to improve collection reporting and use of sex disaggregated data with the central FIBS ministry that will be used in policy planning in all sectors.

⁴⁸ Developed and adapted from Andrea I., 2008, pg 73

3.3 Support and build on gender mainstreaming initiatives from the Agriculture and Health Ministry and apply a similar initiative to a central ministry such as Finance and planning ensuring that there is strengthened gender analysis in each sector especially amongst planners.

3.4 Provide further support and training for government officials on gender sensitive budget analysis and support towards undertaking a support of the a gender sensitive budget . Have this integrated as part of the government training strategy.

3.5 Offer technical support on gender budget indicatives for NGOs on gender budgeting and gender analysis.

3.6 Call for gender indicators as a means of tracking and monitoring of performance of Chief Executive Officers.

3.7 We call for an independent inquiry into the FHRC and that the findings are made public.

3.8 We call for the establishment of a sex discrimination commissioner within the Fiji Human Rights Commission specifically tasked to monitor and assess gender discrimination under the ambit of CEDAW.

3.9 There is a need to prioritise sex disaggregated data in all data gathering activities. This can be implemented through the provision of gender analysis and awareness of gender issues for statistician and data technicians. ⁴⁹

3.10 Ensure timeliness of the data for assessment of gender issues and trends on any issues over a period of time. Importance of the need to ensure data is collected and analysed and assessed in a timely manner

3.11 The state had not included women with disabilities in the Women's Plan of Action. However the revised Plan of Action 2009-2018, lists the issue as a priority area in Access to Basic Services. Any action in this area must be from a rights based perspective.

3.12 Provide a gender training program for all organisations, committees and services providers.

Article 4: Temporary Special Measures

The legislation allows for temporary special measures. The Constitution of Fiji allows for different and special treatment to assist disadvantage groups.⁵⁰ Fiji has a

⁴⁹ The following recommendation 3.9 onwards have been developed and adapted from Chandra D., Lewai. V., 2005

⁵⁰ Fiji Constitution 1997 section 5 (k)

Social Justice Act 2001 to allow for affirmative action for disadvantaged groups, but the legislation has not been targeted for women as a group and is limited in certain areas.⁵¹ It allows for temporary special measures for disadvantaged groups in the areas of housing, training, education, land and commerce. It does not cover the range of situations in which women experience discrimination. The Social Justice Act provides a legal framework for the implementation of the Affirmative Action Policy of the State; however the programs and initiatives focused on support and fast tracking of Fijians and Rotumans into business. There has been a limited focus on gender.

Promoting Gender Balance in the Fiji Police Force

In 2003, under its former pre-military leadership, there was a strong initiative in the Fiji police force to create a stronger ethnic and gender balance and to empower woman to take up more challenging positions. This was in response to complaints that female police officers were being given mainly "administrative tasks".

The major obstacles in the police force are deeply entrenched beliefs and stereotypes. Culture and socialization processes play a significant role in women's roles being subordinate to men's roles. Furthermore pre-colonial norms and attitudes of Pacific cultures put a clear emphasis on the domination of men and the subordination of women. The colonial and Christian value systems further reinforced traditional gender roles. These traditional roles are slowly changing. However they continue to influence and shape thinking in major institutions.

In 2003, de facto measures were put in place by the Fiji police force. Initiatives such as a policy to widen the pool of recruits and to remove compulsory selection criteria concerning height, weight, age and chest size of candidates that discriminated against ethnic Indians and Chinese, were introduced. In 2003 a policy was put in place that gave 35% of places to women and 65% to men. Human resources policies also promoted a more transparent and fair selection procedure, by ensuring that women were given front line operational roles including elite units, established networks and the promotion of zero tolerance of sexual harassment and positive media coverage of women in the police force. This 35% policy female recruitment policy has dropped to 25% under the current Police administration headed by a military officer. In 2008, the mid year class graduated with only 17% women.⁵²

Prior to appointment of the then Commissioner Hughes in 2004 there was only one woman holding the rank of Assistant Superintendent and the highest ranking women was a sergeant. There were no women at the inspector levels. In 2003, the then Commissioner Hughes appointed two woman to deal with significant operational positions.⁵³

⁵¹ Jalal, 2009, pg 51

⁵² Lund, R., and Thorogood, N., 2008, pp1-37

⁵³ International Labor Organisation, Online, Working in a 'mans world': women in the Fiji police force, 2008

A key barrier to women advancing in the police force is the acceptance of the patriarchal structures that translates to the police force. At a graduation ceremony of a training course, the former Commissioner found that the task of serving food and drinks to junior personnel had been assigned to a Sergeant woman police officer. The former commissioner told the person responsible for assigning the 'serving duties' – a woman – to respect the rank of the Sergeant and assign the duty to a junior member. He told her:

' . . . How they behaved in village life, or in their own homes, was up to them. But when they wear the uniform and the rank bestowed on them as senior officers, they must always behave as such when they are on duty.'

However the women assigning neither the duties nor the Sergeant saw an issue as they perceived the function as an acceptable gender role.⁵⁴

With the increasing militarization of the Police Force, bringing values of entrenched masculine philosophies the Police Force has become unrepresentative and less accountable to the community.

The current Police Commissioner is a former Navy/Military Officer appointed by Commodore Frank Bainimarama. The Police Force is made up of Hindus, Muslims and Christians. The current Commissioner has openly advocated for conversion to Christianity during the Police Crusades. Under the banner of the Crusades, he has instructed police officers not on duty to attend the crusade gatherings; and the former Fiji Police Jazz Band is only allowed to play Christian songs. Furthermore when senior Hindu and Muslim Officers raised concerns about the push to embrace Christianity they were told that if they were not happy with the direction the Police Force was taking, they should quit. The Commissioner was also inadvertently televised live on Fiji One TV, admonishing a group of Indo-Fijian officers accusing them of being disloyal, using derogatory language and negative racial stereotypes. Political parties and organizations considered such action to be racist and called for his resignation.⁵⁵ The Fiji Human Rights Commission former Director defended the Commissioner's actions, saying that they were "employment issues" not issues of racism or freedom of religion.

According to Fiji Times Online, Fiji Women's Crisis Centre deputy co-ordinator, Edwina Kotoisuva, said the Commissioner's outburst showed his racist attitudes:

"This type of attack on a particular ethnic group within an organisation is blatant racism and this should not be tolerated," she said.

"It is irrelevant whether some of the senior police officers spoke out against the crusade, someone in his position should not be allowed to make targeted threats at a particular ethnic group within the organization."⁵⁶

⁵⁴ Lund, R., and Thorogood, N, 2008.

⁵⁵ Australia Network News, 2009, Fiji's multi-ethnic police join Christian crusade

⁵⁶ Fiji Times Online, "Outrage and Dismay", 19 February 2009

Taken together these indicate that there appears to be a greater emphasis on conversion to Christianity in the Police force, than attaining gender parity.

Recommendations:

- 4.1 Promote scholarships for young women and girls in traditional male jobs such as engineering.
- 4.2 Ensure there is a gender quota and reserved places for girls and young women in education.
- 4.3 Call for an inquiry into the actions of the Police Commissioner.
- 4.4 Call for an affirmative action policy for the Police Force and set in place a gender task force on recruitment and training.
- 4.5 Call for the inclusion that women cannot be discriminated on the grounds of HIV status and marital status in Section 44 (4) of the Constitution.
- 4.6. Women ought to be included as a specific group requiring affirmative action and temporary special measures in the Social Justice Act.

Article 5: Sex roles and stereotyping

The State Report is inadequate in responding to this question, by being vague, generalised and non-committal. It has re-stated only part of the problems without suggesting any practical measures to address them. For example, the school curriculum needs to be carefully examined to assess the reinforcing of sexual stereotypes which is endemic in schools right from channelling of girls into certain streams to the gendered division of labour at home and in school. In addition to the challenges posed by sex roles and stereotyping, other harmful practices in Fiji include early and forced marriages; and the acceptance of certain customary harmful practices such as traditional forgiveness in cases involving VAW.

Traditionally and historically, most countries in the Pacific Islands allowed the betrothal of children at an early age for strategic reasons, to build alliances and for families to acquire more power, wealth, land and authority in their respective communities.⁵⁷ Today, more couples are choosing to marry on their own, rather than submitting to such arrangements. However, in Fiji the practice of early marriage, or children being traded according to the wishes of parents and extended families, still continues even though it is reported that such instances are decreasing.⁵⁸

Forced marriage is often associated with early marriage but women over the age of consent are also forced to marry in some parts of the Pacific. "Fixed" or arranged marriages are also common in Indo-Fijian communities. Young girls are betrothed to

⁵⁷ Jalal, P.I. 2009, pg 31

⁵⁸ Jalal, P.I., 2009, pg 34

marry as young as age 15. As a response to perceived racism and ethno-nationalism in Fiji, young girls are married off to men who are overseas nationals, in the hope of migration and of securing a good life overseas. Indo-Fijian parents believe that their daughters will have a materially good life, without considering their daughters' feelings or whether their lives may even be in danger.⁵⁹

In virtually all forgiveness ceremonies (involving not only VAW but other forms of conflict) mentioned previously, it is not possible for the female complainant or survivor or other victim to reject the apology and gifts or compensation that comes with it, as the pressure to heal the rift between the two families, communities or village groups, is considerable. It would be considered bad form and might even lead to banishment and social exclusion from the village or community. Indeed most indigenous Fijians regard such ceremonies with pride and as a unique aspect of their culture because they allow social cohesion and the sustainability of good relations after conflict. Social cohesion is highly prized, even if it covers up simmering tensions, and is usually given greater value than individual rights or women's rights.

Statements by government officials are critical in reinforcing myths. A recent statement by the military appointed Interim Minister for Women and Social Welfare clearly demonstrates the lack of awareness about the issue of violence against women and has the potential for reinforcing traditional roles of women. Speaking to Fijilive, a local website, the interim Minister said it was surprising to see the number of young men in rural areas who are unmarried. She said the reason for the situation, given by the young men, was that there were no young women left in the villages because they had left the village when reaching the age of 17 or 18 years to pursue an education. According to the Minister it is because the men are left behind and are unmarried, that young girls are targeted as rape victims in the rural areas.⁶⁰

Sexual stereotypes of women are further reinforced when authority figures make remarks such as the recent comments by a very senior Police Officer in the current leadership, when he advised young girls to refrain from joining groups and avoid drinking sprees to avoid trouble, in response to a separate gang rape case,⁶¹ implying that they were indirectly responsible for being raped.

Alternative voices around women and gender equality are not being channelled properly and/or reported due to censorship of the media by military censors. There is a clear link between censorship and the reinforcement of gender stereotyping. Censorship is therefore helping to maintain narrow gender stereotypes.

Recommendations:

5.1 That the Constitution be amended to contain the following or similar provision -
"Where there is a conflict between traditional or contemporary customary laws or

⁵⁹ Jalal, P. I., 2009, pg 106

⁶⁰ Fijilive, 17 February 2009, Where are the young women?

⁶¹ Fiji Sun 5 June 2009, pg 5

practices and women's right to equality under this Constitution or any other law, women's right to equality shall prevail."

5.2 That the Ministry of Education conduct a gender and human rights audit of all school material, from primary school to secondary school, with a view to eliminating all material which reinforces stereotypes of female roles, minorities and vulnerable groups; and show women and such groups in positive empowered roles.

5.3 That family life education from a gendered/human rights perspective must be taught at school with appropriate materials. The teachers who teach this subject must be appropriately trained so that sexual stereotypes are not reinforced. Such teaching must be closely monitored and evaluated.

5.4 Such family life education must include the importance of the equal sharing of domestic responsibilities in household. As well it is important that a public national campaign be carried out which addresses stereotypes about household responsibilities so that men and women share such responsibilities equitably.

5.5 Senior officials including the Minister need gender training so that they understand the import of their publicly made statements. If they are going to provide the necessary leadership in the Ministry there should be no assumption that they understand gender issues and they ought to be trained in gender.

5.6 That the censorship of the media be stopped in line with international standards of freedom of speech, expression and the right to receive and impart information.

Article 6: Trafficking and Exploitation of Women

Commercial sex work or prostitution in Fiji, as elsewhere, is closely linked to poverty. Prostitution is illegal, for both the owner/keeper of the premises and the woman (or man) soliciting for the purposes of prostitution. The State Report has not accurately reflected the scale of the problem nor accurately assessed the legal framework. Prostitution laws are based on double standards, which view prostitution (sex work) as a necessary evil, but choose to criminalise mainly the women who provide the service, and the brothel keepers, but not the men that are their clients.⁶² Even though couched in gender-neutral language, the legislation in Fiji indirectly discriminates against women under Article 6 of CEDAW, which requires state parties to suppress all forms of traffic in women, and exploitation of women in prostitution. Poor women should not be further penalised for being poor. Sex work is a criminal offence,⁶³ the penalties for which range from fines to imprisonment.⁶⁴ Although this measure does introduce formal equality between men and women, full compliance with CEDAW requires that sex workers not be

⁶² Jalal 1998, pg191

⁶³ Penal Code, Cap 17, s168

⁶⁴ Jalal 1998, pg191

criminalised,⁶⁵ in recognition that sex workers ought not to be penalised for being poor, but also to give them the same protections as other workers. The operation of organised premises and the aiding and abetting of soliciting is criminalised, despite research and experience demonstrating that organised premises, rather than street work, are safer for sex workers.⁶⁶ Few women are prosecuted for sex work. They tend only to be charged for this offence when they are also arrested for theft from clients.⁶⁷ From an equity perspective to empower sex workers, they need conditions of employment similar to that of other mainstream workers.

Our Shadow report will not cover female sex trafficking in any great detail, as regional intelligence reports do not support high levels of human trafficking in Fiji or the Pacific in general.⁶⁸ The same research noted that some countries report anecdotal evidence⁶⁹ of trafficking through their borders, including Fiji, RMI, Palau, PNG, Tonga and Vanuatu.

There is very little research in Fiji on female adult trafficking for sexual purposes.

It is also to be noted, that in a recent study on child sexual exploitation covering Fiji, Kiribati, Papua New Guinea, Solomon Islands and Vanuatu it was confirmed that in each country children are sexually abused by family members and neighbours and, to varying degrees, that child prostitution, child pornography, early marriage, child sex tourism and trafficking (for sexual purposes) occurred. Perpetrators of the abuse and exploitation were found to be overwhelmingly males, and typically men with resources or power in the community. The research also revealed that, contrary to popular opinion, the perpetrators of sexual abuse and sexual exploitation of children are also predominantly men from the local community. While the study highlights some prevalence of sexual abuse and sexual exploitation committed by foreign tourists and foreign workers in the Pacific, children are most at risk in their homes and communities and with people they know and trust.⁷⁰

Fiji's laws do not specifically prohibit trafficking in women nor sex tourism. This is a lacunae which must be addressed.

Recommendations:

6.1 That the State must in consultation with NGOs and social groups explore the following options through research:

6.1.1 Either decriminalise sex work, granting sex workers the same rights as other workers in Fiji; or

6.1.2 also make it illegal for the men who utilise the services of sex workers, thereby removing the indirect sex discrimination; or

⁶⁵ UNIFEM Pacific 2007, ix

⁶⁶ UNIFEM Pacific 2007, 2489

⁶⁷ Jalal 1998, pg 191

⁶⁸ PIFS 2006

⁶⁹ Jalal, 2009

⁷⁰ UNICEF Pacific 2007, viii.

6.1.3 Adopt the Swedish model law that prohibits the purchase of sexual services.⁷¹ In essence this means that only the buyers of sexual services and not the women involved in prostitution are criminalized. The principles behind the law is that prostitution is a form of violence against women and children, it is intrinsically harmful not only to the individual prostituted woman or child, but to society at large, and represents a significant barrier to the goal of full gender equality. ; and

6.1.4 Explore alternative economic options for commercial sexual workers. A fundamental part of the Swedish model was to implement initiatives and empowerment strategies that aim to support the women concerned and to provide them with genuine opportunities and alternatives to exit the industry.

6.2 The State must conduct research into female trafficking within and through Fiji.

6.3 Create new offences for sex trafficking and sex tourism along the lines of international best practices.⁷²

Article 7: Political Life

The CEDAW Committee Concluding Comment on Fiji 2002 recommended the introduction of temporary special measures in the area of women's political participation and decision making but no such measure have been introduced during the reporting period.

Introduction

Reliance on strict legal equality principles are a barrier to passing laws, policies and initiatives that would give women an advantage and address the inequality they face. Temporary special measures such as affirmative action or positive discrimination are critical and necessary to accelerate *de facto* equality for women and to ensure that the systems and historical disadvantage women face are addressed.⁷³

The Constitution of Fiji allows for different and special treatment to assist disadvantage groups. ⁷⁴ Fiji has a Social Justice Act 2001 to allow for affirmative action for disadvantaged groups, but the legislation has not been targeted for women as a group and is limited in certain areas.⁷⁵ It allows for temporary special measures for disadvantaged groups in the areas of housing, training, education, land

⁷¹ (Law that Prohibits, 1998:408) Under the Act Prohibiting the Purchase of Sexual Services (1998:408), a person who obtains casual sexual relations in exchange for payment shall be sentenced comprises all forms of sexual services, in brothels , so called massage parlors 'prostitution and trafficking in women'

⁷² Trafficking in Women and Girls, Division for Advancement of Women, 2009

⁷³ Jalal, 2009 pg 50

⁷⁴ Fiji Constitution 1997 section 5 (k)

⁷⁵ Jalal, 2009 pg 51

and commerce but does not extend to electoral quotas. The constitution theoretically does not allow for special legislation to be passed for special electoral quotas but would need specific enabling legislation.⁷⁶

Women are vulnerable to discrimination because they do not have a say or an equal voice in decision making at home, in the village, at provincial council level, local government levels, statutory boards and all levels of decision making.

At a recent *Pacific Roundtable on Progressing Implementation of CEDAW*, the Vice President of Fiji said

*“There continues to be a need for women in leadership whether in government, the corporate sector, the church or the traditional sphere... One such field that requires affirmative intervention is parliamentary seats. I believe in quotas because that is the only way the imbalance of males and females will be readily redressed. This is required because there is not level playing field. The odds are stacked against women from the beginning and it is nonsense to suggest that candidates be selected on merit”.*⁷⁷

In the pursuit of a representative democracy, women’s political participation is critical. If half the population is invisible at the highest level of decision making, there are serious questions to be raised on the legitimacy of the democracy. As women became more prominent in public life with representation in schools, with increased education levels and with participation in commerce and in the corporate sectors, there should be no excuse as to why they continue to be outside the realm of political decision making. Moreover women’s welfare can only be enhanced if they are involved in decision-making. A balance is required. Women’s strong presence in parliaments have shown to lead to higher levels of gender equitable development and to reduced corruption.⁷⁸ Moreover local evidence suggests that a greater number of women in the legislature can be a catalyst for progressive legislation to be passed as can be seen with the passing of the 2003 Family Law Act in Fiji. Political leadership, by women, for women, can be an effective catalyst toward addressing discrimination against women.⁷⁹

Box 3. Fiji’s female legislators and the historic Family Law Act

In the case of Fiji’s progressive Family Law Act 2003, which removed historic and systemic discrimination against women, the overwhelming majority of female representatives in Parliament in 2003 not only championed and supported the proposed law during parliamentary debate on the bill, but lobbied within their parties for the new law to be passed across party lines. They worked closely with the Fiji Law Reform Commission, the Pacific Regional Rights Resource Team and the Fiji Women’s Rights Movement to bring about the passing of the bill into law. Fiji’s political parties mobilise largely along racial lines, in a country deeply divided by race. In the informal coalition, women members of parliament mobilised along gender lines, and significantly, also across racial lines, in racially polarised Fiji. This coalition between women politicians was not only unprecedented

⁷⁶ Jalal, 2009 pg 51

⁷⁷ Madraiwiwi, 2006, pg 4

⁷⁸ Pacific Islands Forum Secretariat, 2006. pg xiii

⁷⁹ Jalal, 2009. pg 52

in Fiji's legislative history, but created a positive side effect by building alliances on the basis of gender, rather than on party lines and racial identity. Only one indigenous Fijian female MP, a high chief, refused to mobilise around the new law or to co-operate with women campaigning for it.⁸⁰

Source. Jalal, 2009

Gender equality in local municipal councils has also been affected by the 2006 military coup, whose new regime removed all local councils, thereby reducing the numbers of women in public and political life, and denying them a natural training ground for preparation for the national legislature.

Electoral history 1970 to date

Since Fiji attained independence in 1970 there have been 10 elections under 3 Constitutions (1970, 1990, and 1997)⁸¹. Fiji's first elections were held under the 'first past the post' electoral system, until 1999 when Fiji adopted the alternative vote system. Both systems consist of single member constituencies and belong to the simple plurality category, "a system notoriously unfriendly to women candidates."⁸² Table 6 below, illustrates the history of women elected to the House of Representatives since independence⁸³.

Year of elections	Total number of seats	Number of women candidates	Number women elected	% women elected to parliament
2006 (pre-coup)	71	23	8	11.27
2001	71	20	5	7.04
1999	71	22	8	11.27
1994	71	9	3	4.2
1992	70	4	1	1.4
1987	52	2	0	0
1982	52	4	1	1.9
1977 March	52	2	2	1.9
1977 September	52	4	2	3.8

⁸⁰ Personal knowledge, the writer was Family Law Commissioner campaigning and lobbying for the new law during 2003.

⁸¹ USP, Governance Information for Fiji Islands, 2009, Online

⁸² Nicholl, R., 2007. pg 87

⁸³ Within the international context Pacific Island Countries (PICs) have some of the lowest rates of participation of women in elected governments. Fiji ranks the 3rd in the region, after New Caledonia and French Polynesia. See Fraenkel, John (2007) Women in Pacific Parliaments & Governments as of September 2007, unpublished.

1972	52	5	1	1.96
Source: PIFS (2006)				

Fiji currently has an alternative vote electoral system and has a lower house of 71 elected members and Upper House of 32 appointed Senators.⁸⁴

Fiji's National commitments and regional status

Prior to Fiji's ratification of CEDAW in 1995, in 1993, the then Fiji government "...established a policy to increase women's membership of boards, committees and councils by 30% to 50% within the following five years..."⁸⁵ this was in line with one of the recommendations from the UN Conference on Women, Beijing 1995. Since then successive governments' have failed to implement any policy, plan or initiative that has seen lasting change.⁸⁶ The Women's Plan of Action 1999-2008, has brought little change to electoral representation. The manifestos of the major parties during the 2006 election all gave vague promises to improve the number of women in parliament; none however provided any strategy to address the problem.⁸⁷

There has also been several of Fiji and regional women in politics projects [e.g. UNIFEM's Women in Politics (WIP) programme,⁸⁸ and the SPC, Pacific Women's Bureau: Pacific Platform for Action (PPA)]⁸⁹ that attempted to address the issue. The regional and local women's movements have also highlighted the many barriers to women's advancement.⁹⁰ Fiji's recent history of coups and unelected governments and the current illegal regime, add another layer of complexity to the issue of women's' participation in Fiji.⁹¹

The Indigenous Fijian chiefly system and equal political access

Legislative limitations on equal access to political power exist in Fiji where 14 of the 32 seats in the upper house, the Senate, are appointed by the president on the advice of the *Bose Levu Vakaturaga* (BLV), the Great Council of Chiefs.⁹² The president and vice-president are also appointed by the BLV. The numbers mean that chiefs can vote as a bloc to prevent any law from being passed, but they also have legislative power to veto any bill regarding land and customary rights of indigenous Fijians.⁹³ Membership to the BLV is limited to traditional chiefs. Women generally become

⁸⁴ The Senate is an appointed House of a total of 32 member - 14 members appointed by the Great Council of Chiefs, 9 by the Prime Minister, 8 by the Leader of Opposition and 1 by the Council of Rotuma.

⁸⁵ Nicholl, R., 2007. pg 160

⁸⁶ Nicholl, R., 2007, pg 168

⁸⁷ Nicholl, R., 2007, pg 165

⁸⁸ UNIFEM Pacific, 2005, Online

⁸⁹ Secretariat of the Pacific Community, Pacific Platform for Action

⁹⁰ Nicholl, R., 2007, pg 168

⁹¹ Jalal, 2009.

⁹² Constitution of Fiji (1997), Section 64

⁹³ Constitution of Fiji (1997), Section 185

chiefs in only very limited circumstances, but the system is rapidly evolving in some parts of Fiji.⁹⁴

Box 4. Local Research on Women in Politics

In 2008⁹⁵, research was conducted with a combined qualitative and quantitative methodology. This included a literature review, a survey of students of History/Politics from the University of the South Pacific and in depth interviews with two former female candidates. The research highlighted key factors affecting women in decision making. They included the following:

1. Culture and traditional barriers continue to be an obstacle to women's participation in national politics

Tradition and culture continue to be an obstacle towards women's participation in politics. Fiji is still a patriarchal society which considers women's role to be subordinate to that of men. Despite women's progress in education and entry into the formal employment sector, traditional and cultural attitudes towards the role that women should play persist. As public decision making is considered to be in the realm of men's responsibility, structural barriers limit and contribute to a non supportive role of encouraging women in politics.

2. Lack of finance is not the main factor or obstacle for the lack of women participating in national elections

The female candidates interviewed in this research both agreed while costly, campaign financing was not a main factor or obstacle to them as women. Both saw that having the political ambition as important with the barriers being traditional and cultural attitudes. Both women interviewed commented that they were supported by their party. The average cost for female candidates interviewed was \$15,000- \$20,000 FJD. An in depth interview respondent stated that an offer of SDL candidacy in the 2006 election came with the assurance of full campaign financing.

Fiji Women's Rights Movement (FRWM) in the 2006 election raised money for female candidates based on the Emily's List⁹⁶ concept. All funds were distributed equally to all female candidates. One female candidate received funding from this initiative, the additional campaign cost were raised by the candidate herself and covered by the Party.

3. Interruption of Fiji's parliamentary processes contributes to the low representation of women in parliament

Since Fiji attained independence in 1970 there have been 10 elections under three Constitutions (1970, 1990, and 1997)⁹⁷. Fiji's electoral history is only 38 years old and since 1987 there have four coups. Fiji like many PICs⁹⁸ emerging from colonial rule over the last 40 years is a new democracy like Chile or South Africa. The current international statistics and achievements of women in international politics are well covered in UNRISD (2006: Chapter 9). These statistics show that globally Pacific Islands Countries have some of the lowest rates of participation in parliament. As at 2008, the Inter Parliamentary Union (IPU) reported that while the sovereign legislatures of the Pacific region have 12.9% women members on average, when the representatives from Australia and New Zealand are not counted, women's representative in Pacific legislatures drops to only 2.5%- the lowest in the world.⁹⁹ Some Pacific Island parliaments have no women in parliament.

In 2006 eight women won seats in the House of Representatives, this was an increase of three women compared with the 2001 election, but the same number as was elected at the 1999 election (Table 6). The coup cycle in Fiji has had a negative impact on the women's political participation, as well as on

⁹⁴ Jalal, 2009

⁹⁵ Unpublished research by Gina Houg Lee, Sophie Foster, Elizabeth Cass and Alice Kalanatano 2008

⁹⁶ EMILY's list is an acronym for "Early Money Is Like Yeast".

⁹⁷ USP, Governance Information for Fiji Islands, 2009, Online

⁹⁸ PICs in this context, excludes New Zealand Australia.

⁹⁹ UNDP and PIFS, 2008, pg 8

the electoral process in that higher numbers of women in Fiji's parliament are yet to be realized. As one political candidate put it, "the coup culture has to be eradicated" before more women would seriously consider standing for parliament.

"Our political culture is really one of thuggery and for the last 20 years it's bordering on lunacy. You wouldn't expect women to enter into such things willingly or happily...the coup culture has to be eradicated. If women see that the culture is right, that more professionals in parliament will talk issues, it would be good. But if not, then fewer women will want to stand" (*female candidate in 2001*)

4. Implementing a quota system will contribute to fast tracking women's participation in national politics

Electoral quotas can be constitutionally or legislatively mandated (legal quotas), and/or voluntarily adopted by political parties (party quotas). The current international statistics and achievements of women as published by the IPU show that in countries with high female representation, the common denominator is the introduction of some sort of quota system. Of the 2 Pacific Island countries with the highest female representation (Table 7) the top two operate under a quota system.

The two major political parties' policies relating to female representation, as set out in their manifestos, were more implicit than explicit. The SDL acknowledged that 'more effort is required to increase the number of women MPs', but its manifesto made no suggestion as to how this goal would be achieved. The FLP manifesto conveyed similar sentiments regarding women's representation, stressing that 'women are equal partners with men, and should play a full and active role in the political, economic, cultural and social life of Fiji'. Further, the party noted that 'there are still many barriers to women's full participation' and that women are 'not adequately represented in parliament'. However, as with the SDL, the FLP did not put forward ideas over how more equitable female representation could be achieved.

5. Fiji's electoral system is not conducive to fostering participation of women

Fiji's first elections were held under the 'first past the post' electoral system, until 1999 when Fiji adopted the alternative vote system. Both systems consist of single member constituencies and belong to the simple plurality category. The range of democracy studies have indicated that the type of electoral system in determining the extent of meaningful democracy to be achieved and in shaping the long term political landscape.¹⁰⁰

The alternative vote is a majoritarian system very similar to first-past-the-post in that both systems are based on single-member electorates; the principal difference is that the alternative vote gives electors the choice of ranking candidates in order of preference.

A concern that a female candidate highlighted was the boundaries of the current electoral system were unequal. Both candidates commented on the fear that due to the lack of support by the electorate on moderation and the entrenched racial voting, there was scepticism on opening up to a one person one vote system as this may marginalize other groups who might lack representation in parliament due to extremist voting on race. Both candidate respondents said that they believed the political parties made a conscious effort to seek women to stand in the previous elections, but noted the reluctance of women to stand.

6. Lack of awareness of political systems, quotas and parliamentary structures by Fiji politics students

7. Level of political awareness at personal of family level as well as at school contributes to active empowered women having political ambition

From piloting the semi structured interviews it was evident that both candidates had grown up in a political conscious environment with their respective family members being involved at national

¹⁰⁰ Siwatibau, 2007, pg 382

politics. This contributes and fosters political ambition.

8. Statistics and data on women's political participation not accurate.

Content analysis was conducted of existing statistics, the research found that these statistics were difficult to obtain and when available presented significant contradictions in the data for women in Fiji Parliament. Neither the Ministry of Women nor the Fiji Electoral Office was able to supply statistics for the women in Fiji parliament since independence. It demonstrates the need for better record keeping within government and the increased public access to statistics.

Table 7. Number of women in selected Pacific Island country national legislatures in November 2008

Country	Electoral system	Size of legislature	No women	% women
Niue	First past the post & block vote	20	4	20
Fiji	Alternate vote	71#	8	11.3
Cook Islands	First past the post	24	2	8.0
Palau	First past the post	29	2	6.9
Samoa	First past the post & block vote	49	3	6.1
Kiribati	Two round system	42	2	4.8
Vanuatu	Single non transferable vote	52	2	3.8
Marshall Islands	First past the post & block vote	33	1	3.0
Tonga	First past the post & block vote	35	1	2.9
PNG	Alternate vote	109	1	0.9
Solomon Islands	First past the post	50	0	0.0
Nauru	Modified Borda count	18	0	0.0
Tuvalu	First past the post & block vote	15	0	0.0
Federated States of Micronesia	First past the post	14	0	0.0
Average		734	27	3.7

Source: Pacific Islands Forum Secretariat & UNDP Pacific Centre 2008-9as cited in Jalal, 2009

Fiji's Parliament is still illegally suspended and Fiji is governed by a military appointed administration. The head of the administration, as 'Prime Minister', is the commander of the military.

Box 5. Reasons why there are low numbers of women in Pacific Island legislatures

1. Most Pacific Islanders vote along the basis of identity politics; but most standing for election are men in any case. This means that Pacific Islanders generally vote for members of their racial or ethnic groups, clans, *wantok*, *aiga*, *mataqali* and cultural groups irrespective of gender, corruption, ability or merit.
2. Entry to many legislatures is directly or indirectly accessed or controlled by membership of traditional chiefly hierarchies, for example, noble, chiefly or other titled systems. This means that chiefly, titled or noble females have a better entry possibility than 'commoners' and others. In addition senior chiefs must have precedence over younger chiefs, regardless of the merits of either.¹⁰¹
3. Most Pacific countries are patriarchal, even those countries that have matrilineal land systems.
4. Traditional cultural and patriarchal prejudices against women.
5. Membership of political parties and eligibility for candidacy is controlled by powerful political families.
6. Financial constraints.¹⁰²
7. Electoral systems in the Pacific are not conducive to women winning seats.¹⁰³
8. Pacific Island political parties are gender-biased and do not field female candidates even when they have affirmative action policies on paper.¹⁰⁴
9. There are very few, if any, Pacific women's NGOs mobilising and dedicated to increasing the numbers of women in legislatures, as there are for other women's issues like gender justice in the law, violence against women etc, especially across party lines.
10. There are no electoral quotas for women in any Pacific Island country legislation or constitution
11. The strict gendered division of labour; and disproportionate food security and domestic responsibilities prevent women from participating in decision making.
12. Both custom and formal laws do not give women equal rights in any Pacific country so women are discriminated against in other sectors as well.
13. It is culturally unacceptable for all Pacific Islanders, but especially women, to 'promote' themselves, and openly compete with others. It is regarded as being too individualistic and against communal values

Source Jalal, 2009.

Judicial officers

There has been a decrease in the number of judicial officers since the December 5th 2006 coup. While there continues to be a significant number of women graduating in the area of law, the Fiji coup cycle has contributed to the decrease in judicial officers. In 2001, females accounted for 51.6 percent (49 females and 46 males) of students studying law internally, while females accounted for 62.5 % (20 females and 12 male) of students studying law by distance. However in relation to appointments of judicial officers, the numbers have decreased since the coup. Prior to 2006 there were a total of 3 females out of a total number of 12 high court judges and 8 female out of a total number of 21 magistrates. This has decreased since the purported abrogation.

¹⁰¹ Personal knowledge.

¹⁰² IPU 2008(a), 21.

¹⁰³ IPU 2008(a), 21

¹⁰⁴ In a major political party (Fiji Elections 2006) the party caucus had a bitter dispute about this issue which led to a political rift in 2006 about the fielding of a female candidate in a major non-racially based Open seat. The female candidate won her seat. Personal knowledge

The current assessment is there is one just appointed female high court judge and there are only 3 females out of a total number of 21 magistrates.

Statutory Boards

Statutory boards and tribunal members have been replaced by cronies and supporters of the military regime. We were unable to gather contemporary data

Local Government

It is important that women are involved in all levels of decision making. Local government is one level of government in which women have entered political life in greater numbers. Issues at the local level tend to motivate women into politics. Local government is a good training ground for aspiring female politicians who eventually wish to seek office at the national levels.

Decision making at the local level also allows for “transformative leadership” by redefining political priorities and being able to address women’s gender specific concerns. The participation of women at the local government level has been higher than at the national level.

Table 8. Numbers of Elected Local Government Councillors on 31 January 2009	
Numbers of Women	Name of Council
2	Ba Town Council
1	Labasa Town Council
2	Lami Town Council
3	Lautoka City Council
3	Levuka Town Council
1	Nadi Town Council
3	Nasinu Town Council
1	Savusavu Town Council
2	Suva City Council
18 (14%)	Total 130 (100%)

In 1996 women were represented in 5 out of the 12 municipal towns and city councils had over 10% of women active in local council. Levuka had 50% representation and Nadi had 21.42% in 2008.

However since 2009, all the local councils have been dissolved and local administrators have been appointed. Of the 6 administrators there are no women. The sacked Suva City Council Mayor advised that this was an illegal move by the

Interim Administration¹⁰⁵. Town clerks and local administrators have been appointed as chief executive officers.

Provincial Council

At the provincial level, there have been women elected/appointed as vice chair persons the council. The regime has set up rules/laws re entitlement for positions in provincial councils. SSVM (Indigenous Fijian women organisations) had lobbied for councils to increase the quota to meet 30% female representation at all village, tikina and provincial levels .

It should be noted that following the military coup, women are reluctant to take up positions on boards, tribunals and statutory authorities for reasons such as a moral ethical position and not wanting to be partner country travel bans.

Recommendations:

7.1 Improved record keeping and public access to electoral data in Fiji. Production and availability of sex disaggregated statistics for all levels of decision making.

7.2 A comprehensive review of Fiji's electoral system to ensure a system which supports minority racial groups as well as encourages women representation. This review should not be limited to the voting system, but also consider electoral boundaries and campaign financing. This review should also recommend the implementation of an appropriate quota system to increasing women's participation.

7.3 Increased education across all levels (primary, secondary, TVET and tertiary) about Fiji's electoral system and history. Education programs on the type of electoral systems should be made available within schools and to the citizenry. Education should support extra curricular activities such as debates, student councils to foster an understanding of politics and decision making.

7.4 There needs to be a review of the implementation of Fiji government policy of 30% of women on all government boards and committees.

7.5 Call for elections to be held immediately. There is no reason why the elections cannot be held in the next two years.

7.6 Support the introduction of an affirmative action initiative with quotas or reserved seats for national and local government elections.

7.7 Call for the passing by parliament for a review of the electoral system. Systems that would support an increase of women representatives would be the proportional representation electoral system of the multi member constituencies with gender quota party lists.

¹⁰⁵ Radio New Zealand, Online, February 2009, Fiji's Interim Administration dumps local councils

7.8 Support for temporary special measure should be reserved seats for women and the introduction of the use of political party quotas.

7.9 Reinstate local councils.

Article 8: International Representation

The state has no legal barriers to women representing government at international level and participating in the work of international organizations. However there are only a very few women who represent government at the international level.¹⁰⁶

Diplomatic Service

Of the total 10 of Ambassadors/High Commissioners, only one is a female. While there is a state policy to ensure that women make up 30% of all government boards, committees, tribunals and commission, this has not extended to the Public Service Commission. Women continue to be vastly under represented in the Diplomatic Service.

The reason for the low representation is an unwillingness and lack of commitment to the affirmative action policy. Furthermore there is a lack of monitoring and accountability of the policy. It is recommended that an indicator on women's representation be included in performance indicators of Chief Executive officers so that they can be properly reported and monitored.

Military Services

There is concern with the growing military presence in the Pacific region. The greater threat to the region is not external security, but internal security (from the military and civilian militia); and human security, such as addressing unemployment and reducing poverty. The Fiji military is disproportionately large, absorbing expenses that could be diverted to much needed expenditure in health and education. The military budget is \$94,332million, 8.6% of the national budget.

Furthermore after the illegal takeover in 2006, the military overspent its budget by \$26million, \$50 million in 2007 and 30 million in 2008¹⁰⁷. The last Auditor General's Report produced was in 2006 however this has not been tabled in parliament ¹⁰⁸ highlighting the lack of accountability and transparency with the erosion of the rule of law.

The Suva-based Pacific Concerns Resource Centre (PCRC), which has a demilitarisation desk, has persistently called for a review of military spending. In a recent statement in 2008, the PCRC said a 27 million dollar investment in Fiji's military is an extreme waste of financial resource that could be better diverted towards meeting people's basic needs. The PCRC's pointed out that it was ironic that while the military increased its budget, there was no funding given to the electoral commission to go towards elections.

¹⁰⁶ UNIFEM Pacific, 2007, pg 181.

¹⁰⁷ Narsey, W., 2009.

¹⁰⁸ Auditor Generals report, 2006.

“The same principles of good governance and transparency which it has been claiming to promote, or they’ve been using as the reason for taking over and deposing an elected government, this budget is far from it (sic), it’s not in line with the principles of good governance.” ¹⁰⁹

The military continues to be an ethnic-Fijian male dominated institution. According to 2000 estimates, there were 3,163 members of the military. Less than 0.44% were Non Indigenous. Indo-Fijian officers and women in senior positions are rare. Females make up an extremely small percentage of the military. It is estimated that there are approximately less than 50 service women in the military which is less than 2% of the military. The highest ranking female officer was a major and was due to be promoted to Lieutenant Colonel. Women were first recruited in the army in 1988 to replace men in administrative duties and in response to international trends to include women under equal employment opportunities. In a recruitment drive for officers in 1988 of the 22 who chose to remain in the army only 6 went on to become officers. ¹¹⁰

It has been recognised that UN Security Council resolution 1325 on women, peace and security (UNSCR 1325), and CEDAW are critical tools for moving the gender equality agenda forward in conflict and post-conflict situations. UNSCR 1325 helps to broaden the scope of CEDAW’s application by clarifying its relevance to all parties in conflict and in peace. CEDAW, in turn, provides concrete strategic guidance for actions to be taken on the broad commitments outlined in UNSCR 1325

¹¹¹In Fiji, women’s efforts to integrate gender concerns in Security Sector Reform / Governance initially took place within the broader framework of efforts for implementing UN Security Council 1325 (Women, Peace and Security). Between 2003 and 2004, members of women’s NGO community met as members of the Fiji Women Peace and Security Coordinating Committee convened through the UNIFEM Pacific Women, Peace and Security project for Melanesia.

It was anticipated that through this project, women’s NGOs and their government counterparts (not just the Department of Women) would work together to advance the implementation of UN Security Council resolution 1325. Since the end of the project, women’s NGOs and peace networks have led the development and implementation of UNSCR 1325 initiatives. Between 2003 and 2004, a key outcome of NGO-Government partnership was the recommendations for the 2003 National Security Defence Review.¹¹² However, while the announcement by Fiji’s interim

¹⁰⁹ Radio New Zealand, Online, December 2008, Pacific NGO critical of Fiji Military spending at expense of basic needs

¹¹⁰ Teaiwa, T., pp 111-135

¹¹¹ Paper for the United Nations Development Programme (UNDP) Pacific Centre Pacific Islands Forum Secretariat (PIFS) high-level regional conference on “Security Sector Governance in the Pacific Region” 27th April – 30 April 2009, Nuku’alofa, Kingdom of Tonga Gender and Security Sector Reform - Existing Good Practice in Gender and Security Sector Oversight. Sharon Bhagwan Rolls, Coordinator – femLINKPACIFIC

¹¹² femLINKPACIFIC, femTALK, Enews 5 of 2008.

government on May 6th 2008 may have indicated that there was finally some action on the 2003 recommendation from members of the Fiji Women, Peace and Security Coordinating Committee (WPSCC) to integrate UNSCR 1325 into National Security Policy this decision continues to deny women access to the National Security Council, particularly in light of Fiji's current political realities:

- a) The recommendation does not reflect the long standing lobbying and initial submission by women to the National Security Defence Review (NSDR) 2003; it is also unclear how this commitment will be implemented
- b) Once again there is a failure on the part of the interim administration to acknowledge that while it may be very well meaning in its efforts to implement gender equality commitments, these are in the context of ensuring the women's human rights, all human rights principles are upheld - that one of the core components of "1325" after all; what role and representation can be expected from women's human rights defenders and peace women in light of events since December 5, 2006?

It would also be critical for the Interim Administration to clarify what is the proposed mechanism for consultation with women's organisations?

How can we be assured of a human rights and human security perspective in the national security framework?

Additionally UNSCR 1325 is also extremely relevant for member states who are Troop Contributing Countries (TCC) of the United Nations as it mandates Gender perspectives and training in Peacekeeping. It should be noted that despite the events of December 5, 2006, Fiji remains a TCC and also a member of the Multinational Forces & Observers in Sinai. Interestingly the largest of Fiji's troop numbers are deployed to "Iraq" (UN Mission based in Jordan, known as the United Nations Assistance Mission for Iraq (UNAMI).

Current records of the UN Department of Peacekeeping Operations show that Fiji's contributions include: 36 Fiji Police 39, Military/Observers: 8 Troops 221 Total: 268

It is unclear from these records how many are women, however, it should be duly noted that while there has been a notable increase in the number of females recruited by the Republic of Fiji Military Forces such a recruitment drive should not be regarded as implementation or compliance with UNSCR 1325.

Implementation of UNSCR1325 is more than about the simple appointment of the Minister of Women to the National Security Council or the recruitment of women to meet required peacekeeping personnel quotas. Compliance with UNSCR 1325 also requires compliance with core human rights values which require UN member states to ensure the protection of and respect for human rights of women and girls, particularly relating to the constitution, electoral system, the police and judiciary and also respect international law regarding the rights and protection of women and

girls, especially as civilians, and also to support local women's peace initiatives and indigenous processes for conflict resolution and involve women in all of the peace agreement implementation mechanisms.

Furthermore TCCs are also required to expand the numbers and roles of women in UN field operations, such as military observers, civilian police, human rights and humanitarian personnel as well as to ensure that all UN civilian personnel of peacekeeping operations receive similar training. It requests member states to include HIV/AIDS awareness training into programmes for military and civilian police in preparation for deployment.

Recommendations:

8.1 Include indicators on women's representation in the diplomatic service into the Chief Executive Officers of Foreign Affairs performance indicators. The Public Service Commission used to send recommendations to the Foreign Affairs and it used to make appointments. However the Prime Minister's office now appoints High Commissioners.

8.2 Call for an enquiry into the military and develop a strategy for demilitarisation including a comprehensive DDR (disarmament, demobilization and reintegration strategy) in full compliance with UN Security Council resolution 1325. Explore the option of the military becoming a Pacific peacekeeping force monitoring the Pacific ocean.

8.3 Ensure that women, peace and security issues are supported through full and effective compliance with CEDAW, as well as UN Security Council resolutions 1325 and 1820 to ensure that women's experiences, needs and perspectives are incorporated into the political, legal and social decisions that determine the achievement of just and lasting peace.

8.3 Call for the state to clarify what is the proposed mechanism for consultation with women's human rights activists and women's organizations on peace and national security strategy.

Article 9: Nationality

The State Report has adequately represented the position in regard to nationality and citizenship. It is correct that the formal legislative discrimination between men and women was removed in the 1997 Constitution. However, it is very difficult for foreign spouses of both genders to remain in Fiji and obtain employment without changing their citizenship, and/or obtaining a work visa with ease. There is little point in allowing foreign men married to national women the right to live in Fiji, if there is no concomitant right to obtain employment. This right becomes an illusion without the necessary policy changes to make that right a practical reality.

Recommendations:

9.1 That the foreign spouse of a Fiji national automatically be granted permanent residence status in Fiji, once a genuine marriage is proven. The right to Permanent Residency should include the right to be employed in Fiji.

9.2 That a foreign spouse of a Fiji national residing in Fiji, automatically be granted a work visa to enable employment.

Article 10: Education

There is substantive *de jure* legal compliance in relation to legislation guaranteeing women and girls equal access to education. This is provided for under the Constitution, Section 39 (1). Both the Constitution and the Human Rights Act allows for the creation of special measures for the advancement of women in education. There is a compulsory regulation order on primary and secondary education for girls and boys.

However there is no legislation that requires family life (reproductive and sexual health) education to be compulsory in schools.¹¹³

"They asked the religious education department to incorporate family life education, but only for lower forms...the teachers are not aware of sexual health issues...if there's more awareness there'll be more confidence amongst teachers to teach sexual health...religious based schools censor the program too... some of the challenges that teachers face are lack of awareness about the subject, teacher's also make fun of the subject...how they approach the subject is important...it becomes too personal that's why they make fun of it and also teachers and students have traditional mindsets.."(School teacher, Dudley High School)

"We have moral values classes in which sexual health education is incorporated...we also talk about issues on drugs and general moral values which are usually based on religious values. There is no specific time allocated for the session, teachers are expected to deliver information in the morning during the morning sessions. We need to make this programme compulsory in schools, especially since the number of teenage pregnancy and STI's are increasing. The major challenge is, teachers are not aware of the issues themselves, so there needs to be more awareness raising programmes with teachers". (School Teacher, Suva Sangam College)

The state has to be commended for compliance in ensuring access and equal opportunities for boys and girls to all levels of education; and for its "Matua" programme initiated in 2004 which encourages interested school leavers and adults who dropped out of school to continue their education within the main secondary school curriculum. Considering that 75% of the graduates who are studying at the University of the South Pacific are female, it is evident that this targeted program has

¹¹³ UNDP and UNIFEM Translating CEDAW into Law, 2007. pg 183

encouraged women and girls who may have dropped out of school due to factors such pregnancy or poverty to resume and obtain higher education.

Further indicators towards the successful meeting of gender indicators are highlighted in the Fiji's Governments (EFA) Mid Decade Assessment Report for the period 2000-2007.

A summary of the report highlighted the following:

- That the primary net enrolment rates increased from 95.98% in 2005 to 96.01% in 2006, yet, student retention and drop-outs remain challenges for the country.
- The growing number of drop-outs from primary school is attributed to educational costs, particularly for parents in rural areas.
- Quality of education continues to be an issue. Teacher to pupil ratio improved slightly, at 1 teacher to 28 students for primary education and 1 teacher to 19 students for secondary education. The report notes that ratios are better for urban schools than rural schools.
- Other areas to address are infrastructure, equipment and resources, learning environment and community support.
- Gender parity and equality are non-issues within the Fiji education system. The report states that girls and boys have equal opportunities to all levels of education and government scholarships are to be shared equally between boys and girls.
- Access to secondary education is increasing, with enrolments for girls being higher than boys. According to the 2002 Household Income and Expenditure Survey (HIES), 77.2 percent of the unemployed population had secondary education. However, there are concerns regarding the difficulty in finding employment.
- Other challenges noted in the report include data gathering and analysis, as most data required for analysis are not available within the ministry. Desegregation of data is even more difficult with most indicators since data are not collected according to the categories required in the indicator listing.
- The report states that ethnic differences remain a concern when it comes to examination performance. Indigenous Fijian students lag behind other ethnic groups in major external examination results such as Fiji Junior Certificate (FJC), Fiji School Leaving Certificate (FSLC) and Fiji Seventh Form Certificate (FSFE). Similar gaps are also evident between rural and urban schools¹¹⁴.

There is a strong relationship between ensuring access to education and poverty. Lack of education contributes to vulnerability to poverty. Higher educational qualifications contribute to the reduction of the incidence of poverty.¹¹⁵ Moreover, surveys show conclusively that women's education, particularly its intergenerational effects on children's health and education, is directly linked to human

¹¹⁴ Fiji Education for All Mid-Decade Assessment Report: Quality of education a top concern, 2008

¹¹⁵ Narsey, W., 2008. pg 109

development.¹¹⁶ There is also a positive relationship between women's education and economic growth.¹¹⁷

In Fiji, girls outnumber boys in enrolment rates at secondary level. Compared to Asia, recent research indicates no huge gender disparities in enrolment rates in the Pacific region¹¹⁸, and in most cases, girls outnumber boys' enrolment numbers at high school, as well as at university. For example, current enrolment rates at the regional University of the South Pacific indicate that 11,224 females and 9,842 males are registered as students, whilst there are 221 female and 391 male staff.¹¹⁹ However there are huge disparities between islands and the quality of education differs greatly between them as well.¹²⁰ From the Pacific region Kiribati and Tonga were the best performers.¹²¹ However numbers drop significantly for both groups for secondary school compared to primary school, and women enter the paid work force at significantly lower numbers.¹²²

What is not clear is the comparative fall out rate for girls at secondary school. For example, in Fiji, despite the figures apparently indicating gender parity, at both primary and secondary levels, male drop-out rates are higher than females, (6.6% for boys and 3.4% for girls) resulting in a higher proportion of females completing primary and secondary schools than males.¹²³ However some of the contributing factors for girls dropping out include the rise in teenage pregnancy rates and socio-cultural expectations requiring females to be at home to help their parents take care of younger children and other family members.

Table 9. Education indicators in Fiji						
	Adult literacy		Primary school		Secondary school	
	Rate (%)		Enrolments (%)		Enrolments (%)	
	Male	Female	Male	Female	Male	Female
Fiji	96	92	107	105	85	91

Source: Hughes & Sodhi, 2008.

¹¹⁶ UNESCAP, 2007. pg 111

¹¹⁷ UNESCAP 2007. pg 111

¹¹⁸ Hughes and Sodhi, 2008.

¹¹⁹ USP, 2008.

¹²⁰ Hughes and Sodhi, 2008. pg 10

¹²¹ UNESCAP, 2007. pg 111

¹²² Jalal, 2009.

¹²³ Fiji CEDAW State Report 2008. pg 51

There are no formal laws that prohibit access to education for girls or women; rather it is discrimination by omission, for example failing to legislate in areas affecting girls and women's education. However, they are disadvantaged because of informal and structural impediments such as poverty, cultural attitudes and perceived gender roles. This means that if there are limited education funds available within the family, girls may be withdrawn from school first. Cultural reasons are also important. Research in 1994 indicated that close to 20 per cent of Indian Fijian girls were taken out of school in fifth form (around the ages of 15-16, two years short of graduating from high school) to marry, in mainly arranged marriages.¹²⁴ It is not clear whether this pattern remains and more research is needed.¹²⁵

Save the Children Fiji, believes that apart from poverty, the lack of education and a growth in the tourism sector are factors that have left girls vulnerable to sexual exploitation. This is evident in the 2006 report on the Commercial Sexual Exploitation of Children which highlighted the increasing trend in the number of child sexual abuse case. Child adoptions and early marriages have also led to the sexual exploitation of children.¹²⁶

There is no legislation creating special measures for education of girls, whether in the form of temporary special measures or the requirement of special budgets for female education, despite the law allowing such measures for disadvantaged groups. Some informal policies for affirmative action for the education of girls appear to exist but there is no data supporting this. There is no legislation preventing schools from expelling girls who fall pregnant, or mandating schools to allow them to complete their education, after childbirth. It is the norm in most secondary schools for pregnant girls to be expelled.¹²⁷

Article 10 of CEDAW mandates State Parties to ensure that women and men have equal rights and opportunities in the field of education. Fiji has made equal access to education a constitutional requirement,¹²⁸ and has specifically allowed for legislation to be passed providing equality of access in the field of education.¹²⁹ However, this provision has not been used to pass laws on affirmative action or to encourage female education.

It is widely accepted that legislating for compulsory education is critical to ensure that girls are equally prioritised and not discriminated against in education.¹³⁰ However this is not well monitored by the state. CEDAW General Recommendation 5 also encourages States to make more use of temporary special measures such as

¹²⁴ Fiji Ministry of Women & Culture, 1994. A Statistical Gender Profile

¹²⁵ Jalal, 2009.

¹²⁶ Radio New Zealand, Online, 2009. Poverty, poor education and the growth of tourism spark sexual exploitation in Fiji

¹²⁷ Jalal, 2009. DAV Secondary School is the only school in Fiji with a deliberate policy of allowing young mothers from any school to complete their education.

¹²⁸ Constitution of Fiji (1997), Section 39(1)

¹²⁹ Constitution of Fiji (1997), Section 44, Constitution of Fiji (1997), Section 21, Human Rights Commission Act 1999.

¹³⁰ UNIFEM Pacific 2007, pg x

affirmative action, preferential treatment or female quotas to promote women's participation rates in education.¹³¹ Fiji has introduced compulsory schooling at both primary and secondary levels to up to age 15.

In the vocational and technical sector, girls tend to be pushed into traditional stereotype subjects such as home economics and sewing rather than technical drawing or physics. This is an extension of traditional female roles. Very few girls are enrolled in non-traditional courses at technical schools.

Women in decision making in education

An equal number of men and women enter the teaching profession. As at 2004, of the 7825 filled established positions in the Ministry for Education, 49% were women. However the majority of women are in primary school teaching, followed by secondary school. However when it comes to decision making levels, women's representation is dismal. There are more men than women at the Divisional and Senior Education levels. There are twice as many male head teachers and assistant header teachers. Only 10% of Principals are women.

Factors for the poor representation of women at the principal level include the reluctance of senior education officials to transfer single women to rural primary schools and a presumption that married women will be less likely to want to transfer. In addition, culture is highlighted as a limiting factor, namely that since principals play prominent roles in rural communities, where there is an unofficial requirement to "sit around the grog bowls" with other usually male decision makers women, may not suit such positions.¹³²

The lack of women in decision making in education does not promote positive roles modes for girls in schools and goes against the state policy of encouraging and promoting female representation at 30% in all levels of decision making.

Corporal Punishment

Corporal punishment is prohibited under a High Court ruling in 2002 which stated that it was unconstitutional. Prior to this, the Ministry for Education policy allowed principals to administer corporal punishment. However, interviews with parents and teachers conducted for the Pacific Children's Program, found that punishment of children is administered by parents, guardians and elders and takes many forms. These include beating, using a belt or rod, hitting and punching the head with the hand or an object, inserting fingers down a child throat until the child gags, tying up a child in a sack and hanging from a tree and whipping with a stick or rope.¹³³

¹³¹ UNIFEM Pacific 2007. pg 24

¹³² Tavola, H., Chapter 15, The Education of Women and Girls in Learning Together: Directions for Education in the Fiji Islands, Report of the Fiji Islands Education Commission /Panel 200 pg 260

¹³³ Global Initiative to End All Corporal Punishment of Children, 2005. pg 2

Women with disabilities

While the primary enrolment of girls with disabilities is higher than boys with disabilities, this is not reflected at the secondary level, as with increasing levels of education, the enrolment rates of girls with disabilities decreases. As research has shown, girls with disabilities drop out as the overall participation of girls in higher levels of education increases¹³⁴.

Women with intellectual or learning disabilities who cannot go through mainstream education should be given the opportunity to go through vocational or rehabilitation training centres where they should be trained the field that they are interested; or to enable them to upgrade their skills. Suitable curriculum should be provided for women with disabilities that will suit their individual learning capabilities.

Recommendations:

10.1 Pass a law requiring family life (reproductive and sexual health education) to be made compulsory in all schools.

10.2 Encourage curriculum development on family health ensuring awareness of contraceptive methods in the program.

10.3 Pass legislation prohibiting expulsion from school because of pregnancy.

10.4 Devote resources and progressively expand the “Matua” program to be implemented in rural schools.

10.5 Pass legislation that makes corporal punishment illegal and ensure schools have an anti-violence and anti-bullying policy. Raise awareness on the negative effects of corporal punishment and ensure discipline in schools, families and institutional care is administered in a manner consistent with the child’s dignity.

10.6 Support scholarships and affirmative action quotas for girls to be enrolled in science and technology programs in tertiary and technical colleges.

10.7 Provide community based early identification and intervention services that promote a non discriminatory approach to identifying both girls and boys with disabilities and intervening where necessary, with support and train for family, including in remote areas, to ensure that girls with disabilities attend and achieve success at school.

10.8 Provide and strengthen human rights, gender quality and advocacy education and training in support of the active participation of women and girls with disabilities in national women’s machinery and other civil and political rights

¹³⁴ UNDP, 2009. Pacific Sisters with Disabilities; at the Intersection of Discrimination, pge20

10.9 Provide and strengthen quality education, rehabilitation and training for girls and women with disabilities that is inclusive and sensitive to the multiple forms of discrimination they face.

10.10 Review funding inclusive education development, particularly with respect to the need to actively support girls with disabilities access to mainstream schools.

10.11 Seek technical assistance from UNESCO and relevant others to implement inclusive education promoting equality in outcomes for girls with disabilities.¹³⁵

10.12. Under a Gender and Disabilities Review of the education sector. This will include a gender and disability analysis including access to education for boy and girls and vulnerable groups at all levels of education.

10.13 Establish a gender task force to review existing and new appointments in the education sector.

Article 11: Employment

Gender discrimination frustrates women's participation in employment, reduces their productivity, diverts resources and has an overall negative impact on women's empowerment and therefore the wider society of which they are part. Gender discrimination in employment occurs in the wider context of the marginalisation of women in the negotiation and implementation of Fiji's trade and economic policy. Trade policy in Fiji does not incorporate measures to advance the status of women, while some economic opportunities have opened up for women, this has not been in ways that have supported women's labour rights, increased women's ability to access the labour market in an equitable way, or supported institutions in society that increase gender equity, such as universal healthcare, education and welfare services. Furthermore trade and economic policy changes have restructured local tax regimes, coupled with global market forces these factors have significantly shaped women's employment options and their broader economic status. For example, in Fiji, in 2002, 39 per cent of women above the age of 15 were employed in non-agricultural wage employment, compared to 79 per cent of men.¹³⁶ Later in 2006, the percentages of women in paid employment was reduced to 37 per cent due to the closure of several large, multinational, garment factories in the tax-free zones, when their tax exemption periods expired.¹³⁷

Trade Policy

Fiji is an original WTO member, and is also signatory to several regional reciprocal agreements including PICTA, PACER (though possibly excluded from PACER-plus negotiations), and the Interim-EPA; as well being a signatory to several bilateral agreements. Proliferation of such agreements has made Fiji's trade regime

¹³⁵ UNDP, 2009. Pacific Sisters with Disabilities; at the Intersection of Discrimination, pg 60

¹³⁶ Nairube, 2002.

¹³⁷ Jalal, 2009.

excessively complex and has questionable economic and business benefits¹³⁸, let alone social, political and environmental impacts.

The hidden costs to women of liberalisation are not factored into trade policy formulation, nor are impacted groups included in its formulation, such as the ministries for women, welfare, health and education as well as civil society groups which provide social services are not included in the formulation of trade policy. Trade policy objectives and negotiations remain an exclusive exercise for the Ministry of Commerce and Trade, in consultation with the business community meaning little understanding or accountability is able to develop in terms of how trade and high level economic policy has profoundly far-reaching impacts.

Overall, in Fiji, trade liberalisation has had the effect of restructuring and restricting the policy space important to advancing the status of women, because it has locked in a strategy of decreasing tariffs and opening markets to equal terms of trade for local and foreign operators. This in turn has required the “internal adjustment” of increasing revenue sources from VAT or income tax, however these alternative revenue sources have not fully compensated for the losses from tariffs so government revenue levels have not been maintained, and public spending in health, education and infrastructure has suffered, and debt has been incurred. The majority of Fiji’s liberalisation occurred in the 1980-90s, this is part of the reason Fiji is projected to lose only 3% of revenue from PACER-plus agreement¹³⁹ however due to previous liberalisation and borrowing to cover budget deficits, financing government debt continues to consume a significant amount of government revenue.

Trade agreements are also binding and effectively impossible to reverse; the social implications are difficult to predict, as are future economic interests, which negotiators can try to factor in, but obviously will not be able to foresee all possibilities; therefore it can be difficult to align trade policy with ex ante development interests and social priorities. Furthermore lack of understanding and negotiating capacity in the Fiji government resulted in extensive and in some sectors inappropriate liberalising of tariffs in the 1990s which contributed to the collapse of some agricultural sectors such as the rice industry.

Exclusion of women’s development needs from the processes of negotiating trade policy have continuing implications for women’s lives. These include loss of government revenue and the implications, the creation of feminized labour forces, deindustrialization and job losses and general economic downturn and its flow on effects including political instability and societal and domestic violence. The lack of representation of women’s issues in trade policy means these concerns and costs are not factored into the wider negotiations, and the costs of broader economic policy

¹³⁸ World Trade Organisation, 2009.

¹³⁹ Soni, H., and Zinner-Toa, 2007 .

implications for women are not properly understood nor weighed against the anticipated benefits in negotiations.

Economic Autonomy and Agency

Women's autonomy is fundamental to their economic participation,¹⁴⁰ and economic participation leads to more financial autonomy which facilitates decision-making and agency. However, despite more females enrolling at school and getting an education, as indicated previously, they are still entering the paid work force in lower numbers.¹⁴¹

The ERP, Access to Justice and the Illegal Regime

The State CEDAW Report mentions the Employment Relations Promulgation 2007 (ERP) which purports to extend various grounds of non-discrimination to the employment sector. We do not recognise the validity of the ERP as it was imposed through an illegal process and by military decree.

The effective enforcement of employment rights is affected by the lack of easy access to the courts of law and the costs of lawyers or the need to use the FHRC. So far no cases on gender equality or non-discrimination on the grounds of gender in employment have been filed by the FHRC.

The Constitution of Fiji, together with the Fiji Human Rights Commission Act 1999, would appear to allow for the horizontal enforceability of rights; however this interpretation is yet to be properly tested. There is no clear court case explicitly stating that the private sector or other NSAs are also bound by the Bill of Rights. For example, in the tax exemption zones in Fiji, which hire extremely large numbers of women in privately owned garment or other manufacturing factories, it is not clear whether exploitative labour conditions can be challenged on constitutional or human rights grounds. This legal impediment must be addressed legislatively with clear and unambiguous language.

Box 6. Female Workers in Fiji's Garment Manufacturing Industry (TFZs)

Recent research¹⁴² commissioned by Asia Pacific Forum on Women, Law and Development (APWLD) on women workers in Fiji's two garment factories in Tax Free Zones (TFZ) clearly articulates the gender discrimination faced by women workers in TFZ. The majority of the women employed in these zones have low levels of education and as such employment opportunities are narrow. For most of them, employment in garment factories is one of the few employment opportunities. Many of the female workers are not skilled and receive in-house training. The lack of skills has contributed to low level wages with 91% of the women earning FJ \$80.00 or less per week. As such they are willing to work overtime and during public holidays. The research findings also indicate that the Garment Wages Council contributes to the low hourly rates in the garment industry as the council's views and wage negotiations are generally pro-employer and gender-biased.

Consequently, the take-home pay for women in garment factories in TFZ has remained low in the last decade (ranging from \$18.00 and \$80.00 for 91% of the women) when compared to male-dominated industries in the manufacturing sector. This has been greatly compounded by the various deductions

¹⁴⁰ UNESCAP, 2007, pg 104

¹⁴¹ Jalal, 2009.

¹⁴² Rokoduru, A., 2008, pg 8-9

each woman makes towards hire purchase payments, loan payments, transport costs, rent, child-minding services and other expenses.

The single-page annual agreement signed by female garment workers are brief in nature and lack specific provisions on maternity leave, paid leave and work on public holidays, sexual harassment, addressing grievances, wages and allowance awards. Because the majority of female workers are not aware of their basic rights, exploitation in the garment industry is rife. This is compounded by the fact that most of the women workers are not organised (non-unionised) and are often discouraged from joining the union because of subscription fees, as well as the threat of possible victimisations from management.

Women are awarded paid annual leave for at least 10 days, paid sick leave of at least five days and paid maternity leave of 84 days. Unfortunately, the maternity leave provisions discourage women from fully enjoying their sexual reproductive and health rights because of the low daily rate of \$5.00 per day for every child compared to \$14.85 - \$17.55 per normal working day. As such, many women deny themselves 42 days of post-birth leave.

Table 10. Fiji. Major employment status, activity or category-preliminary results of the employment & unemployment survey 2004-05

Major Employment Status, Activity or Category			
Employment Status	Female	Male	Total
A- Wage earner	39444	107148	107148
B- Salary earner	18303	30581	48884
C- Employer	617	2647	3263
D- Self-Employed	23105	68782	91887
E- Family worker	19547	18517	38064
F- Community worker	1730	505	2235
H- Retired/ pensioner	4951	7984	12936
I- Handicapped	1816	1878	3694
J- Other reason for inactive	7808	5301	13109
K- Not looking for work	730	1364	2094
L- FT Household Duties	120651	1642	122292
M- NAS/Underage	37452	42042	79493
N- Full-time student	113821	119080	232901
T-Unemployed/NAS/ of school age	2680	2344	5025
U- Unemployed/ Looking for work	4883	6545	11429
V- Unemployed/ Stopped looking	2244	1810	4054
Total	399781	418170	817952

Maternity Leave Provisions

Women in paid employment in public and private sectors are able to take maternity leave with pay under the Employment Relations Promulgation. Previously the law allowed for 84 days at an allowance of FJD \$5.00 per day. Women's organisations have long pushed for this change but believe that legal reform should go through a democratically elected government. However this promulgation of the law for maternity leave has been delayed due to the strong employers lobby who have requested for a tax scheme for employers who pay maternity leave. While employers have claimed their inability to pay, there is a reluctance to open up their books to justify this inability.¹⁴³

"Maternity leave and pay is a woman's right and should not be seen as a burden by employers".¹⁴⁴ The Co-ordinator of Fiji Women's Crisis Centre said that employers were making profit and should not be compensated. However, she said if having an incentive for employers was the only way for female staff to have maternity leave and pay, then FWCC supported the move, as women are discriminated on this basis during recruitment.

Incomes

In Fiji women earn 19% less than males over all, especially in occupations and industries not requiring high qualifications, such as in agriculture or craft work. However some generational improvements for professional and higher paid women in employment are shown when age is factored in. Younger females have more education than their male counterparts; younger females also have virtual parity with men as senior officials and management, professionals, technical and associate professionals. Younger women also earn more than older women over all: for the age group 20-29 years women earn 20% more than their male counterparts, but in older age groups women earn less than their male counterparts: for the age group 30-39 years women earn 14% less; and at 40-54 years: women earn 37% less.¹⁴⁵ Additionally women earn more on average than men in two of the top three employment categories, 14% more than male senior officials and managers, and 41% more than male technical and associate professionals.

It must be stressed that despite these improvements for professional women, lower paid and informal women workers (which make up the majority of working women) still face difficulties, for example 50% of women in the informal sector live in poverty, compared to 38% of men; and women's wages in the informal sector need to be protected (for example by enforcing the Wages Councils Orders).¹⁴⁶ The most

¹⁴³ Fiji Times Online "Mums await full pay leave"

¹⁴⁴ Fiji Times Online, "Maternity pay is a woman's right"

¹⁴⁵ Narsey, W., 2007.

¹⁴⁶ Narsey, W., 2007.

vulnerable are women who work in informal sectors that are not organised (not part of a union such as garment workers and domestic helpers unions).¹⁴⁷

Female Workers in Poverty; or at Risk of Poverty

Women's total work burden has increased: the number of economically active women has increased 150% between 1982 and 2004 compared to a 35% increase for males¹⁴⁸ – but what is the quality and nature of this employment? Female workers are more vulnerable to poverty than males, with 44% earning below the poverty line, in contrast to 32% of males.¹⁴⁹ The percentage of poverty is also higher for females not paying Fiji National Provident Fund, 67% compared to 48% of Males.

Through the 1990s, there emerged a feminized labour force working in oppressive conditions in the garment and fish canning industries, constructed through trade and labour market deregulation and tax free zones.¹⁵⁰ Due to labour market deregulation and undermining of unions, women in such feminised workforces were vulnerable to exploitation through poor working conditions, terms of employment, and low pay. Later when the tax free zones ended, women faced job losses as the garment industry contracted and employment shrank from 20,000 to 7,000 jobs in 2007.¹⁵¹ Labour market deregulation also had serious consequences on household income. Mean daily real wages decreased 22 per cent between the two periods 1982-86 and 1989-92 and with a 33 per cent decrease in the manufacturing sector in particular.¹⁵² Fiji also has a rising number of female headed households, indicative of further poverty and social burdens for women.

Deindustrialisation and job losses have also disproportionately impacted women. Women became the first victims of retrenchments and salary reductions of between 15 and 40 per cent, partly due to gender constructs that portrayed women as “only working for ‘lipstick’”¹⁵³ or to supplement their husbands income, and that in times of ‘economic recession constructs of women as primarily wives, mothers, and caretakers of families are operationalised to take the pressure off the job market’¹⁵⁴.

A tax regime that discriminates against women and the poor

Trade liberalisation in Fiji and the subsequent loss of government revenue has necessitated other forms of economic reform including tax reform that have disproportionately burdened the poor, with the brunt of impact being faced by women. Extensive liberalisation and structural adjustment began in the 1980s. Key sectors opened up and marketised for Fiji's “export-led growth”¹⁵⁵ were tourism, sugar, low cost women's labour, fisheries, timber and gold. To facilitate this,

¹⁴⁷ Rokoduru, A., 2008.

¹⁴⁸ Narsey, W., 2007.

¹⁴⁹ Narsey, W., 2007.

¹⁵⁰ Emberson-Bain, A., 1994; Emberson-Bain, A. (Ed.), pp 149-172; Lateef, S., 1990, pp 113-130; Leckie, J., 2000; H. Akram-Lodhi (Ed.), pp 178-201; UNIFEM, 1999

¹⁵¹ Narsey, W., 2007.

¹⁵² Sepehri, A., & Akram-Lodhi, H., 2000. pg 87

¹⁵³ Lateef, S., 1990. pp 113-130

¹⁵⁴ Lateef, S., 1990. pg 114

¹⁵⁵ World Trade Organisation, 2009.

corporate and high income tax rates were cut and compensated for by broadening the tax base “bringing some 40,000 peasants into income tax for the first time”.¹⁵⁶ Value Added Tax (VAT) was introduced across the board on all goods and services and import tariffs and licenses were reduced. In subsequent budgets, tariffs were further reduced, as was tax, and VAT increased. Labour market deregulation was also part of this strategy, along with policies to undermine unions in order to reduce the high wage rates of the 1980s and 1990s, which were seen to hinder Fiji’s competitiveness as a manufacturer and exporter. VAT has a disproportional impact on poorer households where cash budgets are limited and thus suffer proportionately more impact from rising prices. This is likely to increase women’s work burden as they seek to make ends meet. Women’s wages are more likely improve the standard of living of their households.¹⁵⁷ It is important to note that tariffs have remained on some foodstuffs to protect local industry. This means food prices are higher than if no tariffs were levied, in order to protect a few jobs. Dropping these tariffs would have broader positive impacts for the poor, than the protection of a few jobs and high profits for a few, however it is clear that policies of indiscriminate liberalisation have had negative impacts on women.

Exclusive Trade Policy Processes

Exclusive and high paced processes, complex substantive issues, lack of capacity in the Fiji government¹⁵⁸, and compromised regional negotiating machinery mean trade liberalisation is unlikely to advance the status of women in Fiji. Though, technically, there is space to express Pacific development interests to some extent in reciprocal WTO compatible agreements such as the EPAs and PACERplus, experience shows that the reality of the power-relations of the process of the negotiations marginalise the Pacific.¹⁵⁹ Governments, both Pacific and EU, Australia and New Zealand are not accountable or transparent in their dealings in negotiating trade with vulnerable countries¹⁶⁰ and this has detrimental impacts on women.

In the current context despite technical possibilities, PACERplus¹⁶¹ is likely to harm women in Fiji. Potential gains for Fiji and the Pacific would be in liberalisation of services in temporary labour mobility access for seasonal work schemes, however opening up trade discussions to the services sector would require Australia and NZ to also access the Pacific services market, in reciprocation. Furthermore, for the scheme to benefit communities it would have to be managed in a sustainable way¹⁶².

¹⁵⁶ Sepehri, A., & Akram-Lodhi, H., 2000, in H. Akram-Lodhi (Ed.) pg 78

¹⁵⁷ Narsey, W., 2007.

¹⁵⁸ In both trade policy issues and gender analysis.

¹⁵⁹ PANG (2009) "Purging the Forum Secretariat: Australia and NZ push trade agenda in the region", Islands Business, February 2009

¹⁶⁰ Kelsey, J. (2004) "Big Brothers Behaving Badly: The Implications for the Pacific Islands of the Pacific Agreement on Closer Economic Relations (PACER)", Pacific Network on Globalisation (PANG), Suva, Fiji

¹⁶¹ Pacific Agreement on Closer Economic Relations Plus

¹⁶² Including management of the repatriation of funds, pre- and post-training/rehabilitation, support while overseas, family support where the worker is absent. Potential negative affects of a badly managed scheme include: low remuneration, low skilled work experience (yielding little benefit to

To date the Pacific has been mostly unsuccessful in negotiating its wider development interests, and key trading partners (European Union and Australia and New Zealand) have aggressively pursued their national interests, at the expense of the human rights and well being of Pacific populations. Furthermore, Australian and New Zealand interference and control at the regional coordinating machinery, the Pacific Islands' Forum Secretariat (PIFS) has undermined regional trade processes through activities such as: the vetting of Pacific policy recommendations through Canberra and Wellington prior to sighting by the Pacific Ministers, controlling institutional structure, controlling staff appointments, controlling research papers to support particular trade policy objectives (in A/NZ interests),¹⁶³ and instigating the ousting of a particular trade official that had unique and unmatched expertise capable of representing Pacific development interests within the WTO compatible framework.

Fiji is already extensively liberalised, so much of the adjustment cost to the population, and effects of deindustrialisation have already been experienced; however further negative impacts on women are possible - especially if there is liberalisation of services.¹⁶⁴ Fiji is in fact the example to the rest of the Pacific of why not to liberalise inappropriately and without rigorous analysis, impact assessment and consultation with stakeholder groups - including those that represent women's issues.

Women Migrant Workers¹⁶⁵

The status of migrant workers in Fiji has not been properly researched, documented or analysed. The three categories of migrant women in Fiji are those that are here as documented migrants who are partners and or wives of working expatriates; those that are documented to work in Fiji; and those that are undocumented (illegal) but are working in the country. While the first two groups are protected by law during their stay in Fiji, there are issues involving the basic rights and freedoms of the third group, which need to be addressed.

There is no record of the numbers of migrant women workers in Fiji. It is generally assumed that the majority of Fiji's migrant women are of Asian origin; from Korea, Taiwan and more recently, the Philippines. They generally work out of some gambling and entertainment nightspots in Suva and Lautoka, Fiji's two largest cities. Fiji is known as a transit point for drugs and human trafficking in the Pacific, and there are strong links between those illegal organised activities and the increased presence of 'new' Asians in Fiji.

the economy on return) trauma from being separated from family with negative health impacts such as substance abuse, vacuum in the social fabric in the Pacific such as social obligations in the community, unfulfilled parenting responsibilities, as well as permanent emigration mean loss of a worker in the Pacific community.

¹⁶³ Grynberg, R., 2009.

¹⁶⁴ For example if water supply was privatised and this expense took further cash out of already vulnerable household budgets.

¹⁶⁵ Rokoduru, A., 2004.

The presence of Asian women, without proper documentation, encourages the exploitation and abuse of female migrant worker's basic rights. There are other questions of access to justice, given those violations, as well as to proper health and medical care when they are sexually, physically or mentally abused.

The significance of unpaid household work

Unpaid household work is of significant value to the Fiji economy. Recent research estimates the value of unpaid household work at almost FJD480 million, a figure greater than the income created by sugar or tourism, the two largest industries.¹⁶⁶ Females spend an average of 26 hours doing household work compared to 9 hours by males.¹⁶⁷ Economically active females do approximately 14 hours more work (paid and unpaid) per week than males or 31% more on average than economically active males.¹⁶⁸ Women are unable to pursue professional and personal development or other income-generating opportunities because they shouldered an unequal burden of household work. In some industries, income disparities between men and women have been reversed for women with certificate and diploma level education.¹⁶⁹

Sexual harassment of women in the workplace is significant

Criminal remedies are not adequate to address the range of unwanted behaviour that women experience in the workplace.¹⁷⁰ Human rights legislation in Fiji classifies sexual harassment a civil offence by providing that ‘...sexual harassment, for the purposes of this section, constitutes harassment by reason of a prohibited ground of discrimination’,¹⁷¹ but this is not in Fiji employment legislation. Although the state report mentions the National Policy on Sexual Harassment in the Workplace, it fails to mention this policy only applies to state actors and does not hold non-state actors accountable. As mentioned earlier, this policy was implemented by an illegitimate administration, as such the validity of the policy is questionable.

One in three women in Fiji have been sexually harassed in the workplace during their working life.¹⁷² Sexual harassment of women in the workplace is significant, widespread, varied in nature, and predominantly a repeated pattern. Overall, the data reveals that the incidence of sexual harassment cuts across all workplace types and affects women from various socio-demographic groups.

Table11. Sexual harassment in the workplace: Fiji Islands	
Women who had been harassed in a workplace during their working life	33%

¹⁶⁶ Narsey, W., 2007.

¹⁶⁷ Narsey, W., 2007.

¹⁶⁸ Based on 2004-2005 Fiji Employment and Unemployment Survey, Narsey, W., 2007.

¹⁶⁹ Narsey, W., 2007.

¹⁷⁰ UNIFEM Pacific 2007.

¹⁷¹ Section 17(1) 1999, Human Rights Commission Act, 1999

¹⁷² Survey commissioned by the Fiji Women's Rights Movement in 2002.

Women who had been sexually harassed in a workplace within the past 12 months	20%
Women who claimed that sexual harassment was still happening	14%
Women who had been harassed 'countless times'	20%
Women who did not report because it was pointless	77%
Women who had been verbally sexually harassed	69%
Women who had been gesturally sexually harassed	47%
Women who had been physically sexually harassed	41%
Women who had have been graphically sexually harassed	26%
Women who had been emotionally sexually harassed	25%
Women who had been sexually assaulted or raped	4%
Women who had been subjected to indecent exposure	4%
Women who had been strip searched	1%
<i>Source: Fiji Women's Rights Movement, 2002.</i>	

The number of clients reporting sexual harassment to the Fiji Women's Crisis Centre over the last decade appears low. Reporting rates drop when there is political and economic instability, particularly the coups in 2000 and 2006, during times of crisis and massive political upheavals women are likely to prioritise "greater and more important issues such as economic survival" over reporting personal experiences of violence.¹⁷³

In July 2009, only one sexual harassment case was reported to the Ministry of Labour.

	Domestic	Rape	Sexual	Child	Others *	TOTAL
YEAR	Violence		Harassment	Abuse		
1999	901	43	32	53	1072	2101
2000	620	35	21	359	595	1630
2001	810	45	52	59	1420	2386
2002	829	36	28	53	1379	2325
2003	718	40	43	47	1066	1914
2004	967	36	19	63	922	2007
2005	822	30	42	65	693	1652
2006	727	30	34	78	607	1476
2007	685	21	19	45	568	1338

¹⁷³ Fiji Women's Crisis Centre, 2009.

2008	713	30	12	56	568	1379
TOTAL	7792	346	302	878	8890	18208

Source. Fiji Women's Crisis Centre, 2009

Mandatory Retirement

A significant unlawful act of the military regime, having an enormous gendered impact on women and their families has been the forcible retirement of all civil servants who have reached the age of 55, contrary to constitutional safeguards against age discrimination, and contrary to a court decision.

On April 1 2009¹⁷⁴, the highest court in Fiji, the Supreme Court, granted leave to appeal a Court of Appeal decision that the Public Service Commission was acting within its powers in reducing public servants' compulsory age of retirement from 60 to 55 years. The Court also stayed this decision, which in practice meant that compulsory retirement would remain at 60 years, until the Supreme Court had heard the appeal and made a decision. Despite the stay, police officers began to be retired at 55 years. Subsequently the Solicitor General unilaterally announced that the retirement age of security officers is governed separately, and did not fall within the ambit of the court decision.

Additionally on April 14 2009, following the unlawful purported abrogation of the Constitution; a State Services Decree was issued that required all civil servants to retire at 55 years. This decree has also removed the Public Services Board and terminated all appeals and hearings pending decisions, violating the "right to be equal before the law and to equal protection of the law."¹⁷⁵

The military regime has refused to publicly release the latest figures of forced retirements, and due to censorship of the media, unfavourable information about Fiji is not allowed to be published. However, more than 3000 established civil servants over the age of 55 lost their jobs as the compulsory retirement age of 55 years was enforced across the board by the end of July 2009.¹⁷⁶ In 2006 there were approximately 6000 unestablished workers. A further 2000 unestablished workers have also been retired. It is the intention of the Government to reduce the total government workforce from 27,000 to 20,000 or less. The Government refuses to confirm any figures exacerbating high levels of concern and uncertainty for workers in general

The Public Service Commission is in the process of consulting with different ministries on the redundancy voluntary package for the civil servants. The State is targeting 5000 civil servants and those nearing retirement, between the ages of 52 and 54. The State said it saved \$40million after 3000 civil servants retired in April.¹⁷⁷

¹⁷⁴ Fiji Government Online, 1st April 2009, Supreme Court extends stay on retirement age

¹⁷⁵ FWRM Human Rights Violations in Fiji April Report

¹⁷⁶ Fiji Times Online, Saturday 18th April, 2009 "1614 retire"

¹⁷⁷ Fiji Times Online, Monday 20th July, 2009, Redundancy Packages for Civil Servants

During the Fiji Nursing Association (FNA) annual general meeting on Saturday 28th April 2007, delegates heard that an estimated 3000 nurses in the country stand to lose their jobs if the interim Government goes ahead and lowers the retirement age to 55 from 60.¹⁷⁸ The nurses who stand to lose their jobs because of the new retirement age policy include established and un-established staff in all major hospitals and clinics around the country.

The retirement age of a worker is an important factor which allows a person to provide for the family. The majority of women in Fiji work in un-established positions or the informal sector where they are not entitled to FNPF, pensions or any other form of post-retirement savings. Given the limited skills and educational qualifications of the majority of women in employment, women and their families will be greatly affected by this decree.

Recommendations: ¹⁷⁹ ¹⁸⁰

11.1 The process of trade negotiation and ratification of trade agreements must be democratized in a gender sensitive way: Legislation should clearly define the process to be followed in trade negotiation; clearly outlining standards and procedures related to consultation, impact assessments, monitoring and evaluation, freedom of information and approval process.

11.1.2 Developed country trading partners (such as New Zealand, Australia and the European Union) need to be held accountable for how their actions impact the human rights of women in Fiji.

11.1.3 Trade agreement ratification should go through parliamentary process for approval, not just cabinet.

11.1.4 Gender, social and environmental impact assessments should be undertaken for all trade agreements (multilateral, regional, national or bilateral). These must be conducted according to a set of standards to ensure thoroughness of the studies. Policy should prohibit signing of an agreement until such assessments are completed.

11.1.5 There should be cross-sectoral governmental and non-governmental consultation including: women, welfare, health, education, infrastructure, agriculture; and cross-sectoral stakeholders must be consulted on trade policy and national strategic objectives, beyond private sector, this should include: CSOs working in the status of women, environment, rural development, microfinance etc. (4) Trade agreements should be monitored and evaluated especially in terms of examining the coherence and contradiction between: economic policies and social development policies (by both government and donors) and how this impact sustainable development; we must hold donors

¹⁷⁸ Fiji Times Online Sunday 29th April, 2009 "New Retirement Age Could See 3000 jobless"

¹⁷⁹ Recommendations based on Narsey, W., 2007, pg xii - xiii and Rokoduru, A., 2008, pg 10 -11

¹⁸⁰ Drawing on recommendations from Williams, M., 2003.

accountable for the contradiction in their aid and trade policies; and ensure that we design indicators that are gender sensitive.

11.2 There should be proactive programmes (such as seminars or regular briefings) to facilitate the integration of gender analysis and a gender perspective in national, regional and multilateral trade negotiations.

11.2.1 This should be available for personnel directly involved in trade processes (negotiators, leaders, governmental and intergovernmental officials), researchers (including consultants), media, general public, cross-sectoral groups including (ministry officials, CSOs, interest groups etc);

11.2.2 Public advocacy to ensure understanding of what is being negotiated and what is at stake is imperative.

11.3 Gender analysis must be mainstreamed in policies and institutional processes:

11.3.1 Gender equality and gender mainstreaming goals and commitments should be integrated into trade and other macro-economic policies. This can be implemented through gender-sensitisation training within the trade negotiation body (PIFS, MCOM/MFAT, OCTA)

11.3.2 Gender should be recognized as a cross-cutting theme.

11.3.3 Gender impact assessments of policies, programmes and project proposals should be implemented at all stages from design and decision-making to action and evaluation.

11.3.4 A coherent and effective policy framework and institutional process for gender mainstreaming should be developed. E.g. include a gender policy statement or resolution/declaration.

11.3.5 The representation of women and gender experts in all of the organs of decision-making and administration should be prioritised

11.3.6 Gender should be mainstreamed in technical assistance and trade capacity building programmes.

11.3.7 Advocacy for and assistance with: the inclusion of gender specialists in the trade teams set up for national, regional and international negotiations.

11.3.8 Help to provide gender-sensitisation and gender focal points programmes in Ministries of Trade and regional trade organisations.

11.4 We need sustained research and the development of gender sensitive frameworks for examining the impact of trade and trade policies on our society and economy, including: A framework for conducting gender assessments of trade policy; as well as gender trade beneficiary assessment frameworks.

11.4.1 Research and data collection should support gender and trade research and monitoring initiatives

- 11.4.2 Commission poverty profiles for capturing the different degree and severity of poverty through all stages of the life cycle.
- 11.4.3 Facilitate participation and public education on trade and on gender and trade concerns.
- 11.4.4 Development of trade-related gender statistics and indicators.
- 11.4.5 Enhance existing database capacity to create more equity and gender impact studies.
- 11.5 Improvement of wage rates particularly for women workers in TFZ. Additionally, there needs to be transparent agreements that clearly articulate maternity leave, allowances, overtime work, and work during public holidays, addressing grievances and/or further training.
- 11.6 Maternity Leave Provisions need to be clearly spelt out and the 42 days leave before and after should be left entirely to the women to portion, supported by medical certificates. Whether the women take the leave before or after, the employer is still obliged to pay maternity allowances. It is also strongly recommended that the \$5.00 per day of maternity allowance be reviewed and increased to a sustainable level to allow women to meet their daily needs. Finalisation of allowances and conditions need to be worked out and negotiated by women representatives of the workers and employers.
- 11.7 Government to examine the income gender gap findings of Wadan Narsey's *Gender Issues in Employment Underemployment and Incomes in Fiji* to encourage restructuring of public sector income policies so that Females' pay scales across industries and occupations are equal with Male pay scales for work of equal productivity.
- 11.8 Government to strengthen its Wages Council mechanisms to ensure that workers that are not covered by unions are given appropriate and timely wages adjustments which maintain the real value of their incomes.
- 11.9 Stakeholder consider setting gender-specific National Development Goals (as a further development of the MDGs) relating to Gender Gaps in employment, incomes and household work. These indicators should include:
- 11.9.1 Females as a proportion of the Economically Active
- 11.9.2 Gender gaps in effective rates of unemployment
- 11.9.3 Gender gaps in average total income per standard year
- 11.9.4 Gender gaps in average total hours of household work by the economically active
- 11.9.5 Proportions of females employees covered by the Fiji National Provident Fund

11.10 Stakeholders to have campaigns that address behavioural change of males and females in society in terms of gender division of labour.

11.11 That the state ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

Article 12: Health

Quality of medical services

Women's access to health services continues to deteriorate. According to media reports, hospitals in Fiji are turning away patients because of the unavailability of drugs and equipment. Some recent examples reported in the media have included basic medical supplies such as panadol, anaesthetics, urinary bags, and thermometers.¹⁸¹

The shortage of qualified doctors and nurses also affects the quality and availability of medical services. Poor working conditions and salaries have forced many qualified medical personnel to emigrate or work in private practice. The national doctor to population ratio is 1: 2896 while the nurse to population is 1: 532. This has been further exacerbated by the political crisis of 2006. According to the Fiji Nursing Association, 75 out of 100 nursing graduates migrate overseas.¹⁸² Women are especially affected by this shortage as the acute shortage of obstetricians, gynaecologists and paediatricians has an impact on the care of mothers and babies.¹⁸³

The Interim Administration gazetted the State Services Decree on the 14th April 2009. Section 15 stipulates a mandatory retirement age of 55 years which has exacerbated the shortage of qualified medical personnel – resulting in the loss of 311 staff members throughout the health ministry.¹⁸⁴ While the state has allowed for recontracting of nursing staff, senior nurses have refused to return under contract, so the quality of health care is affected.

Access to health care is important for women and girls with disabilities as they may have specific health concerns in addition to their disabilities. Women with disabilities do not receive regular medical care due to environmental and attitudinal barriers. They are often denied information on sexual and reproductive health and contraceptives by health care personnel.¹⁸⁵

Hospitals and medical centres in parts of Fiji have been affected by regular water cuts and disrupted power supply with temporary closures of certain sections of the hospitals and centres.

¹⁸¹ FWRM, 2008, FWRM Human Rights Violation Documentation matrix

¹⁸² Fiji Times Online 2009, Medicine needs more local specialists

¹⁸³ Fijilive 2008, Concern over migrating nurses

¹⁸⁴ Fijilive, 2008, Concern over migrating nurses

¹⁸⁵ Chand, A. Pacific Disability Forum, pers comms, 25 July 2009.

Issues of access to medical services for women living in the rural areas still continue to be a problem and the situation is generally worse in rural health clinics with regard to basic equipment and medicine shortages. This has resulted in many rural women having to travel to urban health centres/hospitals from remote areas to give birth.

Female Cancers

Cervical and breast cancer are the most common types of cancer in Fiji. According to the Ministry of Health statistics, 98 per cent of deaths from cancers were from cervical, breast and ovarian cancer. The burden of cervical cancer in Fiji was documented in 2007. Cervical cancer is currently the leading cause of cancer, not only in women in Fiji, for all cancer cases and deaths in the country according to Ministry of Health data. There are over 100 new cases diagnosed in women each year and most of these women die. On average, a woman in Fiji is diagnosed with cervical cancer every 3 to 4 days.¹⁸⁶

Despite the introduction of the Human Papillomavirus Vaccination (HPV) in 2008, the government fails to provide facilities that ensure protection for older women. The HPV Gardsil programme only covers young girls from the ages of 9 to 12 years whose parents consent. An awareness raising programme by the Ministry of Health to inform parents of the importance of HPV for girls created a controversy – resulting in some parents not consenting to their daughters receiving the vaccination.¹⁸⁷ The parents felt that not enough information was provided on the possible side effects of the drugs.¹⁸⁸

The current Pap smear screening programme (with coverage at 10%), is not reaching a vast majority of women susceptible to cervical cancer.¹⁸⁹ Currently there is only one pathologist in the country who is qualified to read the results from pap tests.

Mammograms are not widely available with only three machines in the country- one of is available at the Suva Private Hospital. The machine at the major hospital is often faulty and women are turned away without getting tested.¹⁹⁰ Mammograms at the Private hospital cost women more than \$USD50. Breast screening is optional and but medical practitioners believe that it should be compulsory.¹⁹¹

HIV/AIDS

Infection rates

There has been a noted increase in HIV infections amongst women in the last 5 years; however this could be due to testing prejudice as women are tested in antenatal clinics. STI rates amongst women are also increasing.

¹⁸⁶ Law, I., 2007.

¹⁸⁷ Fijilive 2009, 7 doctors and 34 nurses to be engaged

¹⁸⁸ Ragogo, M., 2008, Are our girls being used as guinea pigs

¹⁸⁹ Fiji Government Website, 2008, Girls to be vaccinated against Cervical Cancer

¹⁹⁰ Ali, J., Fiji Cancer Society pers comm., 6 July 2009.

¹⁹¹ Fiji Times online, 2009, Breast Cancer stats lacking

According to a study, 29 percent of a group of antenatal mothers tested positive for chlamydia, and the rate was higher amongst younger women.¹⁹² The group of women had a regular partner for over a year and were faithful. A lot of work done around HIV/AIDS prevention is not gender sensitive nor is it based on a human rights framework.

Condoms and female condoms

The availability, skills and knowledge to practice condom use is limited. Female condoms are not widely available and are not usually part of HIV/AIDS awareness and prevention programmes. Additionally those who conduct the programmes do not necessarily know how to demonstrate condom use.

HIV/AIDS awareness programmes should be designed using a human rights and gender sensitive framework. The lack of recognition of unequal power relations between males and females lead to programmes which are ineffective. State run HIV/AIDS and STI awareness programmes and work need to be gender sensitive to have an improved effect.

Voluntary Confidential Counselling and Testing

Voluntary Confidential Counselling and testing (VCCT) is not widely available especially in rural and remote health centres.

Most of the government run “drop-in” centres and clinics are based in urban areas resulting in limited access for those living in rural areas. Government health centres also serve as STI clinics in rural areas. In small communities, realistically, this does not allow confidential services. Women do not feel comfortable in approaching health centres due to this lack of confidentiality. Rural health centres lack confidential counselling rooms and/or medical personnel are not adequately trained on VCCT.

Violence against Women and HIV/AIDS

Despite the high incidence of violence against women there is no policy regarding violence against women in the Ministry of Health.

In Fiji there is a lack of coordination amongst agencies for post exposure prophylactic (PEP) for rape survivors.¹⁹³ Women and girls who are sexually assaulted in rural and remote areas in a lot of cases do not have access to PEP as services are only available in STI clinics in the main urban hub centres. In some cases the delay in getting access to medical examinations post-assault, also means that they do not then qualify to receive PEP, as they have exceeded the recommended timeframe of 72 hours.¹⁹⁴

¹⁹² Buchanan-Aruwafu, H., 2007.

¹⁹³ Buchanan-Aruwafu, H., 2007

¹⁹⁴ Chand, S., Branch Manager Pacific Island Counselling and Social Services, pers. comm , 9 July 2009

Mental Health

The majority of mental health disorder patients are women. According to Chandra and Lewai (2005) two-thirds of mental health disorder patients were women. Fiji has only one psychiatric hospital, St. Giles, which is in the capital, Suva. Those who want to access mental health care services generally need to visit the hospital in Suva or are referred to it. Other challenges include the limited resources available to the hospital itself. The former Acting Medical Superintendent, St. Giles Hospital Dr. Odille Chang in an editorial (2007,) stated that there is a lack of financial and human resources, trained medical health professionals; and limited community mental health and psychosocial rehabilitative services. Additionally there is a need for new legislation which is in line with modern practice of psychiatry.¹⁹⁵ Mental health disorders/illness are highly stigmatised in Fiji; women with mental health illnesses are often marginalised, are vulnerable and experience high levels of violence. This issue is then further compounded by the lack of access to support services or services that are not of good quality.

Suicide

Women make up the majority (60 percent) of attempted suicide cases in Fiji. The suicide rate of Indo-Fijian women is the third highest in the world.¹⁹⁶ In 2008 there were a total of 218 cases reported, with 102 deaths through suicide. This was an increase from the 168 cases recorded in 2007, with only 58 deaths. Figures also released revealed that in the first quarter of 2009 there have been a total of 72 cases reported, with 24 deaths and 48 who had attempted suicide.¹⁹⁷

Factors leading to attempted suicide and suicide are complex. Female suicides may be influenced by factors such as gender inequality in cultural practices, that subordinate women in sexual, social and economic status; family disputes and conflict.¹⁹⁸

Anecdotal evidence suggest that a history of domestic violence and social isolation experienced by women, especially Indo- Fijian women, can also lead to suicide.

Lack of support services such as counselling services and community mental health awareness programmes also contribute to an unsupportive environment for women who may want to seek support.

Infanticide laws

Infanticide is not widespread but is a defence to a charge of murder, when a woman takes her child's life in circumstances in which it is medically proven that she is suffering from depression up to 12 months after birth.¹⁹⁹ In most cases the charges

¹⁹⁵ Chang, O., 2007.

¹⁹⁶ Fiji Government online West Commemorates World Mental Health Day, media release, 8 October 2008

¹⁹⁷ Fiji Government Online, Press Release, Suicide Rates Worrying, 4 May 2009.

¹⁹⁸ Chandra, D., & Lewai, V., 2005, pg147

¹⁹⁹ Section 205, Penal Code, Chapter 17. Similar in rest of region see Jalal, 1998 607 at note 18.

are reduced from murder to manslaughter. In a number of cases the courts have recognised the link between poverty and infanticide, and in some cases, domestic violence. In *The State v Mala Wati*²⁰⁰ a woman was given a two-year suspended sentence for causing the death of her five-month-old baby. The court noted that the woman had been a battered wife, was living in an impoverished squatter settlement, was unable to provide her baby with nourishing food and was the sole supporter of her seven children.

Recently it was reported that ²⁰¹ 7 out of 15 women serving life sentences in Fiji's prisons have been convicted of "killing their babies". The official from the Commissioner of Prisons office said that infanticide was the most common offence committed by female inmates, which could have been avoided if they had the support of their respective families. It was noted that the remaining eight women serving life sentences have been jailed for either murder or fraudulent acts.

Abortion

Abortion is illegal in Fiji and can be permitted in certain circumstances to save the mother's life. Abortion is identified as a concern in the report of the review of the legislation under the Penal Code on Sexual Offences. The Penal Code reform had completed its consultations stage and a report was with the Office of the Attorney General for legislative drafting before the 2006 coup.

Recommendations:

12.1 The State needs to address access issues as well as the shortage of trained medical personnel, medicine and equipment. It is critical that women are able to access continuous water supplies as well as power supplies to ensure that women enjoy quality medical care and support.

12.2 The State needs to address issues of access to adequate health care and services for women with disabilities especially with regard to access to sexual reproductive health services. All reproductive health programmes and services must be accessible to women and girls with disabilities.

12.3 The State needs to implement more awareness programmes on cancers that affect women, allocate funds to improve facilities to allow access to regular pap smears, mammograms and other testing. The state needs to ensure that rural women have equal access to these services.

12.4 The State needs to train medical personnel on HIV/AIDS and also improve health facilities in rural areas to ensure the availability of VCCT.

²⁰⁰ The Fiji Times, 27 October 1993

²⁰¹ Fijilive, 2009, Most female lifers killed babies: Prison Chief

12.5 The State needs to ensure that HIV/AIDs, STI awareness programmes need to include promotion and access to condoms especially female condoms. The programmes should be targeted at both males and females.

12.6 The State needs to commit to more research to establish a clearer picture concerning the HIV situation for Fiji's women specifically in their sexual practices and ability to negotiate safe sex and condom use for themselves. The other crucial areas of research on HIV that will impact upon the lives of Fiji's women include the burden of care for HIV, the economic impacts of HIV on individuals and households, accessing treatment, care and support for People Living with HIV (PLWH), HIV policies in the workplace, as well as the topic of HIV and orphaned children. The State needs to ensure that the antenatal services and health services in general have a process whereby medical personnel screen for risk of domestic violence to assist women in at risk situations. Medical personnel must undergo training and be monitored to make referrals.²⁰²

12.7 The State needs to ensure that rape survivors have access to PEP and there needs to more coordination amongst agencies such as the medical personnel and the Police with regards to the enforcement of policies related to access to PEP.

12.8 Violence against women increases women's vulnerability to HIV/AIDs infection. The state needs to integrate understanding of violence against women and its prevention into HIV/AIDS prevention, sexual reproductive health and all health programmes.²⁰³

12.9 The State needs to address the needs of the mental health support services in Fiji and to make support services more widely available to women around the country.

12.10 The state needs to recognise and implement awareness and outreach programmes to remove stigmatisation and stereotyped generalization in order to improve accessibility to mental health.

12.11 The state needs to recognise mental health as a serious concern and allocate adequate funding to the mental health sector.

12.12 Infanticide laws need to be closely analysed and reformed. It is unacceptable that women should be imprisoned for infanticide up to life imprisonment or even at all, for acts committed when they are suffering from post-natal depression or facing extreme hardship and poverty, and when lawful terminations are unavailable. We call for the immediate release of women in prison for life imprisonment as a result of infanticide.

12.13 Any reform of the Penal Code must be carried by a democratically elected government and allow for the decriminalisation of abortion.

²⁰² Buchanan-Aruwafu, H, 2007.

²⁰³ AusAID, 2008.

Article 13: Economic and Social Life

While there is a limited social security system in Fiji, the Social Justice Act 2001 allows for affirmative action to provide cash allowances and relief supplies for the benefit of widows, solo parents and deserted women. They ought to be able to benefit regardless of their marital status.

There are limited social services provided by government. A significant amount of social services are provided by the non government sector which is inadequately subsidised by the state. Despite the attempts of non state actors to bridge this gap in services, social services available are still inadequate to meet the needs of most women and their families. The Government, through the Social Welfare Department, administers some programmes, but these are an inadequate safety net for the poor in Fiji. One such scheme is the Family Assistance Scheme, which is inappropriately titled, the “destitute allowance”. This is government’s main poverty alleviation programme. The scheme provides a monthly allowance of between \$60-100 to poor households. The Basic Needs poverty line analysis suggests that a family of four adults needs a minimum of approximately \$133 a week.²⁰⁴ The cost of the Basic Needs Poverty Line, very conservatively set in the first place, has therefore increased dramatically since 2006. The levels of wages have not. The incidence of poverty in Fiji has probably increased from the 35% it was in 2002-03 to more than 45% today.²⁰⁵

Women need to be receiving a Family Assistance Allowance in order to be eligible to qualify for loans, grants, payment of school fees, free medical treatment and food rations. For women workers in the garment sector, under the wages council order earning approximately FJD \$70 per week, they would not be eligible for social welfare allowances. Therefore services may enable women to survive but it does not give them adequate resources to meet their basic needs.

In a femLINKPACIFIC Women Peace and Security workshop in Savusavu in 2009, participants said that their critical areas of concern included the rising cost of living for many single income families who around \$100 a week. Increased cost of living is closely linked to the food and health security of women and their families:

“My husband has only \$130 for his wages and it’s not enough, so I come to the market and try and earn more than \$20 a day buy selling food. We’re renting now, \$80 per month, I am helping my husband to pay for the FEA and water bills,” said Mereia²⁰⁶

²⁰⁴ Narsey, W, 2008.

²⁰⁵ Narsey, W., 2009.

²⁰⁶ femLINKPACIFIC, 2009, Women Peace and Security Consultation, Savusavu

Mortgage and Banking (See also Article 15)

In the formal legal sense, women have equal rights to receive bank loan, mortgages and financial credit. It is unlawful to discriminate in the provision of banking services on the basis of gender. The Human Rights Commission Act provides for affirmative action on any prohibited ground in the Constitution (which includes gender, sexual orientation and disability). However, the discrimination is indirect in that other factors affect women's ability to access and obtain loans and financial credit.

The State Report indicates the number of loans provided to women as at March 2008. The majority of loans to women from 2003-2007 have been between 2.0% to 4.1% of the total loan portfolio. The Fiji Development Bank does not have any direct discrimination in its banking policy but it does not allow for an affirmative action to address this gender loan gap. A main reason why women would not be eligible for loans would be the lack of collateral. Collateral is normally provided in the form of land. Women face discrimination in terms of inheritance and succession. Therefore they are less able to provide the necessary collateral. For indigenous Fijian women, wishing to access Fijian communal land, they need to get more than 50% approval from members of the *mataqali* (land owning unit), to sub lease native land in order to provide it as collateral. This approval is extremely difficult to get as women do not easily influence decision in the *mataqali* decision making process.

If one is poor, a key fallback position is access to communal assets. Unlike women, men have better access to communal land.²⁰⁷ In comparison women have access to less valuable resources such seafood, wild plants and trees on communal land. This fall back position is more available to Indigenous Fijians as many have access to communal lands. Therefore if one is struggling, Fijians have the option of going back to communal land.²⁰⁸ Women are therefore as much affected by race as well as gender.

Access to adequate housing

Access to basic social services such as water, housing, health and education matters is important to women because it affects their rights to a decent standard of living. This is covered in Art 44 of the Constitution, which requires affirmative action in these sectors. Poor women rely more on public services as they have limited options. Poverty is especially evident in households headed by women and by young and old household heads. As the majority of women operate in the private sphere of the home in daily life, issues in relation to adequate housing manifest itself differently for women than men.²⁰⁹

The Fiji urban growth rate has increased²¹⁰. In 1966, only one third of the population lived in urban areas (33.4%), in 1986, 38.7% and in 1996 46.4%. The total population

²⁰⁷ Harrington, C., 2004.

²⁰⁸ Harrington, C., 2004. pg 499

²⁰⁹ Walsh, 2006. pg 76

²¹⁰ Walsh, 2006. pg 76

at the 1996 census was 775,077. Urbanization has resulted in increasing number of squatter /informal settlements. According to surveys carried out by the Ministry of Lands, it is estimated that a squatter/informal population of up to 90,000 live within the greater Suva area. Urban dwellers within the informal settlements do not have adequate shelter, live in sub standard unhealthy conditions, and while they contribute to the formal economy, they struggle to earn an income. Some squatters are very poor and are not able to provide sufficient food for the household.

At a Regional Consultation with the Special Rapporteur on Adequate Housing on women's rights to adequate housing and land in the Pacific,²¹¹ participants highlighted the advancement of women's rights to adequate housing as a priority in arresting the feminization of poverty and ensuring socio-economic development. The priority issues raised included the increasing pressures of migration and urbanization, the lack of inclusion of women in decision-making at all levels, the lack of compliance of customary, constitutional and municipal laws with international human rights obligations, and the prevalence of violence and intersectional discrimination against women, as well as the impact of denying women the right to adequate housing and land. ²¹²

Some of the findings of the consultation included that;

- a) women are discriminated against in terms of access to traditional land – even in those situations where there were previously traditional rights to land afforded to women
- b) women face barriers in accessing loans to purchase land and housing; specifically women who are not in a traditional marriage
- c) women face barriers in accessing housing as rural women, poor women, single women, women who are disabled, women as ethnic minorities as well as sexual minorities

More specifically the findings outlined the following:

1. Women's access to "adequate" land

Land laws in Fiji are gender-neutral but inheritance practices tend to favour males. Eighty three (83) percent of the land is customarily owned and is normally given to male heirs. Testimonies in studies showed that culture and tradition discriminate against a woman, for instance when women get married they traditionally move to their husband's village. Sometimes land is not given to women because the husband may be a disruptive person in the village.

2. Women's access to land is limited.

Ethnicity and gender are prime determinants of access to land. In Fiji, 82.5 % of land is native land owned communally. Crown land makes up 7.5% and freehold land up to 10% of the land in Fiji. While native land is an asset for indigenous Fijians, it is not

²¹¹ *Fiji Times*, 19th October 2004. pg 25

²¹² Housing and Land Rights Network, 2006. pg 5

a form of personal property and cannot be sold or used as security for a loan. However the availability of land enables some Fijians to live off the land through subsistence living. Furthermore, it is a fall back position should employment opportunities fail in urban centers. However Indo-Fijians and some land poor indigenous Fijian *mataqali* (clans) do not have this possibility of falling back on a land base. Indo-Fijians access the bulk of land through native lease which began expiring in 1997.

Both Indo Fijian men and women have the same legal rights to purchase freehold or crown land or to lease native lease. However in practice Indo Fijian women rarely own or lease land by themselves²¹³. By law Fijian women have access to group land from which they can gather water, firewood and raw material for handicraft as long as the produce gathered is uncultivated²¹⁴. However this is dependent on whether they continue to meet their customary obligations to the village .

Women in the urban centres and squatter settlement depend on small home gardens to provide vegetable. With the increasing pressure on land availability this form of food security become less available.

3. Affordability of housing

In the urban context, opportunities to rent affordable public housing have diminished. A lot of women are moving to urban areas where there is a shortage of affordable houses. Feminisation of poverty and increasing squatter settlements, due to expiry of land leases as well as urban migration, put pressure on the vulnerability of women in securing and tenure.

Based on the Household Income and Expenditure Survey from 1990-91, poverty lines constructed under the 1996 Poverty Study of the UNDP estimated that around 23 % to 25% of the population lived in poverty with a further 20% living close to poverty.²¹⁵

3. Women's lack of decision making in the Private and Public arena

Women's concerns and issues are not addressed in national development plans and policies. In Fiji, men tend to make decisions in all levels from village to national level, where women are under-represented or not represented at all. Thus when policies or laws are developed, women's needs are not recognized.

4. Vulnerable Groups

There are particular vulnerable groups of women such as the women subjected to domestic violence, women living with HIV/AIDS, women of sexual minorities and women living with disabilities.

²¹³ Jalal, 1998. pg 55

²¹⁴ Bolabola, 1986. pg 53

²¹⁵ ADB, 2003. pg 28

The implications of violence against women and children affect their right to adequate housing and land. Around 66% of women who participated in the Fiji Women's Crisis Centre study in 2001, reported being hit by their partners. This often leads to women needing to find shelter elsewhere to live or remaining in violent relationship so as to maintain a shelter. Children are also vulnerable in these situations. For instance, disruption in women's work inevitably leads to disruption in the children's education.

In cases of child sexual abuse, children may have to be relocated to social welfare and other institutions. In Fiji, there are no homes or specifically allocated halfway homes for women escaping violent situations. As a result, many women tend to remain in the violent relationships because of the lack of options.

The critical issues relating to women and adequate housing are interconnected, that is, discrimination against women can be compounded by the "status" of the women including ethnicity, socio-economic status, disability, sexual orientation.

5. Gender neutral laws are discriminatory

Gender neutral laws fail to recognise the circumstances of women and their vulnerability. There is a need for legal remedies when women face discrimination in the area of adequate housing. There is a need to review customary and national laws that deny women equal rights to adequate housing, land and inheritance and to ensure this complies with human rights standards.

6. Strong patriarchal culture and tradition

There have been some progressive laws for women, such as the passing of the Family Law Act. However patriarchal cultural and traditional practices continue to discriminate and oppress women in culture, the family and in the community. These impact directly on women's property and inheritance rights.

Recommendations

13.1 Review the administration of the Family Assistance Allowance. Too often the cost of collection of family assistance is higher than the actual allowance. Review the administration of the Family Assistance Scheme as some people are denied the service. Consider the criteria in order to ensure that it meet the needs of the poor.

13.2 Ensure access to land for women

13.3 Review land tenure and ensure land is made available to women.

13.4 Develop a housing policy that specifically addresses access to affordable housing for poor women

13.5 Set in place a housing policy that includes gender equality as a priority

13.6 Make provision for adequate shelter and homes for women and children victims of domestic violence

13.7 Provide adequate housing for vulnerable groups such as sexual minorities, people with disabilities ensuring independent living programs for people with disabilities. Provide human rights and gender sensitivity training for all basic service providers.

13.8 Develop a national action plan on women, housing and land that includes discussion with key women's NGOs

Article 14: Rural Women

Rural women in Fiji include women living in villages, remote communities, informal settlements and the outer islands.

The status of rural women has not improved since the State last reported in 2002. Rural dwellers make almost half of Fiji's total population, of which 52% are male and 48% are females. ²¹⁶ Twenty-four percent (24%) of the total population is women living in rural areas. ²¹⁷

The 1997 Constitution of Fiji, states that:

38. - (2) A person must not be unfairly discriminated against, directly or indirectly on the ground of his or her:

*(a) actual or supposed personal characteristics or circumstances, including race, ethnic origin, colour, **place of origin**, gender, sexual orientation, birth, primary language, economic status, age or disability; (emphasis added)*

The Human Rights Commission Act 1999, states that:

17. - (1) It is unfair discrimination for a person, while involved in any of the areas set out in subsection (3), directly or indirectly to differentiate adversely against or harass any other person by reason of a prohibited ground of discrimination.

(i) the provision of land, housing or other accommodation;

Rural women play a significant role in the economic survival of their families and communities, although they are frequently disadvantaged in areas such as land ownership, health, education and housing. The achievement of substantive equality for rural women and compliance with CEDAW requires temporary special measures to be incorporated into the Constitution, legislation and policy. ²¹⁸

²¹⁶ Fiji 2007 Census Report, Online

²¹⁷ Fiji 2007 Census Report, Online

²¹⁸ UNIFEM Pacific, 2007.

Fiji incorporated affirmative action into its Social Justice Act discussed previously. It legitimized affirmative action for mainly indigenous Fijians and Rotumans, enabling access to land and housing. However, this provision only gives preferential treatment to indigenous Fijian and Rotuman women. The provision does not take into account support for rural Indo Fijian women or other Fijian women who hold lower status in the community. The legislation is therefore racist, and is not based on need.

Political instability, natural disasters, displacement, deteriorating economic conditions and market restructuring have increased the vulnerability of rural women. Spiralling costs of resources and the collapse of the economy are major issues that confront rural women. These result in limited opportunities in employment, decision making, education and health.

Political Instability

Functioning in isolation, rural women's issues remain invisible at the national level. Rural women have limited or no knowledge of, and access to, decision making fora. Fiji's continuing political instability has not allowed rural women to improve access to the political realm, and has made them more vulnerable economically.

Political instability has led to a declining economy in which the cost of living is increasing at an exponential rate. Since 2006 the inflation rate has increased from 3.5% to 8%.²¹⁹ This has distorted the status of rural women, as the little infrastructure in place is rapidly deteriorating.

The economically active population is 330,255, which makes up one-third of the total population. Women make up only 26% of the total economically active population.²²⁰ The majority of women are subsistence workers with no or negligible cash incomes, unpaid homemakers or officially unemployed. Without fixed or regular cash incomes, they increasingly depend on the market economy for their subsistence.

Deteriorating income levels of households with escalating consumer prices is eroding the conditions of life for people in the subsistence as well as the formal sectors of the economy.

Access to Justice

Rural women have limited access to justice. Inadequate resources are usually assigned to rural police stations, which continue to be a concern as the police department is not responsive to reports of violence against women in the rural areas.²²¹

"...thieves are breaking in schools and also the transmitter and also in the early hours of the morning they come and attack the people and steal items which are of valuable

²¹⁹ Reserve Bank of Fiji, 2009. Online

²²⁰ Narsey, W., 2007. pg 11

²²¹ femLINKPACIFIC, 2009.

use. When calls are given to the police station, the police officers do not attend to our complaints and they say they do not have transport” Salochna, Vaqia, Ba²²²

These impediment within the justice system results in people not reporting cases to the authorities, hence restricting equal access to justice. The travesty of the justice system for women in the outer/rural islands was exemplified, when a very young sexual assault victim had to travel to Suva to Court, from the outer islands with her assailant, in the same “police boat”.

Poverty

While rural development is taking place, statistics do not match the image of community development. Rural women have the highest incidence of poverty at 61%, twice as much compared to the incidence of poverty among women living in urban areas.²²³ Many rural women are forced to live in housing settlements that have poor living conditions, including poor water supply and poor sanitation.

Rural women in Fiji are also most affected by the global economic recession, which is directly related to their lack of participation in economic activities and decision making. This is caused by a web of interrelated issues such as the political instability, lack of access to education, health, malnutrition, lack of access to basic services such as water and electricity, inadequate housing, unsafe environment and social discrimination and exclusion.

“...Nasoni settlement in Vunicuicui Labasa is still one of the settlements that are still without electricity. The communities still continue to live a life of darkness, with candles and kerosene lamps as their only source of light during the night. The women of this community still use charcoal irons and kerosene lamps and stoves, and with the increase of fuel prices, they are finding life very difficult for most of these struggling families...”²²⁴

The Interim Administration’s Sustainable Economic and Empowerment Development Strategy (SEEDS) 2008-2010 fails to take into account incidence of poverty amongst rural women.

Poverty also has a devastating impact on rural women's health. Many women are not able to afford the costs associated with facility based care, or travel to reach a facility, which causes delays in seeking appropriate health services. Rural women are also being forced to partake in activities that increase their exposure to HIV and other Sexually Transmitted Infections (STIs).

“Although extreme poverty generally goes unnoticed in disadvantaged countries like Fiji, there is strong evidence that hardship and hunger not only exist but are increasing because of land tenure issues, inadequate resources (including cash) to meet the basic needs of the household, and/or customary obligations to the extended

²²² femLINKPACIFIC, 2008. Ba Rural Consultation Transcript

²²³ Narsey, W. 2008. 102

²²⁴ femLINKPACIFIC, 2009.

family, village community and/or the church. Malnutrition is present, with the proportion of underweight children.” Sabita Gandhi, Poor Relief Society²²⁵

Agriculture, Forestry and Fishing

Given rural women's significant contribution to the economy, the major issues confronting them include lack of title to land, and lack of access to credit and decision making. In the agriculture, fisheries and forestry sectors, 23% of the economically active population are women. ²²⁶

Even in land-owning households, they do most of the work on the farm, but are not seen as farmers. Each of these issues is further aggravated by their vulnerability arising from social exclusion, violence against women and the impact of structural adjustment on rural economy.

“...the problem that women have been raising is, that, farming needs such as fertilisers ...there is high unemployment and people are struggling a lot in this community and they would like help from the government and also the issues of land, when it's going to expire in next 2 to 3 years time and then what will happen to them and also the issue of water when women hardly have water...” Salochna, Women's Advisory Council, Ba²²⁷

Decision Making

Rural women are excluded from decision-making on housing, land and inheritance issues. While women work the land, they do not hold formal and clear land titles. Lack of rights over land makes women extremely vulnerable to eviction and negatively affects their economic options.

Rural women also lack decision making powers when it comes to marital issues. Young women in rural areas are more likely than their urban peers to be married at an early age. Women who marry at a young age are often school drop outs and have less opportunity to learn or negotiate their sexual reproductive health and rights, as well as access related services. With minimal education and limited access to information, rural women often do not have enough information or are empowered enough to be able to make informed decisions about their sexual and reproductive health and well being.

Education and Employment

Education and employment of women and girls living in rural areas is impeded by poverty, poor road conditions and access to public transport. Poverty is greatly affecting access to proper education amongst children living in rural areas, where families are unable to afford school fees as well as sufficient and proper food for school children.

²²⁵ femLINKPACIFIC, 2009.

²²⁶ Narsey, W., 2007, Gender Issues in Employment Underemployment and incomes in Fiji

²²⁷ femLINKPACIFIC, 2008, Ba, Rural Consultation Transcript

"Compared to past years this year we have noticed a lot of changes and the first one, the paying of school fees is very low and at the moment 30 to 35 students are still owing the fees and we are giving them time to cope it slowly and for the type of food children are bringing, we can't just force them to bring healthy food because what ever the parents can find they just providing children for the food..." A pre school teacher in Nadi²²⁸

Poor infrastructure also means that rural women are deprived of basic services such as transportation, electricity and water supply, increasing the daily burden of women's work, and limiting their access to public facilities. This is more obvious amongst women living in the outer islands. The subsiding economy is also contributing profusely to the declining literacy rate amongst rural dwellers and increasing unemployment rates in Fiji.

Health

In the health sector, rural women are at the lower end of the service chain. Rural women are still deprived of high quality accessible and affordable primary health care services. This also includes access to sexual and reproductive health care, family planning and information services.

As mentioned in Article 12, while women are deprived of basic health care services across the country, rural women are further marginalised as there is generally little attention given to the needs of rural women.

Geography is another factor that impedes rural women's access to health services. Women living in remote areas and the outer islands do not have substantial health care services; hence they rely on facilities based in urban centres on the main islands. In many cases women have to walk long distances, ride on horse back or catch boats, often without safety equipment, to access health services. Transportation is the major impediment for rural women to access health services.

"...have a lot of difficulties living here especially the road conditions, and when someone is sick it's very hard for them to walk and take that person because of the road conditions. When my grand daughter was sick, they had to carry her on their backs to take her down to town and just imagine, so the road condition is a major issue" Lila, Vaqia Ba²²⁹

A shortage of health professionals is also creating problems in the health care department, as the entire population is dependant on only 318 medical practitioners and 1810 nurses.²³⁰ There is a distribution of one medical practitioner for every 2630 people and one nurse for every 463 people living in rural areas, while there is one medical practitioner for every 2636 people, and one nurse for every 463 people living in the urban areas . Although the distribution figures for medical practitioners and

²²⁸ femLINKPACIFIC, 2009.

²²⁹ femLINKPACIFIC, 2008, Ba, Rural Consultation Transcript

²³⁰ Fiji Facts and Figures 2008, Online

nurses in rural and urban areas do not represent much variation, in reality, the majority of the medical practitioners and nurses are based in semi-urban health centres and hospitals; once again isolating the needs of almost half of Fiji's population. Of critical concern also, is the closure of some community based dispensaries, and the availability and affordability of medicines at local hospital pharmacies.

Displacement

Land ownership has always been a source of conflict in Fiji. Eighty-three percent (83%)of land is designated as native land. Due to stringent land laws, and the limited supply of state-owned or freehold land, access to land for Indo-Fijians and others is limited. The ownership and use of land is regulated by the Fiji Constitution, Native Title and Board, Agriculture Landlords and Tenant Act (ALTA) and customary provisions for land ownership. ²³¹

One third of the population have no access to land except through leasing, and two thirds of the population who own the land are not, or rather, have not been, until recently , interested in being directly engaged in the commercial agricultural use of land. ²³²

The majority of the land is leased out to rural sugar cane farmers who are mostly Indo-Fijians. After the 2000 coup, when many Indo-Fijians land leases were not renewed, tenants had no choice but to drift to squatter settlements in urban and peri-urban areas.²³³ Many farmers were dispossessed of their houses, in some cases violently. ALTA leases began expiring in 1997, and by 2001 over 80% of the leases expired. Many expired leases were not renewed, and if renewed, they were not reissued to existing tenants. From 1997 to 2001, a total of 3,323 leases expired; of which only 883 were reissued to sitting tenants as sugar cane land. ²³⁴

The majority of women from these households are forced to live in housing settlements that have poor living conditions, including poor water and poor sanitation. During situations of displacement, women play no part in decision-making concerning issues of access to land, ownership or leases of land.

The growing instability amongst families is closely linked with women's vulnerability to violence, sexual assault and poor health. For many women experiencing domestic violence in rural areas, the only option is to leave their homes. Even if women are joint owners or tenants, they feel that the only available option is to leave their home to escape violence. This leaves many women and their children vulnerable to homelessness or to living in inadequate housing. For rural women, security of tenure and freedom from dispossession is a most critical issue,

²³¹ Aggarwal, A., 2006.

²³² Lal, P., 2008. pg 115

²³³ Lal, P., pg 117

²³⁴ Lal, P., 2008. pg 125

because it determines the extent to which they are able to access services, enjoy a good location or environment and access means to a livelihood.²³⁵

Environment

Environmental issues greatly affect rural women. Fiji suffered a series of natural disasters, for example in the floods of 2009, in which many families living in rural areas faced major economic losses; not only did the catastrophes leave them homeless and without their livelihood, but they also posed a major threat to their health and well being. While evacuation centres were available, no precautions were taken in regard to the specific vulnerabilities that women and girls are exposed to as a result of their sex. During such adversity, women are usually seen as victims or become subject to victimisation. For example, there was one case of sexual abuse that was reported in one of the state controlled evacuations during the major flooding in Fiji in early 2009.

Women who sought refuge were also faced with unhygienic conditions and scarcity of food, clean water, sanitary pads or underwear and the absence of special care for pregnant and breast feeding women.

“...for 5 days they didn’t have water in the taps. It was really sad to see the ladies affected so much in the disaster. They are the only ones who are looking after the family and running the whole family and suffering the most. They were washing clothes in that drain. That’s really bad and the kids were having baths in the small drain because there was no water in the tap and very less attention is given to those people. Nobody goes to see them, what are the problems and just to fix it. It can be done but nobody is there to fix the tap. The ladies are the most affected because they are the ones staying at home and most of the time they need water to do the things and cook the food for the whole family and keep everything. They are the ones looking for everything so it was really bad to see the ladies sitting beside the road and washing clothes” Sindhu Lata, Waiqele²³⁶

Rural women should be seen less as passive recipients of help and more as dynamic contributors to society. Adequate recognition must be given to women’s engagement in agriculture through the creation of real access to land and resources.

Recommendations:

14.1 The achievement of substantive equality for rural women and compliance with CEDAW requires temporary special measures provisions to be incorporated into the Constitution, legislation and policy.

14.2 In situations where displacement has already occurred, a consultative process must be put in place to ensure that women’s voices with respect to rehabilitation are heard and taken into account.

²³⁵ Aggarwal, A., 2006.

²³⁶ femLINKPACIFIC, 2009.

14.3 Rural women's realities must be recognized and mechanisms should be put in place to overcome barriers, such as poverty and illiteracy that negatively impact on rural women.

14.4 Adequate investment should be made in public infrastructure such as roads, and public transportation. There is also great need for investment in facilities, medicine, equipment and wages and trained health care staff to work in remote rural areas.

14.5 While most rural based conflicts are resolved using traditional mechanisms, gender sensitizing training should be carried out for community leaders, religious leaders as well as members of Provincial Councils and Advisory Councils.

14.6 Greater effort must be made to ensure more technical and financial resources are invested in ensuring that women in local communities have the capacity to effectively contribute to disaster prevention, management and rehabilitation strategies, with clear linkages to ensuring gender equality.

14.7 Ensure appropriate information and communication strategies, including interpersonal communication and community based education/awareness raising programmes.

14.8 Greater emphasis must be given to the use of community radio (such as femLINKPACIFIC's Suitcase Radio station model) and other community media initiatives, to produce and deliver appropriate information and disaster awareness raising programmes .

14.9 Taking into account the close connection between disaster preparedness management and the realities of climate change and the impact of rising sea levels, it is critical to ensure a gender inclusive approach in the development of relevant programmes.

14.10 Women must also be actively involved in the food security and agriculture rehabilitation programmes as there is a need to recognize their critical role as food producers.

Article 15: Equality before the law

There appear to be no formal legal impediments to woman having the same legal capacity as men to enter into contract in civil and commercial matters. Impediments are informal, indirect and social, or are designed by policy. Two examples will be looked at.

Small Business Loans

The conditions for applying for small business loans in the state development bank are too difficult for women, especially rural women, to fulfil. Conditions include for example, the necessity of security to secure the loan sought; to have equity contribution towards the total cost of the project; and that the project be situated within 1km of a government feeder road (if on Viti Levu or Vanua Levu) or situated within 3km of the nearest inter-island port of call if on an outer island.

Finance for Buying Property

The opportunity for women to own property is greatly reduced not because the legislation does not allow them to own property, but because policies require the decision to be made by the primary income earner, who are, in the vast majority of cases, men. The following example from the private sector loans institution is instructive:

"Loans are available to whoever qualifies irrespective of gender. The principal applicant, the one who earns or earns more or nominated to hold more share of the property (where more than one owner) holds the authority whether to include wife or husband as co borrower or co owner."

The major home loan corporation, Home Finance Co Ltd's home loan and personal loan application forms require information on marital status, spouse's name, spouse's occupations and spouse's contact. To obtain a business loan, the following is required with the application:

- Business financials for the last 3 years prepared by a chartered accountant in line with minimum Fiji Accounting Standards
- Cash-flow forecast for the next 12 months
- Valuation report of property offered as security for the loan
- Engineer's certificate over property offered as security
- In the case of refinance, a 12-months loan account statement

Most loan application forms do not require information about spouses to be included. The impact of this is that women do not have legally secured rights to half ownership of their homes despite the new family law legislation recognising the value of non-financial contribution in the distribution of matrimonial property following divorce. The State has 25% shares in Home Finance, as well as substantial shares in the Fiji Development Bank; it is therefore in a position to require that both husbands and wives names are on all legal documents.

Legal Aid

Overall the majority of resources at the Legal Aid Commission are spent on men, and on male criminal defendants despite women making up the largest numbers of clients for family law matters. This is clear from the State Report's own data on pg 76 of its Report, at figures 9 and 10. More resources are spent on criminal defence, of which the vast majority are male clients, compared to overall figures for women and

men in family law. For example, in 2008, LAC had 450 male clients overall compared to approximately 175 female clients overall. Through no fault of its own LAC has only limited resources, but the bulk of it goes to men. Yet women are often turned away from LAC, because they either do not qualify according to means testing or LAC does not have sufficient resources. We are not suggesting that there is a deliberate bias against women at LAC, but that men are more able to assert their rights and that women are less able to access services than men. This may affect women's ability to obtain redress through legal remedies.

The following data is confined to family law matters in which the Legal Aid Commission receives applications for assistance and does not reflect family law cases nationally.

Type of Matter	2008	2009	TOTAL
Divorce	22	6	28
Adoption	51	17	68
Affiliation	1	0	1
Custody/Residence	48	29	77
Maintenance	124	21	145
Property	20	5	25
Residence/Contact	7	0	7
Unknown	6	3	9
TOTAL (Applications Received)	279	81	360

Source: Unaisi Narawa-Daurewa, 2009.

Recommendations:

15.1 That a specific women's fund/loan initiative to encourage small business for women be established in all banks.

15.2 For established micro enterprise schemes a specific quota be set in place targeting women.

15.2 That all Banks and financial institutions require the names of both spouses in all loan documents notwithstanding whether husband or wife are in paid employment.

²³⁷ Source: Legal Aid Commission.

15.3 That the Legal Aid Commission's resources must be more evenly shared between men and women; and that it must be provided with more financial and technical resources.

Article 16: Equality in Family Law

The State Report has accurately reported that with the passing of the Family Law Act 2003 (FLA) the State is in general compliance with this article of the Convention as far as formal legal equality, or women's *de jure* status, is concerned. However, the State has contributed no evaluation, nor commentary on the *de facto* situation of the situation of women in family law under the new legal regime. Research will need to be done within 6-10 years of November 2005, when the Act was implemented, to properly assess whether the FLA has lived up to its promise or whether the lack of resources (human and financial), training, infrastructure and political will is hampering the legislation from being effective.

Changes and Effectiveness of new legislation

The most comprehensive reform legislation affecting women and complying with CEDAW has been in the family law field in Fiji. The resulting law, the *Family Law Act 2003 (FLA)*, which is based on a no-fault principle of divorce, utilises a non-adversarial counselling system and a specialist Family Division of the Court which prioritises children's needs and parental support. It removes all forms of formal legal discrimination against women and grants them rights to enforceable custody and financial support for them and their children. It legitimates and requires recognition and implementation of the major human rights United Nation conventions affecting family law, especially CEDAW and the CRC.²³⁸ From early results it appears that the new Act will substantially reduce the costly use of lawyers and Legal Aid.²³⁹

An interesting point, based on the State's own data in its Report, but surprisingly not analysed or commented on by the State, is that since the implementation of the FLA in November 2005, the number of Legal Aid Commission (LAC) litigants in family law appears to have reduced. Historically the LAC represents the largest number of family law clients in Fiji. The potential implication of this, is that the Act has reduced the need for litigation because the principles are known, possibly fulfilling one of the goals of the FLA, which was to reduce costly litigation for women. However, without proper research after at least 5 years of the legislation being implemented, this cannot be proven.

Initial research, based on a one year study of the new FLA in operation, immediately prior to the coup in December 2006²⁴⁰, indicates that family law litigation had been reduced by about 90%. Most disputes, (especially those regarding children), at Suva

²³⁸ Section 26 (e)

²³⁹ Comments by Justice Mere Pulea of the Fiji High Court, Judicial Conference, Sigatoka, Fiji 4 December 2006.

²⁴⁰ Fiji Judicial Conference, 4-6 December 2006, Sigatoka, Fiji. Judge Mere Pulea, the Principal Registrar and the Director of Counselling) of the Family Division Court.

Court, were settled by counsellors and conciliators, on average, after 3 sessions with trained counsellors. These results have not been made public, as the officials need to do a more stringent follow-up survey.

The problems with the implementation of the FLA stem from: ²⁴¹

- Most of the positive results are from Suva, the capital city with the largest population, and the only center with a dedicated family court
- There are insufficient resources to implement the Act properly outside Suva
- Only Suva has a good complement of court counsellors to settle disputes without litigation
- The magistrates and lawyers are still caught up in the former “blaming” culture of the old legislation, especially the older lawyers who cannot get their heads around solving problems without fighting, for instance over children. These are the ones who complain constantly, with nostalgia, for the old law. The new lawyers, however, have embraced the new law and are doing well in it; and
- More training is needed for judicial officers who resist legislative changes that impact on prevailing social attitudes. ²⁴²
-

It was also noted at an evaluation session about the new law with Judges and Magistrates:²⁴³

“There were the usual sexist magistrates making comments and suggesting doom and gloom for men under the FLA during the training, but in general the mood is one of optimism and relief at the Act’s attempt at justice. Also, there is a greater intolerance to those who make anti-human rights comments which I find really positive. This is a noticeable trend compared to when I first started to attend the annual judicial training many years ago.”

Family Law on VAW

The FLA allows women who have been sufferers of domestic violence to divorce their tormentors after one year's separation instead of penalising a woman to a three-year "sentence" of wife beating for her before she can apply for a divorce. Most importantly, section 202, for the first time, provides a legislative basis for the court to grant protective injunctions (restraining orders) for the “personal protection of a party to the marriage”. Unfortunately, the legislation is restricted to legally married parties. Section 203 allows the offender to be arrested without a warrant and to be kept in custody for up to 48 hours (and longer if necessary), at which time the offender must be brought before the court.

²⁴¹ Fiji Judicial Conference, 4-6 December 2006, Sigatoka, Fiji. Judge Mere Pulea, the Principal Registrar and the Director of Counselling) of the Family Division Court

²⁴² Discussed in Jalal, 2008.

²⁴³ Comments in an RRRT report by P I Jalal of the Fiji Judicial Conference, 4-6 December 2006, Sigatoka, Fiji.

Section 202's provisions are used "very frequently,"²⁴⁴ mainly as stand alone actions, rather than ancillary to a substantive action. They are often filed with an application for residence order, where the DV sufferer is requesting that her husband be ordered to leave the marital residence, a remedy also available under the new legislation. The legislative protection against violence is considered to be more than adequate by some judicial officials.²⁴⁵ It is considered the most effective legislation for protection against DV available in the justice system, and even "better than the criminal law".

The orders are supposed to be granted upon application, on the same day of the filing of the application, and does not require the services of a lawyer. They may be granted *ex-parte* on application by the DV sufferer alone, (without a full hearing with both parties present), and be effective for periods up to 4 weeks, at which time, both the husband and wife are required to appear before court. The applicant, almost inevitably a woman, is allowed to give her evidence orally, a significant departure from mainstream legal procedures which require the filing of highly technical affidavits of written and documentary evidence.

Family law on Financial Support and Matrimonial Property

Maintenance data is not available but anecdotal evidence suggests that maintenance (financial support for women and children) is still a significant problem, despite the ample provisions in the FLA. The FLA's strategy for increasing the enforcement rates for financial support was the establishment of Maintenance Officers in all Magistrates Courts, but this has not been operationalised. The provision under the rubric of "Part XII - Enforcement of Orders" reads at section 198:

"198. The Rules of each Family Division may make provision for and in relation to the enforcement of orders made under the this Act, including, in the case of a maintenance order...provision for an officer of a court

Box 7. Making Unpaid domestic responsibilities and non-financial contribution count - Fiji's Family Law Act 2003

In General Recommendation 21, the CEDAW Committee states that the division of marital property should include recognition of non-financial contributions during a marriage such as, raising children, caring for elderly relatives, and discharging household duties. In late 2008, a Fiji court ruled on the issue of a homemakers' contribution under the new law. In *Khan v Nisha*²⁴⁶ the court took into account the assessment under the relevant provisions of the contributions made by the parties in their respective capacities - as 'breadwinner' or 'principal breadwinner' and 'homemaker' or 'principal homemaker' (together with financial contributions) over a period of some 37 years of marriage. The Court gave the wife what appeared to be almost half of the marital assets. This is a landmark ruling in Fiji, and for the Pacific in general, demonstrating the potential benefits of sound legislation.

Source. Jalal, 2009.

²⁴⁴ Actual statistics not available. ²⁴⁴ Interview with Magistrate Makareta Waqavonovono of the Family Magistrates Courts Division, Suva, Fiji, May 2008

²⁴⁵ Personal Interview with Magistrate Makareta Waqavonovono of the Family Magistrates Courts Division, Suva, Fiji, May 2008.

²⁴⁶ Family Magistrates Court Appeal No. 06/Suv/0021, Suva High Court.

Box 8. The Future of the Family Law Act depends on political stability, political will, adequate resources and training.

A Master's student conducting research into the effectiveness of the FLA (which is only three and half years into operation) suggests that:

- The ease with which Family law forms are obtained and filled out and filed in Court has significantly improved access to the justice system.
- One issue that has affected the functioning of the Court is the political situation in Fiji which has resulted in the decrease of Judicial Officers specifically trained to deal with Family Court matters. Family Court cases are being dealt by Magistrates who have no specialised training in Family Court procedures and law. The Court would be more effective if it was presided over by specially trained Judicial Officers who sit exclusively in the Family Courts as was the previous practice. According to Legal Aid officials urgent applications have had to be put on hold especially in the Western Jurisdiction which has not had the services of a specialised high court Judge since the departure of the former Family Judge..
- The political situation has also affected the ability of parties to enforce Court orders such as maintenance orders. With the economy in a slump, it is of little use to order a party to pay \$50.00 a month when that person has been laid off from his employment.²⁴⁷ The LAC provides information pamphlets for clients that break down the Court process and these are translated in the three major languages in Fiji which are English, Fijian and Hindi. An advantage for the LAC clients is that they are exempt from paying the fees of the Family Court.²⁴⁸ Regardless of the crises in Fiji, LAC officers agree that the FLA has brought about changes that were impossible under the old legislation and only time will reveal the true effectiveness of the Act.²⁴⁹
- To ensure the effectiveness of the FLA more training is required for those who are involved in facilitating it. One example is to better train the police in the family law because in some cases their lack of knowledge results in Court orders not being complied with and one party suffering. Another recommendation is for the Family Court to allow for more days to hear cases to reduce the huge backlog of cases.²⁵⁰ The post - constitutional abrogation has resulted in the Court sitting only on Wednesdays and Fridays. The FWCC agrees that the FLA is a good piece of legislation that has also assisted them in providing better services for their clients. For example, in cases where restraining orders are needed the Family Court is now more accessible to their clients. The Act now makes Court processes easier and the system more accessible.
- Whilst the FLA has incorporated many universally accepted principles and many innovative processes, the lack of resources is a serious obstacle to the full implementation of the FLA.²⁵¹

The most significant obstacle to the effectiveness of the new legislation is the political crisis, which began in December 2006 and continues to date. The FLA was passed in October 2003. It came into operation officially in November 2005. In December 2006 Comm. Bainimarama's coup detat and the militarisation of the civil service has

²⁴⁷ Unaisi Narawa-Daurewa, 2009.

²⁴⁸ Unaisi Narawa-Daurewa, 2009.

²⁴⁹ Unaisi Narawa-Daurewa, 2009.

²⁵⁰ Unaisi Narawa-Daurewa, 2009.

²⁵¹ Unaisi Narawa-Daurewa, 2009.

seriously restricted the opportunity for the new law to reach its potential, even in the narrowest sense. Monitoring the new legislation has also been greatly hampered due to censorship and the control of the courts and systems by the new military leadership, including the installing of a female military officer as Chief Registrar.

With all innovative legislation that seeks to improve social justice or gender equality, by attempting to alter the historic and systemic discrimination and barriers experienced by women in the legal system, its success depends ultimately on political will, the allocation of resources including human resources, and the training of all those who are affected by the new legal order

Recommendations:

16.1 That there be a national campaign on the provisions of the Family Law Act, and the new philosophy underlying it, based on equality between men and women; and the child's best interests at the centre of decision making.

16.2 That the establishment of Maintenance Officers is critical to the enforcement of maintenance payments for women and children and should be a priority.

16.3 That more training is required for stakeholders involved in implementation of the Act, especially Police Officers who are implementing court orders.

16.4 That more resources included counsellors are required to operationalise the Act outside the capital city of Suva.

16.5 That all stakeholders implementing the Family Law Act receive further training on the Act including gender sensitivity training. That gender awareness and application of gender equality principles be performance indicators for promotion of police officers, Judges, Magistrate and court officials.

16.6 That research is needed to consider the application of children, financial and property rights contained in the Family Law Act to families in which the parents in the family are of the same sex. The principle ought to be that once the relationship ends, partners should have equal right to custody, maintenance and property.

16.7 That the Family Law Act be extended to include de-facto relationships.

16.8 That in January 2011, 5 years after the implementation of the FLA, thorough research be carried out to assess the effectiveness of the legislation with a view to making recommendation on legislative, policy and resources changes, so that the goals of the legislation are fully realized.

Optional Protocol

We call for the state to ratify the Optional Protocol on CEDAW

APPENDIX A

Cabinet Ministers of the Interim Government

No	Ministry	Name
1	Prime Minister	Frank Bainimarama
2	Public Service	Frank Bainimarama
3	Information and Archives	Frank Bainimarama
4	Finance, National Planning and Sugar	Frank Bainimarama
5	Foreign Affairs, international Co-operation and Aviation	Frank Bainimarama
6	Provincial Development	Frank Bainimarama
7	Indigenous and multi-ethnic affairs	Frank Bainimarama
8	Attorney General and Justice	Aiyaz Sayed-Khaiyum
9	Public Enterprises and Anti-Corruption	Aiyaz Sayed-Khaiyum
10	Industry, tourism, trade and Communications	Aiyaz Sayed-Khaiyum
11	Defence National, Security and Immigration	Ratu Epeli Ganilau
12	Lands and Mineral Resources	Netani Sukanaivalu
13	Primary Industries	Joketani Cokanasiga
14	Women, Social Welfare and Poverty Alleviation	Jiko Luveni
15	Education, National Heritage, Culture and Arts, Youth and Sports	Filipe Bole
16	Minister for Labour, Industrial Relations, Employment	Filipe Bole
17	Local Government, Urban Development, Housing and Environment.	Filipe Bole
18	Works, Transport and Public Utilities	Timoci Lesi Natuva
19	Minister for Health	Neil Sharma

Fiji's Ministries

No	Ministry	Position	Name
1	Prime Minister	Prime minister	F. Bainimarama
		Acting Permanent Secretary - Prime Minister	Pita Wise
2	Public Service	Minister	F. Bainimarama
		Permanent Secretary - Public Service	Pramesh Chand
3	Information and Archives	Minister	F. Bainimarama
		Permanent Secretary Information	Lt-Col Neumi Leweni
4	Finance and National Planning	Acting Minister	F. Bainimarama
		Permanent Secretary - Planning	Pita Wise
		Permanent Secretary - Finance	John Prasad
5	Foreign Affairs	Acting Minister	F. Bainimarama
		Permanent Secretary	Peceli Vocea
6	Provincial Development	Minister	F. Bainimarama
		Permanent Secretary - Provincial Development	Manasa Vaniqi
7	Indigenous and Multi-ethnic affairs	Minister	F. Bainimarama
		Permanent Secretary - Multi-ethnic affairs	Manasa Vaniqi
		Permanent Secretary - Indigenous Affairs	Ratu Meli Bainimarama
8	Attorney General and Justice	Minister	Aiyaz Sayed-Khaiyum
		Solicitor-General	Christopher Pryde
		Chief Registrar	Ana Rokomokoti
		Permanent Secretary - Justice	Pio Tikoduadua
9	Public Enterprises and Anti-Corruption	Minister	Aiyaz Sayed-Khaiyum
		Permanent Secretary - Public Enterprises	Taina Tagicakibau

		Permanent Secretary – Anti-Corruption	Pio Tikoduadua
10	Industry, tourism, trade and Communications	Minister	Aiyaz Sayed-Khaiyum
		Permanent Secretary - Industry, Trade and Communications	Sakiusa Bainivalu
		Permanent Secretary - Tourism	Taina Tagicakibau
11	Defence National, Security and Immigration	Minister	Ratu Epeli Ganilau
		Permanent Secretary - Defence, National Security and Immigration	Josefa Matau
		Commander of the RFMF	Frank Bainimarama
		Commissioner of Police	Esala Teleni
		Commissioner of Prisons	Brig Gen Ioane Naivalurua
		Department of Immigration	Capt Nemani Vuniwaqa
12	Lands and mineral Resources	Minister	Netani Sukanaivalu
		Acting Permanent Secretary - Lands and Mineral Resources	Maria Matavewa
13	Primary Industries	Minister	Joketani Cokanasiga
		Permanent Secretary – Fisheries and Forestry	Commander Viliame Naupoto
		Permanent Secretary- Agriculture	Dr. Richard Beyer
14	Women, Social Welfare and Poverty Alleviation	Minister	Dr. Jiko Luveni
		Permanent Secretary- Women, Social Welfare and Poverty Alleviation	Dr. Ami Chandra
15	Education, National Heritage, Culture and Arts, Youth and Sports	Minister	Filipe Bole
		Permanent Secretary- Education, National Heritage, Culture and Arts, Youth and Sports	Filipe Jitoko
		Permanent Secretary - Youth and Sports	Mr. Subash Chandra
16	Labour, Industrial Relations, Employment	Minister	Filipe Bole
		Permanent Secretary- Labour, Industrial Relations and Employment	Taito Waqa

17	Local Government, Urban Development, Housing and Environment	Minister	Filipe Bole
		Permanent Secretary- Local Government, Urban Development, Housing and Environment	Ram Chandar
18	Works, Transport and Public Utilities	Minister	Timoci Lesi Natuva
		Permanent Secretary - Works and Transport	Anand Kumar
		Permanent Secretary - Public Utilities	Cama Tuiloma
19	Health	Minister	Dr. Neil Sharma
		Permanent Secretary- Health	Dr. Salanieta Saketa

Index	Mil	Non-mil	%
Cabinet positions held by military personnel	9	11	47
Senior ministry positions held by military personnel	17	33	34
Ministries with military personnel present in senior positions	13	6	69

Glossary ²⁵²

Abbreviations might be used to indicate actual persons in case studies to protect privacy and save space.

Bill of Rights

A bill of rights is the name given to the chapter, usually in the constitution, that protects the fundamental rights, principles and freedoms of the people of the country as human beings (for example, the right to vote, the right to free speech, the right to education).

i-bulubulu, bulubulu, ifoga

Traditional ceremonies in the Pacific islands asking for forgiveness for wrongdoing.

Common law

Historically, a body of unwritten law derived from the traditional laws of England based on case law precedents and judicial interpretation rather than legislation.

Complainant

Generally, a person who lodges a complaint with a court or other decision maker. In criminal proceedings it is a person, not necessarily the victim, who begins a prosecution by laying a complaint.

Corroboration

In criminal proceedings, corroboration is independent evidence that connects the accused person to the crime. In the common law judges are typically required to advise the jury that it is dangerous to convict the accused on uncorroborated evidence for sexual offences and paternity.

Custody

Custody refers to the daily care and control of a child. It typically encompasses the rights and duties related to the upbringing of children. These rights include the power to make decisions about a child's education, religion and property as well as a personal power of physical control. The corresponding duties include providing the child with food, clothing, shelter, education and other necessities of life.

Custom

A practice in society or a rule of conduct established by long use, which binds those under it. In order for a custom to constitute a valid law, it must date back to time immemorial, and be certain and obligatory. It may run counter to the common law but cannot contravene existing statute law unless validated by the constitution. A custom can be general, particular or local.

de facto / de jure

Latin phrase meaning "in fact" and "in law"

Direct discrimination

²⁵² The glossary is taken from a number of sources and added to: including Jalal, 1998, Jalal 2005, UNIFEM Pacific 207, UNIFEM Pacific 2008.

Direct discrimination results from less favourable treatment in comparison with a real or hypothetical comparator from the mainstream group in the same or similar circumstances on a prohibited ground.

Domicile

A person's fixed, principal and permanent home to which that person intends to return and remain even if they are currently residing elsewhere.

Ex-parte

In the absence of the other party (Latin). An *ex parte* application is an application that one party in a proceeding makes to the court without the other party being present. An *ex parte* order is an order given by the court to one party before the other party has had an opportunity to put his or her case to the court

Infanticide

Infanticide is a criminal offence by which a mother causes the death of her child as a result of post natal depression. It is an alternate offence to murder or manslaughter, with a reduced sentence.

Maintenance

The provision of the means of existence or financial support for a minor or adult.

Mandatory prosecution

Obligatory prosecution of an accused in a criminal proceeding (i.e where police discretion to prosecute or not prosecute is removed).

Mataqali

Land owning unit, clan grouping in Fiji.

Nikah

Religious ceremony of marriage in the Muslim (Islamic) religion. In the Pacific region not legally recognised unless legally registered.

No-fault divorce

A no-fault divorce is the dissolution of a marriage, upon petition to the court by either party, without the requirement that the petitioner show fault on the part of the other party. Either party may request, and receive, the dissolution of the marriage, despite the objections of the other party.

PACWIN

A list serve facilitated by Pacific Women's Resource Bureau of the Secretariat of the Pacific Community

Party

One of the participants in a legal proceeding who has an interest in the outcome. Parties include the plaintiff (person filing suit), defendant (person sued or charged with a crime), petitioner (files a petition asking for a court ruling) or respondent (usually in opposition to a petition or an appeal).

Patrilineal

The practice of tracing title and inheritance through the paternal line.

Plaintiff

A person or entity who initiates legal proceedings against another in a civil dispute.

Precedent

A prior reported judgment of a court which establishes the legal rule (authority) for future cases on similar facts or the same legal question. It is also a legal principle or rule created by one or more decisions of a higher court. These rules provide a point of reference or authority for judges deciding similar issues in later cases. Lower courts are bound to apply these rules when faced with similar legal issues.

Prima facie

As it first appears (Latin). A *prima facie* claim is one that appears to be a proper or supportable claim but has not yet been established by detailed examination

Prior sexual conduct

The common law rule where the prior sexual conduct of a victim with either the accused or with other men is relied upon to establish that the victim consented to the sexual act in question.

Proof of resistance

Proof of resistance is a common law rule which requires sexual assault victims to establish that they physically resisted the perpetrator and is used to determine consent.

Public law

The body of law dealing with the rights, powers, obligations and responsibilities of the government including public officers and the governed (the public). It is composed of criminal, international, environmental, administrative and constitutional law.

Respondent

A person or entity required to answer a petition for a court order. It is also a party to court proceedings against whom relief is claimed by an applicant, complainant or an appellant. It is analogous to the term defendant, which is used in many jurisdictions.

Restitution of conjugal rights

A court order which directs a person to resume sexual relations with a spouse.

Restraining order/Non molestation order

An order from a court directing one person not to do something, such as make contact with another person, enter the family home etc. It tells one person to stop harassing or harming another. Restraining orders are typically issued in cases in which spousal abuse or stalking is feared or has occurred in an attempt to ensure the victim's safety.

Statute

A law made by parliament.

The Fiji Times

National daily newspaper

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REFERENCES

- Aggarwal, A., 2006. *Our Land Our Homes Our Culture Our Human Rights: Proceedings of the Pacific Consultation on Women's Rights to Adequate Housing and Land* New Delhi Housing and Land Rights Network. Habitat International Coalition South Asia Regional Programme
- Amnesty International Report 2006.
<http://www.unhcr.org/refworld/publisher,AMNESTY,,FJI,447ff7a711,0.html>,
Accessed 27th July 2009
- Andrea Irvin, 2008. *UNFPA Report on Gender and Reproductive Health and Rights in the National Development Plans of Ten Pacific Island Countries, Fiji*
- Asian Development Bank, 2006. *Fiji Gender Assessment Report*
- Auditor Generals report 2006. <http://www.oag.gov.fj/reports.html>, accessed 17th July 2009
- AusAID, 2008. *Violence Against Women in Melanesia & East Timor: Building on global and regional promising*, AusAID, Canberra.
- Australia Network News, 2009, *Fiji's multi-ethnic police join Christian crusade*,
<http://australianetworknews.com/stories/200906/2606813.htm?desktop>, accessed
11th July 2009
- Baunsgaard and Keen, 2004. *Tax Revenue and (or?) Trade Liberalisation; Fiscal Affairs Department, International Monetary Fund, Washington D.C., 20431*
- Bolabola, C. (Ed.), 1986. *Land Rights of Pacific Women Suva*: Institute of Pacific Studies of the University of the South Pacific
- Buchanan-Aruwafu, H., 2007. *An Integrated Picture: HIV Risk & Vulnerability in the Pacific*, Secretariat of the South Pacific
- Chandra, D., Lewai, V., 2005. *Women and men of Fiji Islands: Gender Statistics*, University of the South Pacific, Suva, Fiji Islands
- Chang, O., 2007. *Mental Health Services in Fiji and the way forward in General Practitioner* Vol. 15 2
- Clark, L , Rodrigues C. 2009. *Utilising temporary special measures to promote gender balance in Pacific legislatures: a guide to options* Suva: United Nations Development Program and Pacific Island Forum Secretariat

Emberson-Bain, A., 1994. *Backbone of growth: Export manufacturing and Fiji's tuna fish wives*. In A. Emberson-Bain (Ed.), *Sustainable Development and Malignant Growth*, Suva, Marama Publications

Ertuk, Y., 2007. *Political Economy of Violence Against Women in Asia Pacific: Summary Report of the Asia Pacific NGO consultation with the United Nations Special Rapporteur on Violence Against women, its causes and consequences, 12 - 13 September 2007* Manila, Philippines

femLINKPACIFIC, 2008. Ba, Rural Consultation Transcript

_____. 2008. femTALK Enews 5, Article by Sharon Bhagwan Rolls

_____. 2009. Women Peace and Security Consultation , Savusavu

_____. 2009. Women, Peace and Human Security, Quarterly Report: Ensuring Women's Full and Effective Participation in defining peace and human security

_____. 2009. Sector Governance in the Pacific Region "27th April - 30 April 2009, Nuku'alofa, Kingdom of Tonga Gender and Security Sector Reform - Existing Good Practice in Gender and Security Sector Oversight. Sharon Bhagwan Rolls, Coordinator

Fiji Island Bureau of Statistics. 2007. Provisional figures of Census, <http://www.statsfiji.com>, accessed 6th November 2008

Fiji Employment and Unemployment Survey, 2004-2005

Fiji Facts and Figures 2008. <http://www.statsfiji.gov.fj/FFF08.pdf>, accessed 6th July 2009

Fiji 2007 Census Report, <http://www.statsfiji.gov.fj/Key%20Stats/Population/2.8Rural%20pop%202007.pdf>, accessed 6th July

Fiji Education for All Mid-Decade Assessment Report: *Quality of education a top concern*, 2008, <http://www.unescobkk.org/special-programmes/aims/uis-aims-news/news-details/article/fiji-efa-mid-decade-assessment-report-quality-of-education-a-top-concern-1/>, accessed, 17 July 2009

Fiji Elections website, <http://www.elections.gov.fj/>, accessed 17th March 2009

Fiji Government online, *West Commemorates World Mental Health Day*, media release, 8 October 2008. http://www.fiji.gov.fj/publish/page_13122.shtml , accessed 24 July 2009

Fiji Government Online 'Girls to be vaccinated against Cervical Cancer' 26 August, http://www.fijigov.fj/publish/page_12723.shtml , accessed 1 July 2009

Fiji Government Online, Supreme Court extends stay on retirement age, 1 April 2009. http://www.fiji.gov.fj/publish/page_14610.shtml, accessed 27th July 2009

Fiji Times Online, Monday 20th July, 2009, Redundancy Packages for Civil Servants, <http://www.fijitimes.com/story.aspx?id=125801>, accessed 27th July, 2009

Fiji Government Online, Press Release, Suicide Rates Worrying, 4 May 2009, http://www.fiji.gov.fj/publish/page_14885.shtml accessed 24 July 2009

Fiji Government, 2008. *Fiji People's Charter for Change, Peace and Progress*

Fiji Government, 2008. *Fiji Budget Estimates 2009*

Fiji Judicial Conference, 4-6 December 2006. Sigatoka, Fiji, Judge Mere Pulea, the Principal Registrar and the Director of Counselling) of the Family Division Court. Fiji Ministry of Women & Culture, 1994. *A Statistical Gender Profile*

Fiji Parliament Online, <http://www.parliament.gov.fj/about/about.aspx?id=hgenelect> , accessed 15th March 2008

Fiji Strategic Development Plan 2007-2011

Fiji Times online 2009. 'Breast Cancer stats lacking' 16 June, <http://www.fijitimes.com/story.aspx?id=123613>, accessed 9 July 2009

Fiji Times Online 2009. "Medicine needs more local specialists" 27 June, <http://www.fijitimes.com/story.aspx?id=124379>, accessed 10 July 2009

Fiji Times Online "New Retirement Age Could See 3000 jobless", Sunday 29th April, 2009 <http://www.fijitimes.com/story.aspx?ref=archive&id=61627>, accessed 27th July, 2009

Fiji Times Online 2009. "1614 retire" Saturday 18th April, 2009 <http://www.fijitimes.com/story.aspx?id=120275>, accessed 7 July 2009

Fiji Times Online, "Outrage and Dismay", Fiji Women's Crisis Centre deputy co-ordinator, Edwina Kotoisuva, 20th February 2009. <http://www.fijitimes.com.fj/story.aspx?id=114696>, accessed 27th July 2009

Fiji Times Online, 2008. 'Are our girls being used as guinea pigs', Ragogo, M., 11 October 2008, <http://www.fijitimes.com/story.aspx?id=103122>, accessed 10 July 2009

Fiji Times Online "Mums await full pay leave"
<http://www.fijitimes.com/story.aspx?id=123605>, accessed 27 July 2009

Fiji Times Online, "Maternity pay is a woman's right"
<http://www.fijitimes.com/story.aspx?id=123608>, accessed 27 July 2009

Fiji Women's Rights Movement, 2002. *Project Delacroix Stakeholder Report: Report on Sexual Harassment in Fiji*, Tebbut Research, Suva, Fiji

Fiji Women's Rights Movement, 2008. Human Rights Violation Documentation Matrix - unpublished

Fijilive, Fiji minister: Where are the young women? 17 February 2009,
http://www.fijilive.com/news_new/index.php/news/show_news/13760, accessed 27th July 2009

Fijilive, 2008. 'Concern over migrating nurses', 14 July,
<http://www.fijilive.com/news/2008/07/14/6703.Fijilive>, accessed 10 July 2009

Fijilive, 2009. *Most female lifers killed babies: Prison Chief*,
<http://www.fijilive.com/news/2009/07/10/18138.Fijilive>, accessed, 16th July, 2009

Fijilive 2009. '7 doctors and 34 nurses to be engaged' 8 May 2009
<http://www.fijilive.com/fijilive-print-story.Fijilive?15970.Fijilive>, accessed 10 July 2009

Foster, S., Speech, Fiji Women's Rights Movement, Emerging Leader's Forum (ELF) Graduation, 28th May, 2009

Fraenkel, J., & Firth, S., 2007. *From election to coup in Fiji: The 2006 campaign and its aftermath*, ANU Press, Canberra Australia, See also,
<http://epress.anu.edu.au/fiji/pdf/ch12.pdf> , accessed 15th March 2009

Fraenkel, J., 2007. *Women in Pacific Parliaments & Governments as of September 2007*, unpublished paper from State Society and Governance in Melanesia Project, ANU, distributed on Pawcin, 16 October 2007

Fraenkel, J., 2006. Chapter: *The Impact of Electoral Systems on Women's Representation in Pacific Parliaments: A Report compiled for the Pacific Islands*

George, N., 2008. *Contending Masculinities and the Limits of Tolerance: Sexual Minorities in Fiji*, *The Contemporary Pacific*, Volume 20, Number 1

Global Initiative to End All Corporal Punishment of Children. 2005. *Ending legalized violence against children. Report for East Asia and Pacific Regional Consultation- the UN Secretary General's Study on Violence Against Children*. Thailand

Griffen, V., 1984. "The Pacific Islands: All it requires is ourselves" in Morgan, R., 1984, *Sisterhood is Global*, Penguin, Middlesex, England

Grynberg, R., 2009. "Negotiating with 'friends': A free trade deal with Australia and NZ?" *Samoa Observer*, Sunday, 22 March

Harrington, C., 2004. 'Marriage' to Capital: The Fallback Positions of Fiji's Women Garment Workers, *Development in Practice*, 14

Houng Lee G, Foster S, Kalontano A, Cass L. 2008. *Women in Fiji's National Politics*. Unpublished student research

Hughes, Helen, and, Sodhi, G., 2008. *The Bipolar Pacific*, The Centre for Independent Studies. Paper: Issues Analysis, <http://www.cis.org.au>, accessed 26th September 2008

International Labor Organisation, Online, *Working in a 'mans world': women in the Fiji police force*, 2008. [http://www.ilo.org/global/About the ILO/Media and public information/Feature stories/lang--en/WCMS_099054/index.htm](http://www.ilo.org/global/About%20the%20ILO/Media%20and%20public%20information/Feature%20stories/lang--en/WCMS_099054/index.htm), accessed 11th July, 2009

International Lesbian and Gay Association October, 2005. <http://www.unhcr.org/refworld/type,QUERYRESPONSE,,FJI,469cd69b44,0.html>, accessed, 27th July 2009

IPU (Inter-Parliamentary Union), 2008, (a), *Equality in Politics: A Survey of Women and Men in Parliaments*, Reports and Documents n° 54

Jalal, P. Imrana., 1998. *Law for Pacific Women: a legal rights handbook*. Suva: Fiji Women's Rights Movement.

Jalal, P. Imrana. 2000. *The Fiji Family Law Report 1999: Making a Difference to Families in Fiji*. Suva: Fiji Law Reform Commission.

Jalal, P. Imrana. 2002. *Gender and race in post coup d'etat Fiji: snapshots from the Fiji Islands*, *Development Bulletin* 59, ANU Press, Canberra, Australia, <http://devnet.anu.edu.au/online%20versions%20pdfs/59/0959Jalal.pdf>, accessed, 15th March 2007

Jalal, P. Imrana. 2004. Paper, *Human Rights Defence in the Pacific Islands: Community Paralegals and Legal Rights Training Officers within the Pacific Regional Rights Resources Team (RRRT) Network: Frontline human rights defenders at local level*, Amnesty International Australia, Inaugural Human Rights Conference: *A Pacific Agenda: Partnerships & Perspectives*, 4-5 September 2004, Brisbane, Australia

Jalal, P. Imrana & Madraiwiwi, Joni (eds). 2005. Pacific Human Rights Law Digest, Volume 1. Suva, Fiji: Pacific Regional Rights Resource Team (RRRT).

Jalal, P. Imrana. 2006. *Ratification of International Human Rights Treaties: Added Value For The Pacific Region*. Paper prepared for the Office of the High Commissioner for Human Rights (OHCHR). Longer version available on <http://www.rrrt.org> as *Pacific Culture and Human Rights: the added value of ratifying human rights treaties for Pacific Island Countries*.

Jalal, P. Imrana. 2007. 'Overview of Progress on the Ratification, Reporting and Implementation of CEDAW.' Paper presented at the 10th Triennial Conference of Pacific Women/3rd Ministerial Meeting on Women, Secretariat of the Pacific Community (SPC). Noumea. 27-31 May 2007.

Jalal, P. Imrana. 2008. "Good Practices in Legislation on Violence Against Women: A Pacific Islands Regional Perspective." Paper presented at Expert Group Meeting on *Good Practices In Legislation On Violence Against Women*, United Nations Division for the Advancement of Women in collaboration with United Nations Office on Drugs and Crime (UNODC). United Nations Office. Vienna, 26-30 May 2008.

Jalal, P. Imrana & Madraiwiwi, Joni (eds). 2008. Pacific Human Rights Law Digest, Volume 2. Suva, Fiji: Pacific Regional Rights Resource Team (RRRT).

Jalal, P. Imrana. 2009. *Gender Equity In Justice Systems Of The Pacific Island Countries & Territories: Implications For Human Development Addressing Unequal Power and Voice*. Technical background paper for the Asia-Pacific Human Development Report on Gender ' unpublished paper

Jalal, P. Imrana. 2009. "Harmful Practices Against Women in Pacific Island Countries". Paper presented at Expert Group Meeting on Harmful Practices Against Women, United Nations Division for the Advancement of Women in collaboration with UNDESA Addis Ababa, United Nations Office. Ethiopia, May 2009.

Jilani, H., 2008, Report by the Special Representative of the Secretary General on the situation of Human Rights Defenders

Kotoisuva, E., 2008. Deputy Co-ordinator, Fiji Women's Crisis Centre. Presentation on National Survey on Violence Against Women. UNFPA Seminar. Southern Cross Hotel. 23 July 2008, Suva, Fiji.

Lal, P., 2008. *Ganna Portrait of the Fiji Sugar Industry*, Sugar Commission of Fiji

Lateef, S. 1990. *Current and Future Implications of the Coups for Women in Fiji. The Contemporary Pacific*, 2(1), 113-130.

Law, I. 2007. *Mission Report: Burden of cervical cancer and cervical intraepithelial neoplasia in Fiji (2004-2007)*. Centre for International Child Health, Dept. of Paediatrics, University of Melbourne & Australian National University.

Leckie, J., 2000. Women in post-coup Fiji: negotiating work through old and new realities. In H. Akram-Lodhi (Ed.), *Confronting Fiji Futures* (pp. 178-201). Canberra: Asia Pacific Press.

Lund, R., Thorogood R., 2008. Why should we care about women in policing in Fiji? Unpublished paper presented at the 2008 International Association of Women Police Conference

Madraiwiwi, J., 2008. *A Personal Perspective: The Speeches of Joni Madraiwiwi*. IPS Publications, University of the South Pacific, Suva, Fiji.

Morgan, R., 1984, *Sisterhood is Global*, Penguin, Middlesex, England

Nairube, Governor Savenaca. 2002. *The Economic Costs of Violence Against Women*, Keynote speech, Reserve Bank of Fiji, 25 November 2002. Holiday Inn, Suva, Fiji; Reported also in Volume 8, Issue 1, March 2003, viewed on 2nd November 2008, <http://www.fijiwomen.org>

Narsey, W. 2008, *The Quantitative Analysis of Poverty in Fiji*, Vanuavou Publications

Narsey, W., 2007, *Gender Issues in Employment Underemployment and incomes in Fiji*, Vanuavou Publications Narsey. Suva: Fiji Island Bureau Statistics and AusAID.

Narsey, W., Lessons from 2009 Wages Councils and the Continuing Coup, Public lecture Rev Paula Nuikula, April 2009, http://www.econ.fbe.usp.ac.fj/fileadmin/files/schools/ssed/economics/Wadan_Narsey/Media_articles/2009_E_The_Rev_Niukula_Lecture_on_Just_Wages_in_Fiji_April_15_a.pdf, accessed, 11th July, 2009,

Nicholl, R., 2006. Electing women in Parliament: Fiji and the alternative electoral system, Pacific Journalism Review

Pacific Governance Portal, <http://www.governance.usp.ac.fj/top-menu/countries-and-territories/fiji/governance-information/>, accessed 18th March 2008.

Pacific Islands Forum Secretariat, 2006. *A Woman's Place is in the House - the House of Parliament: Research to advance women's political representation in Forum Island Countries: A regional study presented in five reports*, PIFS, Suva, Fiji

PANG, 2009. "Purging the Forum Secretariat: Australia and NZ push trade agenda in the region", Islands Business, February 2009, <http://www.pang.org.fj/doc/090126-IB-PurgingtheforumANZ.pdf>, accessed 28th July 2009

PIFS (Pacific Islands Forum Secretariat). 2005. *The Pacific Plan For Strengthening Regional Cooperation And Integration*. Suva: PIFS.

_____. 2006. Pacific Immigration Directors' Conference (PIDC), Regional Update Paper. *People Smuggling: Human Trafficking and Illegal Migration in the Pacific: A Regional Perspective 200*. Pacific Islands Forum Secretariat, Suva, Fiji, <http://www.pidcsec.org>

_____ & UNDP Pacific Centre. 2008-9. Forthcoming publication. *Utilising Temporary Special Measures to Promote Gender Balance in Pacific Legislatures: A Guide to Your Options*.

Pacific Islands Forum Secretariat, 2009. Press Statement, Statement by Forum Chair on suspension of Fiji Military regime from the Pacific Islands Forum, 2nd May, 2009

Pacific Regional Rights Resource Team (RRRT), Annual Regional Lawyers' Human Rights Training, Port Vila, Vanuatu, 13-17 October, 2008. Discussed in Jalal, 2009.

Price Waterhouse, 2008. *Fiji Island Budget Summary, An overview of the Fiji Government 2008 Budget* 23rd November 2007

Pulea, Justice Mere. 2006. Family Judge. Presentation at the National, Judicial Conference. Evaluation on the *Family Law Act 2003*, Sigatoka, Fiji, 4 December 2006.

Radio New Zealand, Online, 2009. *Poverty, poor education and the growth of tourism spark sexual exploitation in Fiji*, <http://www.rnzi.com/pages/news.php?op=read&id=22585>, accessed, 10th July 2009,

Radio New Zealand, Online, 2009. *Fiji's Interim Administration dumps local councils*, <http://www.rnzi.com/pages/news.php?op=read&id=44522>, accessed, 10th July 2009

Radio New Zealand Online, December 2008. *Pacific NGO critical of Fiji Military spending at expense of basic needs*, <http://www.rnzi.com/pages/news.php?op=read&id=43423>, accessed 17th July, 2009

Ram. K., 1994. *Militarism and Market Mania in Fiji in Sustainable Development for Malignant Growth?*, Edited by Atu Embersan-Bain, Marama Publications, Suva, Fiji

Report of the expert group meeting on good practices in legislation on violence against Women; United Nations Division for the Advancement of Women , United Nations Office on Drugs and Crime, United Nations Office at Vienna, Austria , 26 to 28 May 2008

Reserve Bank of Fiji, <http://www.reservebank.gov.fj/>, accessed 8th July 2009

Rokoduru, A., 2008. *Your Life is in Your Hands*, commissioned by Asia Pacific Forum for Women Law and Development

Rokoduru, A., 2004. *Fiji's women migrant workers and human rights; the case of nurses and teachers in the Republic of Marshall Islands*, *The Journal of Pacific Studies*, Volume 27, no.2

Secretariat of the Pacific Community, Pacific Platform for Action, http://www.spc.int/hdp/index.php?option=com_docman&task=cat_view&gid=35&Itemid=44, accessed 27th July 2009

Sepehri, A., & Akram-Lodhi, H., 2000. *Fiji's Economy: The Challenges of the Future*. In H. Akram-Lodhi (Ed.), *Confronting Fiji Futures*. Canberra: Asia-Pacific Press.

Siwatibau, S., 2007. *Women and minority interests in Fiji's alternative electoral system* Chapter 12 Fraenkel & Firth (2007), <http://epress.anu.edu.au/fiji/pdf/ch29.pdf> , accessed 15th March 2008,

Soni, H., and Zinner-Toa, 2007. *Responding to the Revenue Consequences of Trade Reforms in the Forum Island Countries*, Watergall Consulting Limited.

Swedish factsheet, 2009, at <http://www.sweden.gov.se/content/1/c6/01/87/74/6bc6c972.pdf>, accessed 27th July 2009

Teaiwa, T., *On Women and "Indians" The politics of inclusion and exclusion in militarized Fiji "*

Trafficking in Women and Girls, <http://www.un.org/womenwatch/daw/egm/trafficking2002/reports/EP-Giammarinaro.PDF>, accessed 16th July, 2009

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2007. *Economic and Social Survey of Asia and the Pacific 2007*.

UNICEF (United Nations Childrens' Fund) Pacific, UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific) and ECPAT (End Child Prostitution & Trafficking of Children for Sexual Purposes) International. 2006. *Child Sexual Abuse and Commercial Sexual Exploitation of Children in the Pacific: A Regional Report*. Prepared for UNICEF Pacific by the Pacific Regional Rights Resource Team, Suva, Fiji. As yet not available publicly

UNIFEM (United Nations Development Fund for Women) Pacific Regional Office and UNDP (United Nations Development Programme) Pacific Centre. 2007.

Translating CEDAW into Law: CEDAW legislative compliance in Nine Pacific Island Countries. Suva, Fiji

UNDP (United Nations Development Programme), 2009. *Pacific Sisters with Disabilities; at the Intersection of Discrimination.*

UNDP ((United Nations Development Programme), and PIFS (Pacific Islands Forum Secretariat), 2008. *Utilising Temporary Special Measures to Promote Gender Balance in Pacific Legislatures: A Guide to Options.*

UNIFEM, 1999. *Gender and Trade Programme* Suva: UNIFEM Pacific, www.unifempacific.com

United Nations High Commissioner for Refugee, viewed, 18th March, 2008. <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b57d8>

United Nations, 2004, Fiji Millenium Development Goal Report

Unpublished data - research on women in the military - to be confirmed (This is a personal email conversation with Teri Teiawa

USP (University of the South Pacific) Governance portal, <http://www.governance.usp.ac.fj/top-menu/countries-and-territories/fiji/governance-information/>, accessed 19th March 2009

USP (University of the South Pacific), 2008. Planning and Development Office, Planning Office, Statistics, <http://www.usp.ac.fj>. Accessed on 14 November 2008, accessed 14th November 2008

Walsh, C., 2006. *Fiji; and Encyclopedic Atlas* Suva: University of the South Pacific

Williams, M., 2003. *Gender Mainstreaming in the Multilateral Trading System*, Commonwealth Secretariat, London

World Trade Organisation, 2009. *Trade Policy Review Report by the Secretariat Fiji*, WTO Trade Policy Review Body, document: WT/TPR/S/213

Index of Legislation (this includes cases and legislation)

Constitution of the Sovereign Democratic Republic of Fiji [Fiji], 25 July 1990

Constitution Amendment Act, 1997. http://www.paclii.org/fj/legis/num_act/ca1997268/, accessed 15th March 2008,

Family Law Act 2003 (Fiji),

Family Magistrates Court Appeal No. 06/Suv/0021. Suva High Court.

Fiji Civil Appeal No. ABU0077 OF 2008S

Fiji Criminal Code, Cap.1, 1966

Fiji Electoral Act (CAP 4), http://www.paclii.org/fj/legis/consol_act/ea103.pdf ,
accessed 15th March 2008

Human Rights Commission Act, 1999

Magistrate Nadakuitavuki, Criminal Case No 79/94