



2nd Universal Periodic Review of Fiji
Stakeholder Submission by the Fiji Women's Rights Movement
14 March 2014

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1. The Fiji Women's Rights Movement

1.1 The Fiji Women's Rights Movement (FWRM) is a multicultural non-governmental organisation committed to eliminating all forms of discrimination against women. Our vision is for the women of Fiji to be free from discrimination, have equal access to opportunities and to live in a healthy environment where the principles of feminism, democracy, good governance, multiculturalism and human rights prevail. FWRM was established in 1986, with a primary focus on legislative and policy reform, and works to empower women, particularly young women through advocacy, training, and research. FWRM has worked to uphold the principles of human rights, democracy and the rule of law, playing a leadership role within civil society during Fiji's periodic political crises over the past 27 years.

2. **Introduction**

2.1 Over 100 recommendations were made during Fiji's last Universal Periodic Review in 2010, most of which were accepted by Fiji's State representatives.¹ The recommendations were largely concerned with the human rights violations experienced in Fiji under a military government, which came to power in 2006 with a coup d'état.² Despite a commitment to implement these recommendations, the State has shown little will to address human rights concerns, and instead has employed measures to exacerbate the situation. In the four years since Fiji's last review, the country has experienced continuing and new restrictions on freedom of speech, association and assembly, as well as arbitrary detention, with ongoing rule by decree and anti-democratic processes.

2.2. This submission focuses on three thematic areas: **the protection of human rights defenders, the constitution-making process, and the upcoming elections**. Specific and related recommendations follow each thematic discussion. FWRM also supports the comments and recommendations made in the submissions by Human Rights Watch, the Fiji Women's Crisis Centre, Drodrolagi Movement and the joint submission led by the Citizen's Constitutional Forum.

3. **Human Rights Defenders**

3.1 Human rights defenders, including women's rights activists, have been systematically discriminated against and persecuted for exercising their rights to freedom of association and assembly, expression and opinion. This targeting of human rights defenders has continued unabated, despite specific recommendations made during the 2010 UPR to address these concerns. The Report of the Working Group on the UPR – Fiji of March 2010³, recommended that the State “restore an environment in which all of Fiji's citizens can meet freely and express political opinions without fear of retribution, including the right to express criticism of the Government without fear of arrest, intimidation or punishment”.

3.2 Since its last appearance, the State has issued a number of decrees that either infringe on or violate fundamental human rights. The Public Emergency Regulations imposed in 2009 were lifted in 2012, but were immediately replaced with the Public Order (Amendment) Decree 2012, which strictly limits the right to public assembly and freedom of expression.⁴ Under this decree the government can refuse to grant a permit for any meeting or march deemed to prejudice peace, public safety and good order, or to sabotage

¹ Report of the Working Group on the Universal Periodical Review; Fiji: 23 March 2010; cited at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession7.aspx>

² On 5 December 2006, Commodore Voreqe Bainimarama, then Commander of the Republic of the Fiji Military Forces (RFMF) staged a military takeover of the Qarase-led multiparty Government and ultimately installed himself as interim Prime Minister.

³ http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/FJ/A_HRC_14_8_Fiji.pdf

⁴ This is a deviation from recommendations made in the 2010 UPR to abolish such policies and decrees. See UPR 2010 recommendations 28, 33, 34, 40, 73, 76.

or attempt to undermine the economy. Other decrees used to target human rights defenders include the Media Industry Development Decree 2010, which limits freedom of expression by intimidating the media and promoting self.

3.3 Some examples of the persecution of human rights defenders since the last review includes detention of non-violent activists:

- On 8 November 2013, 14 people were arrested while lunching at the seawall opposite the Fiji Revenue and Customs Authority where the government was presenting the 2014 national budget. They were wearing T-shirts promoting transparency in national budgeting.⁵
- During the Presidential assent of the State's Constitution on 6 September 2013, protesters gathered along the seawall outside Government House, objecting to the government-written constitution. The police arrested 14 of the protestors and took them in for questioning, including two women over 70 years of age. They were later released without any charge.

3.4 The authorities have also targeted specific organisations, including FWRM:

- On 1 July 2011, Police closed down the Fiji's Women's Rights Movement's (FWRM) planning retreat at the Pearl resort in Pacific Harbor. Another non-governmental organisation was having their strategic planning at the same venue and time, but were not questioned. This indicates the clear targeting of human rights and women's rights groups lobbying for democracy.

3.5 There has been widespread abuse of public order related regulations, with unreasonable and unclear processes and arbitrary cancellation of permits for peaceful assembly:

- In March 2013, police cancelled the International Women's Day Reclaim the Night march unexpectedly. The Fiji Women's Crisis Centre said it was the first time in many years the capital Suva did not have such an event.
- In May 2011 the Police revoked a permit for a march to mark the day against Homophobia and Transphobia. The police reportedly told activists they did not realize it was for a gay march when approving it, despite the details stated in the request. (See the submission by the Drodrolagi Movement for further details).
- On 8 December 2010, the Fiji Police Force cancelled a permit⁶ given to the NGO coalition on Human Rights⁷ to hold a march on 10 December 2010 to commemorate International Human Rights Day.

⁵ <http://www.fijitimes.com/story.aspx?id=250678> The last of the group was released from the Central Intelligence Department headquarters in Suva seven hours after being arrested. There were no charges laid.

⁶ The permit was granted to the NGOCHR on 19 November 2010. It allowed for 300 people to participate and for placards to be carried. One of the conditions on the permit was to be no displays or distributions of materials that might depict themes or messages which are politically motivated.

- Also in December 2010, the police revoked a permit granted to Transport Workers Union (TWU) to meet to discuss the proposed retrenchment of 85 Pacific Sun Airlines staff.⁸ No reason for the cancellation was given.

3.6 Unionists and former politicians have faced sustained intimidation and persecution:

- On 1 October 2010 former Prime Minister and current General Secretary of the National Farmers Union Mahendra Chaudhry and five others were arrested and detained for three days for violating the Public Emergency Regulations (PER)⁹. Chaudhry was reportedly assessing the impact of a drought on cane farmers in Fiji's Western Division.

3.7 And the media continues to be intimidated and silenced in a variety of ways, including the arrest of journalists:

- On 18 February 2011 unionists Felix Anthony, Anil Kumar and Mohammed Khalil, and *Fiji Times* journalist Felix Chaudhry were unlawfully detained by the military for several hours over an article¹⁰ about the sugar industry. They were verbally abused and assaulted.

3.8 The absence of independent national human rights institutions, such as the now-defunct Fiji Human Rights Commission, along with this targeting of human rights defenders has exacerbated the climate of fear and uncertainty in Fiji. There is a perceived lack of independence and credibility of law enforcement bodies, particularly with the militarization of the police force. Concerns about the rule of law in Fiji are also heightened with frequent proceedings brought by the State against non-governmental organisations and the media. The authorities particularly clamp down on any discussions referring to the independence of the judiciary:

- In May 2013, the Citizens Constitutional Forum and its Chief Executive Officer, Reverend Akuila Yabaki, were convicted of contempt of court for publishing an excerpt of a UK Law Society's report in CCF's newsletter in relation to judicial independence in Fiji. (See the joint submission led by the Citizens Constitutional Forum for further details)
- In October 2012, the Editor of the *Fiji Times* Fred Wesley, and the publisher at the time, Brian O'Flaherty were found to be guilty of contempt of court for republishing a sports article, originally published in New Zealand, that briefly referred to the independence of the Fiji courts.¹¹

⁷ Citizen's Constitutional Forum, Fiji Women's Crisis Centre, Fiji Women's Rights Movement, FemLINK Pacific, Pacific Centre for Peacebuilding.

⁸ International Labour Organisation's Working Group Report cited at:

http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_193260.pdf

⁹ <http://pidp.org/archive/2010/October/10-07-03.htm>

¹⁰ <http://www.fijitimes.com/story.aspx?id=166323>

¹¹ <http://www.fijitimes.com/story.aspx?id=213349>

Recommendations – Fiji should: cease the harassment (including legal harassment) and attacks against human rights defenders, including women’s rights activists, unionists and journalists; take effective measures to prevent human rights abuses, investigate all human rights violations and bring those responsible to justice; restore an environment in which all of Fiji’s citizens can meet freely and express opinions without fear of retribution, including by the repeal of repressive decrees, particularly the Public Order (Amendment) Decree and the Media Industry Development Decree; follow through on Fiji’s commitment to the Human Rights Council in 2010 to respond to a visit request by the UN Special Rapporteur on the Independence of Judges and Lawyers, which has yet to take place.

4. Constitution-making process

4.1 The constitution-making process began in March 2012 with a State declaration of 11 ‘non-negotiable’ principles and a deadline for elections by September 2014. Details were included in the Constitution-making decrees (number 57 and 58 of 2012). A Constitution Commission was appointed, headed by international expert Professor Yash Ghai, to consult the people and draft a new constitution. Despite concerns about the process, including military government control and a restricted timeline for consultation, there was an overwhelming public response. The civil society-led Fiji Women’s Forum¹² mobilised women from all around the country to make submissions to the Constitution Commission. Their contributions were part of the 7000 group and individual submissions made to the Commission, who then produced a comprehensive, people-centred draft. The People’s Draft prepared by the Ghai Commission contained many positive provisions for women, and strong human rights protections.

4.2 However, the State objected to the Ghai Commission draft, presented in December 2012, and refused to abide by their own decrees. The 2012 draft was scrapped, a planned Constituent Assembly was cancelled, and the State instead wrote their own draft, released in March 2013. On 22 August 2013 the State released a slightly revised version that was assented to on 6 September 2013.

4.3 It is important to note that the 2013 Constitution was finalised without any further public consultation. The protection of rights under the constitution is very weak and it vests considerable power in the office of the Prime Minister and the Attorney General. All positive provisions for women’s rights were removed, and there is no explicit mention of women in the 2013 Constitution.

Recommendations – Fiji should: protect and promote human rights and the rule of law, by ensuring that human rights are afforded full legal and constitutional protection in Fiji, which would necessitate the revision of the

¹² Co-convened by: the Fiji Women's Rights Movement, Femlink PACIFIC, the National Council of Women – Fiji, and the Soqosoqo Vakamarama.

2013 Constitution to strengthen human rights protections; revoke all decrees or provisions that prevent the Courts from considering the legality of State actions, and commit to abiding by future judicial decisions; ensure the 2013 Constitution and all national legislation is made compliant with the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), which Fiji has ratified.

5. 2014 Elections

5.1 In 2010, the Working Group of the UPR recommended that Fiji ensure “credible, free and fair democratic elections, guarantee the right to universal suffrage and invite international observers.”¹³ While universal suffrage is granted under the 2013 Constitution, related rights, such as freedom of association and freedom of expression, can be and are limited by decrees. The Political Parties Decree of 2013 sets very difficult hurdles for the registration of political parties, and along with the Constitution, permits severe limitations of human rights for the purposes of ‘orderly conduct of elections’ (see the joint submission by the Citizen’s Constitutional Forum for further details).

5.2 In this environment, it is particularly difficult for women to seek to stand in the elections. Despite Fiji ranking at the bottom of the table for women in politics¹⁴, all special provisions for increasing women in decision-making were removed in the drafting of the 2013 Constitution. With the regulatory and practical obstacles put in the way of political opponents, as well as the restriction of the media and the State’s targeting of women human rights defenders, it is unlikely that Fiji will see many women elected in 2014.

Recommendations – Fiji should: implement international best practices that guarantee and promote credible, free and fair democratic elections by September 2014; revoke any policy or decree that restricts the freedom of the media, including the Media Industry Development Decree, and create an enabling environment for the media to operate freely and independently; promote the participation of women in national decision-making through enabling actions, such as temporary special measures, and the removal of restrictive policies or conditions which deter their involvement.

¹³ http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/FJ/A_HRC_14_8_Fiji.pdf

¹⁴ Inter-Parliamentary Union, Women in Politics 2014:
http://www.ipu.org/pdf/publications/wmnmap14_en.pdf