



P O Box 2439 Government Buildings, Suva, Fiji Islands

Telephone +679 3310303/3381160/3310307

Mobile # +679 9244871 Fax +6793307207

E: sharon@femlinkpacific.org.fj

FemLINKPACIFIC Position Paper: A Women, Peace and Security Response to the State Draft Constitution (March 2013)

02 April 2014

FemLINKPACIFIC acts at local, national and regional level in Fiji and the Pacific, giving voices to women across the region through a rural and regional media and policy network. Established following the “Blue Ribbon” Peace Vigil in 2000 as a response to enhance the availability of information about and communicate women’s rights issues in Fiji and the Pacific,

FemLINKPACIFIC’s mission therefore is to create enabling environments for rural women, young women and women with disabilities. The organisation is a leading advocate of UNSCR1325; communication rights and community media; and of women, peace and human security concerns. The organisation operates a women-led community radio network “FemTALK 89FM” and promotes change by developing appropriate media and communication materials, advocating for policy changes that reflect women’s reality at all levels and enhancing a community of practice and networks

FemLINKPACIFIC believes that given our country’s political realities since 1987 and the protracted period without a democratically elected government since December 2006, the constitutional framework for Fiji must take a peacebuilding and preventive action approach and reflect the views and sentiments of the people who responded to the call for public and written submissions in 2012.

We further assert that there is a need to ensure that media freedom, inclusive of community media forms such as community radio, is a prerequisite for providing the enabling environment for participatory and inclusive democratization.

Our submission to Constitution Commission (02 October 2012) included handwritten letters collected from rural centres we also presented to the Commission a set of DVDs which contain discussions with rural women leaders in Labasa, Nausori and Nadi, in addition to our recommendations. Also submitted was a transcript of an interview conducted with representatives of Persons with Disabilities.

This documentation was a result of FemLINKPACIFIC mobilizing our networks and between July – August 2012 whereby 208 women leaders representing a collective membership of more than 2000 women from a diverse range of local clubs and groups participated in our divisional level consultations which included the usual 1325 network consultations and rural community outreach to 2 new centres, namely Tavua and Rakiraki.

This is in addition to information sourced from women between the first 6 months of this 2012 when a total of 404 rural women leaders based in Nausori, Nadi, Labasa and Ba, collectively representing more than 4000 women.

In response to the current draft we are concerned with:

- The removal of specific references to women’s rights in the March 2013 draft as well as the removal of the section on the elaboration of rights and freedoms for women, men, families, the elderly and persons with disabilities which expanded on a comprehensive Bill of Rights section which covered the social, economic, cultural and political rights
- The removal of references to the role of civil society, public media, local government as well as national security which were all addressed in our submission

The Constitution of the Republic of the Fiji Islands should ensure that:

- i. Women's rights should be incorporated into constitutional reforms to reaffirm the principles of non-discrimination, equality, affirmative action, and women's right to freedom and security, as well as the protection of women participating in constitutional conventions.
- ii. Women's rights should be incorporated into law reform processes, especially to family, civil, labour and land reforms. National legal systems should penalize and remedy all forms of violence against women. Specially-trained police units should be established to investigate crimes against women. Law enforcement officials, including judges, police and armed forces, should be sensitized about such crimes.
- iii. Women's access to justice should be ensured through legal literacy programmes, support services and legal aid.
- iv. Women's human rights experts should be included in drafting the mandate of truth and reconciliation commissions and other transitional justice mechanisms as well as their planning and implementation so that crimes against women are included, special hearings for women are scheduled, the rights of women testifying and participating are protected throughout and considerations of gender equality and women's concerns are included in the recommendations and other outcomes of these mechanisms.
- v. National electoral laws should incorporate gender equality quotas and ensure voter registration and education for women, as well as the increase of women in electoral commissions and observer missions. Electoral experts should work with local women's groups to provide relevant training for women candidates and political parties.
- vi. A clear and distinctive security sector governance process including a Defence Act which will comply with UNSCR1325 and ensuring civil society oversight and input.

As stated in our October 2012 submission “Effective *participatory constitution-making has to provide for women’s equal representation in the process and outcome. No process which excludes or marginalizes the majority of the population can be representative. No constitution which has failed to fully ensure the perspectives and concerns of women can be seen as fully legitimate over time*”. (Mary Robinson, Former United Nations High Commissioner for Human Rights.)

We further assert that the state must reconsider compliance with the UN Convention for the Elimination of All Forms of Discrimination against Women and recognize the need to also apply UN Security Council Resolution 1325 (Women, Peace and Security) in this critical period of democratization – at national and local government level.

This Constitution Making Process is also an opportunity to define a national action plan for UN Security Council Resolution 1325 (Women, Peace and Security) focusing on 4 pillars:

- i. *Prevention*: Prevention of conflict and all forms of violence against women and girls;
- ii. *Participation*: women participate equally with men and that gender equality is promoted in peace and security decision-making processes at local and national levels;
- iii. *Protection*: Women’s and girls’ rights are protected and promoted; and
- iv. *Relief and Recovery*: ensuring such responses highlight and meet women and girls specific relief needs and to ensure women’s capacities to act as agents in relief and recovery are reinforced in humanitarian crises situations.

Additionally we reaffirm the commitments in the The Geneva Declaration on Armed Violence and Development which has been endorsed by the State in 2008.

Furthermore FemLINKPACIFIC reiterates the state's obligation to addressing the status of rural women in line with Article 14 of CEDAW: “*take account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetised sectors of the economy...*”

We bring to your attention the additional obligation (Article 14 (2) :

“(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal & non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

(e) To organise self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport & communications.”

FemLINKPACIFIC maintains that:

- i. The state has a legal responsibility to ensure that any new or reformed Constitution must integrate temporary special measures to promote 50% women's political participation at national and local government levels
- ii. Temporary Special Measures are needed to close the gap in political representation in the Legislature, Executive, Judiciary and/or all other arms of Government as well as the Private Sector
- iii. The state must work in close collaboration with civil society & should work to review the criteria for qualification for high-level appointments and leadership positions so as to ensure that they do not continue to exclude women based on stereotypes and standards that are unrelated to real capacity to perform.
- iv. The state and political parties should adopt quotas and affirmative action measures to ensure democracy in all peace and security decision making, including at least 30 per cent representation of women including in cabinet, parliament, provincial and district committees, political party leadership, local government and committees and through reform of campaign financing frameworks and policies.
- v. The state must ensure long term support for a new generation of women's leaders in the peace and security sector, including through the availability of scholarships and other training and capacity building initiatives.

Gender and Security Sector Governance: The Role of the Fiji Military Forces

“Many countries are unable to provide a secure environment for their citizens. Malfunctioning of the security sector can itself contribute to insecurity, for example, where security sector organisations such as the police, military, prisons and intelligence services are not accountable to parliament, are politicised or abuse human rights. Reforming the security sector to be more transparent and accountable to its citizens is one of the objectives of security sector reform (SSR). Credible and effective oversight is a key element in creating accountable and democratically controlled security services. Civil society organisations are important actors in this regard. As civilian representatives on official oversight bodies or as independent monitors, civil society participation is necessary for legitimate and rigorous security sector oversight. Security sector oversight must examine gender issues. Oversight bodies should, for example, hold security sector institutions accountable for addressing the security needs of men and women, and for being workplaces that promote gender equality. Civil society organisations, including women's groups, can be both watchdogs and key partners in assisting oversight bodies to address gender issues.” (UNDP - DCAF Handbook for Civil Society Organizations on Security Sector Oversight)

The return to parliamentary democracy requires a transformation from a military-led government to one that is more accountable to peace-building, democratization and development. Through women’s eyes, there is a broader notion of security – one that is defined in human, rather than in military, terms. Peace is possible when civil society regains faith in and democratic control of all organizations that have the authority to use or threaten to use force.

The state must undertake a comprehensive Security Sector Governance Review in line with international conventions and treaties including UN Security Council Resolution 1325 (Women, Peace and Security). Underpinning such a review is ensuring that at all times that the security sector is held accountable for human rights violations both in the country and also if on international deployment.

Until the state's security and legal infrastructure are rebuilt, women's security is threatened inside and outside of the home, where they are subject to the rule of aggression rather than the rule of law.

Until women feel secure in their homes and communities, countries cannot be assured of sustainable peace in the nation. When women feel secure, peace is possible. When women feel secure enough to organise for peace – expressed through theatre, public demonstrations and civil disobedience – peace is on its way.

As women of Fiji, we want leaders to utilise quiet diplomacy, mediation, sanctions and other measures as conflict-prevention measures rather than deploy force after the outbreak of conflict. By consulting routinely with women technical experts, the security sector can enhance its expertise and change its policies and regulations to provide security for all.

In the context of women's security, we wish to state that for women, 'security' is pervasive, not just related to armed conflict and affects every area of women's lives. We wish to clarify, that this is about the welfare and status of women, our human security issues, and the impact of decisions in relation to the form and functions of the military, police and the broader security sector has direct impact on women in this country.

We recommend a gender inclusive civil society oversight provision in the context of the constitutional role of military and navy with a clear delineation of roles and responsibilities from the Fiji Police Force which must provide a public service that is based on the needs of the community within which it serves, and as a crime prevention tool, a more analytical approach is taken to not only ensure improved and effective resourcing for not only its community policing work but also undertake the necessary information collation/analysis in a conflict prevention role

We further recommend that this oversight procedure is followed in the context of the drafting and tabling of Fiji Defence Act which must include full and effective participation of women's human rights and peace activists and should take into account of the following:

- i. A review of the Fiji Military Forces and Navy to clearly define their role in defence and maintenance of peace and security from a conflict prevention approach
- ii. That such a review ensure the correct definition of human security in line with human rights principles and includes "*protecting people from critical and pervasive threats and situations, building on their strengths and aspirations*":
- iii. In the context of women's security, 'security' is pervasive, not just related to armed conflict and affects every area of women's lives.
- iv. This is about the welfare and status of women, our human security issues, and the impact of decisions in relation to the form and functions of the military, police and the broader security sector has direct impact on women in this country.

Media Freedom and Communication Rights

Due to the political and commercial power of the media over women's lives, women and media was identified as one of 12 critical areas of concern in the Beijing Platform for Action. In 1995, United Nations member states, including Fiji, made a commitment to increase women's participation in and access to media, and to promote balanced and non-stereotyped images of women.

Of the different types of media – government owned, privately-owned, independent and community-based, community media offers women an opportunity to communicate a culture of peace. When considering the information and possibilities to participate the media can communicate, community media can be as vital to the post-conflict infrastructure as housing and water, particularly radio which can multiply information to many people, including illiterate people, the majority of whom are women. In conflict and peace-building situations, women are increasingly learning to use new and traditional media forms to tell their own story, to document human rights violations and to report on peace-building. In order to address the gaps in mainstream media content, women's media and information networks have tended to focus on the community level, to enable women to communicate their peace and security issues in a local language.

Getting women into the picture – both as producers of media information and as subjects of it that go beyond their being victims– is vital. Otherwise, women's role in peace-building will continue to be ignored, and the primary images we get from will be ones of despair.

We further believe a strong and independent press, broadcasting institution and other news media organizations are critical for achieving sustainable peace and credible governance, especially in post conflict countries.

We stand in solidarity with media organizations advocating for media freedom in the Pacific, and the safety and protection of media personnel.

An independent and free media can assist in informing, motivating and mobilizing populations and communities emerging from conflict, and provides an important channel of increasing public participation in Peacebuilding by making the process inclusive for all.

We believe that the Media Decree does not provide the framework for a free and pluralistic media environment including the recognition of community media, in particular Community radio which plays an important role in building participation and opinion sharing, improving and diversifying knowledge and skills and in helping communities meet their health and cultural needs.

We stress that a free, independent and vibrant media and communication sector is required to support freedom of expression and communication.

We draw to your attention that the UN Human Rights Council has also included community radio as a benchmark for reporting on freedom of expression and in the Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue reported in April 20, 2010 to the 14th session of the Human Rights Council on “Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development:

“Community-based media

66. The right to freedom of opinion and expression includes the freedom for minority and excluded groups to give, receive and transmit information. Community-based media are effective ways to accomplish that, and it is the duty of Governments to assist and support them in doing so and to ensure equitable access. The Special Rapporteur reiterates the call to Governments, made in paragraph 3 of the relevant section of the Colombo Declaration, to “develop national policies that address access to, and participation in, information and communication for people living in poverty, including access to licenses and fair spectrum allocation”.

67. Protecting disadvantaged social groups’ right to freedom of expression requires Governments to create a legal framework for telecommunications which is based on democratic principles and which seeks to provide access to all sectors of society. Community-based media should serve as a tool for local communities and should be representative of their diverse interests.

68. The Special Rapporteur defines community-based media as non-governmental, public interest radio stations and print media that are run by civil society institutions, organizations or associations and any type of non-profit organization run by indigenous peoples for educational, informative, cultural or communal goals purposes. These media work for the development of different sectors of a territorial, ethno-linguistic or other community. They share their communities’ interests, challenges and concerns and seek to improve the quality of life of their community and to contribute to the well-being for all its members. They must not be used as instruments for political campaigning.

69. In order for all sectors of society to have access to information and the opportunity to participate in the national public debate, it is important to uphold the principle of media diversity and pluralism and to do away with monopolies and large media consortia. The concentration of the media leads to a concentration of political power and jeopardizes democracy and the ability of all sectors of society to exercise their right to freedom of opinion and expression.

70. *The Special Rapporteur would like to highlight the joint work undertaken with the World Association of Community Radio Broadcasters (AMARC) through a series of regional consultations held for the purpose of identifying and endorsing the principles that should underlie a democratic regulatory framework for community radio and television. Information on these principles is included in the annex. These principles are:*

- (a) Media diversity, content and perspectives;*
- (b) Recognition and promotion;*
- (c) Definition and characteristics;*
- (d) Objectives and aims;*
- (e) Technological access;*
- (f) Universal access;*
- (g) Reserved frequencies;*
- (h) Competent authorities;*
- (i) Licence and frequency allocation procedures;*
- (j) Non-discriminatory conditions;*
- (k) Evaluation criteria;*
- (l) Financing;*
- (m) Public funding;*
- (n) Digital inclusion.*

71. It is important for Governments to promote measures and adopt good practices oriented toward equity in telecommunications. In this regard, the Special Rapporteur welcomes the promulgation by Argentina of the Audio-visual Materials Distribution Act, which is a good example of such practices.”

At the heart of this framework are issues of access, equity and democratization of communication. In addition to the practice of human rights, there is also a need to strengthen communication rights at times of conflict, disaster and other times when humanitarian efforts are needed. Gender equality and women's rights, the elimination of discrimination against women underpins all of these efforts to better integrate communication rights into and across many sectors.

Additionally, as a co-convenor of the Fiji Women's Forum (FWF) we reiterate the collective concerns as stated on March 26, 2013 which responded to the announcement by the State that there will be no Constituent Assembly (CA) – a critical component in the constitution-making process. The CA is intended to allow open debate on constitutional content:

We noted that on Thursday March 21, 2013, along with this decision, the State also released their draft constitution; and gave the public nine working days within which they can submit comments on the State draft. It is however unclear how submissions will be incorporated, given the very short time-frame.

The FWF had nominated 13 women leaders to be part of the CA. The FWF had also worked with women from all the divisions in Fiji to make submissions to the Constitution Commission, particularly in relation to women's human rights and women's political participation.

Much of this was reflected in the 2012 People's Draft Constitution, but is missing from the State draft.

Supporting the submission process took a lot of time, effort and resources; and while the Fiji Women's Forum had concerns regarding the legitimacy of the overall process, it still mobilised women to take part because women's participation is essential to human rights centred development, and to full and effective democratization.

The invisibility of women in the State draft is in direct contravention to CEDAW¹ which Fiji ratified in 1995. Since last year the Fiji Women's Forum has been mobilizing women from around the country to take part in the democratization process and as a result of this, over 650 individual and group submissions were made by women to the Constitutional Commission.

The FWF also believes that nine working days is too short a time for the people of Fiji to adequately read, understand and raise their concerns about aspects of the State draft constitution and to participate effectively and substantively. Through experience, FWF knows that it will take weeks for many of the people, especially those in the rural and remote communities to read and understand the provisions in the draft and for many, translations and explanations will be required.”

The FWF is a national consultation to discuss the participation of women in national democratic processes, organized by femLINKPACIFIC, the National Council of Women, the Soqosoqo Vakamarama and the Fiji Women's Rights Movement.

¹ CEDAW - Convention on the Elimination of all Forms of Discrimination Against Women.