Free expression and peaceful assembly: Fundamental to democracy

By **J. M. Evans**, Henkin-Stoffel Human Rights Fellow, Columbia University, New York

The rights to free expression and peaceful assembly are basic human rights protected under international law and Fiji's 1997 Constitution. These rights are essential elements of democracy. In a country governed by unelected representatives, these human rights are ever vital in the process toward the return to democracy. These rights are not merely individual rights that enable self-expression and self-development; they are collective rights for the common good, facilitating the development of ideas, such as for improved democratic governance. Any surrender of these human rights in an attempt to purchase improved governance or security for Fiji's future is clearly counter-productive to any hope of restored representative, participatory democracy.

The rights to freedom of expression and peaceful assembly are recognised at international law by the Universal Declaration of Human Rights (1948)[1] and the International Covenant on Civil and Political Rights (1966)[2] (ICCPR). The ICCPR enables States to place narrow restrictions on these rights for the protection of national security, public order, or public safety[3]. Any such restrictions must be established at law and be proportional to the accomplishment of their lawful aim. The right of peaceful assembly is further protected, as any restriction must be seen as necessary "in a democratic society". As such, notions of national security, public safety and public order must be weighed against the essential role of peaceful assembly in democratic society, particularly in a country that seeks to restore democracy.

The Constitution similarly protects the right to freedom of speech and expression[4] and the right to assemble and demonstrate with others peacefully[5]. Fiji's Constitution recognises narrow restrictions on these rights, parallel to those recognised in the ICCPR. However, it further limits these restrictions as they are only valid if "reasonable and justifiable in a free and democratic society"[6].

Although the Fiji has not yet ratified the ICCPR, it is relevant in interpreting the rights as protected in the Constitution. Also it is arguable that these rights are protected under customary international law, a body of international law that binds all nations. In any event, breaches of these rights as a matter of state policy that amount to "a consistent pattern of gross violations" of these rights clearly contravene customary international law[7].

International law and Fiji's Constitution recognise that these basic rights may be derogated (deviated from) in states of emergency. However, as the United Nations Special Rapporteur[8] has recognised, the right to free expression is habitually violated under situations of states of emergency[9]; the same can be said for the right to peaceful assembly. The ICCPR provides for States to take limited actions in states of emergency that would be inconsistent with the ICCPR, but strict limitations exist. Firstly, a state of emergency only exists if it threatens the life of the nation. Secondly, that state of emergency must be officially proclaimed. Thirdly, the actions taken must only be inconsistent with the ICCPR to the "extent strictly required by the exigencies of the situation". As such, "[t]he principle of proportionality must be respected with respect to the duration and geographical and material scope of the state of emergency".[10] Fourthly, the actions must not be contravene other obligations under international law, for instance under customary international law. Finally, such actions must not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. Similarly strict limitations apply for derogations from the Bill of Rights in the Constitution[11].

Free expression, which extends to free media, and the right to peaceful assembly have evolved as democratic norms and are essential to democracy.[12] Firstly, free expression is seen as necessary to self-development – there is value in the personal growth that sprouts from your articulation of individual thoughts and ideas. Secondly, it is necessary for the attainment of truth and common good in all areas, including scientific development, art and, of course, in determining the most appropriate path forward in political affairs. As it is almost always impossible to identify "truth" as opposed to "falsity", limitations on speech cannot be justified on this basis. The free exchange of potentially valuable information is seen as necessary for society to move closer to identifying "truth" or, in the political context, an ideal or best form. Thirdly, as Chief Justice Dickson of the Canadian Supreme Court has observed,[13]

> *Freedom of expression is a crucial aspect of the democratic commitment, not merely because it permits the best policies to be chosen from among a wide array of proffered options, but additionally because it helps to ensure that participation in the political process is open to all persons. Such open participation must involve to a substantial degree the notion that all persons are equally deserving of respect and dignity.*

In a country governed by unelected rulers, free expression and peaceful assembly is essential to enable citizens to freely form views as to the form of governance they desire for the future, to illustrate their views, to enable those in power to hear the citizens' views, and, of utmost importance, to enable public scrutiny of one's unelected governors. The protection of these rights is vital to cultivate a vibrant civil society, crucial to an effective democracy.

In Fiji, free expression and the right to peaceful assembly has been curtailed without those in power considering the necessity for it in line with the law. It is difficult to imagine, when seventeen human rights defenders were arrested on 10 April 2008, that the interim regime considered whether this curtailment of the right to peaceful assembly was "reasonable and justifiable in a free and democratic society" or proportional to the aim of public safety/ national security or some other legitimate aim. Similar questions arise with respect to Virisila Buadromo being "asked" to appear before the Court of Appeal on 12 February 2008 regarding some comments that she made in a Fiji Women's Rights Movement press release; the deportation of Russell Hunter, the publisher of the Fiji Sun, on 26 February 2008; and the process of getting permits to publicly assemble, sometimes with additional conditions. The restrictions on these fundamental rights appear to be justified by the interim regime as measures necessary to enable improved governance in the future. However, these restrictions have been imposed without analysis of whether they in fact contribute to this goal. Any such analysis, which would include consideration of past coups in Fiji, would illustrate that impediments on free speech and free peaceful assembly have failed to stem the coup cycle.

An unelected government, rather than suppressing free expression and peaceful assembly, should recognise the need for the enhanced accountability of its actions as it is not acting on the authority of the public's mandate. Fiji's rulers and community leaders must consider how free speech and peaceful assembly may make possible "the stability that comes from the availability of channels for dissent and peaceful change".[14] Any restrictions on the rights to free expression and peaceful assembly must be carefully analysed to ensure that they go toward a legitimate purpose, are proportional to that purpose, and contribute to achieving a vibrant, representative and participatory democracy in Fiji. Broader free speech and the unimpeded right to peaceful assembly are essential to progression toward improved governance, and so it is the duty of citizens, particularly civil society and community leaders, to vehemently defend these basic human rights.

Why wear BLACK on Thursdays?

Thursdays in Black emerged from the Women in Black movement, a spontaneous, global grassroots movement, where women and men gathered to protest violence.

Originally, this movement grew out of silent vigils held by Los Madres, the Argentinean and Central American mothers who stood mourning their "disappeared ones". Since then, such vigils have spread worldwide. But it was accelerated by the 1995 UN World Conference on Women in Beijing, where thousands of women participated in a Women in Black vigil.

In Fiji, women's groups, university students and supporters took up the initiative during the early 1970s and 1980s to silently protest the many forms of violence against women such as discrimination, sexual assault, sexual harassment, domestic violence, rape, and murder.

Thursdays in Black focuses on the simple but powerful ways an individual can challenge discrimination and violence. So wear black every Thursday and join thousands of supporters around the world. It demonstrates a desire for a community where we can all walk safely without fear of being beaten up, verbally abused, or raped, of being discriminated against due to your sexual orientation, political affiliation, gender or ethnicity.

It shows that you want to be free.

[1] Articles 19 and 20 of the Universal Declaration of Human Rights.
[2] Articles 19(2) and 21 of the ICCPR.
[3] Articles 19(3) and 21 of the ICCPR. In addition, certain restrictions to the right to freedom of expression, such as the restrictions provided by defamation law, may be justified if necessary for respect of the rights or reputations of individuals (not abstract values or institutions); they may also be justified if necessary for the protection of public health or morals. Similarly, certain restrictions to the right of peaceful assembly may be justified if necessary for the protection of public health or morals or the protection of the rights and freedoms of others. These justifications are of limited relevance to this discussion. Any such restrictions must still be provided by law.
[4] Section 30 of the Constitution of the Republic of the Fiji Islands.
[5] Section 31 of the Constitution of the Republic of the Fiji Islands.
[6] Sections 30(2) and 31(2) of the Constitution of the Republic of the Fiji Islands.
[7] Restatement (Third) The Foreign Relations Law of the United States, American Law Institute (1987), Vol 2, 161 §702(g). "Customary International Law of Human Rights. A state violates international law if, as a matter of state policy, it practices, encourages, or condones (g) a consistent pattern of gross violations of internationally recognized human rights".
[8] Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.
[9] Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, 28 February 2008, A/HRC/7/14 at [43]
[10] Id. at [46]
[11] Section 187 of the Constitution of the Republic of the Fiji Islands. In addition, the Fiji Women's Rights Movement and other rights-based non-governmental organizations in Fiji contend that the state of emergency declared 5 December 2006 was in violation of the Constitution – this contention appears legally sound.
[12] It has been argued that the right to democracy has emerged as a human right. See, for instance, Thomas Franck, "The Emerging Right to Democratic Governance", 86 Am. J. Int. L. 46 (1992). See also Kenneth Roth, "Despots Masquerading as Democrats", in the Human Rights Watch World Report 2008 (2008).
[13] R. v. Keegstra, [1990] 3 S.C.R. 697, per Dickinson C.J.
[14] James X. Dempsey, "Civil Liberties in a Time of Crisis", Human Rights Magazine, Winter 2002, available at http://www.abanet.org/irr/hr/winter02/dempsey.html: "We protect free speech not only because it allows room for personal self-expression, but also because it promotes the stability that comes from the availability of channels for dissent and peaceful change".

Trading away our rights? Free trade and human rights in the Pacific.

By **Wesley Morgan**

In pursuing an aggressive free trade deal with ex-colonies in the Pacific, the European Union risks undermining human rights in the region.

In 2008, the EU is looking to sign off on new free trade deals with 76 countries in Africa, the Caribbean and the Pacific (ACP) that it says will provide new investment and improve the business environment in those countries.

The Europeans have tried to make these deals seem as 'development-friendly' as possible, by naming them Economic Partnership Agreements (EPAs).

However, trade experts, academics, parliamentarians, World Bank and UN officials, not to mention farmers' organisations, trade unions and NGOs, have all raised concerns that the deals would be bad for development, would endanger livelihoods, and would deny Pacific countries the flexibility to use the policies they need in order to develop[1].

One of the more serious concerns raised is that the EPAs will undermine human rights, particular the right to the highest attainable standard of health, by making medicines more expensive in many African, Caribbean and Pacific countries.

Intellectual property rights are often included in free trade agreements with the aim of protecting the patent rights of pharmaceutical companies – to grant the designers of a drug a monopoly over the production and sale of that drug in the agreement's party countries. Agreements that protect or extend the patent rights of pharmaceutical companies can put medicines out of reach of many people, particularly poor women in developing countries.

Under the World Trade Organisation (WTO) agreement on Trade Related Intellectual Property Rights (TRIPS), pharmaceutical companies are granted a 20 year monopoly on the use of a patented invention. Patent protection in the EPA with Pacific island countries remain top secret, but the terms of the EPAs already signed with countries in the Caribbean are 'TRIPS+' provisions – they are much stronger than what the WTO asks for.

Of the 14 island countries in the Pacific Islands Forum, only four countries are even members of the WTO, and TRIPS does not apply to most Pacific Island countries.

If Pacific governments sign a TRIPS (or TRIPS+) style agreement on intellectual property as part of an EPA, their ability to provide affordable medicines to their people would be reduced.

As things stand today, most Pacific governments could import generic medicines to provide the public with cheaper medicine options. This could prove to be particularly important for Pacific Island countries facing the growing health burden of an HIV/AIDS epidemic. As women are particularly vulnerable to HIV/AIDS, removing the option of affordable HIV/AIDS treatment puts Pacific women's lives at risk.

Even by pursuing TRIPS or TRIPS+ style provisions as part of EPA negotiations with Pacific Island countries, European governments are in contravention of their own human rights obligations in relation to health. They are violating the International Covenant on Economic, Social and Cultural Rights (ICESCR - which most EU States are party to), as well as the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

To sign a trade agreement that makes medicine less accessible to the poor in their countries would also be in contravention of the human rights obligations of Pacific Island States that are party to the ICESCR, CEDAW and the Convention on the Rights of the Child (CRC).

Pacific governments should not sign into law any EPA (or interim EPA) until independent evaluations and impact assessments of those agreements have been completed.

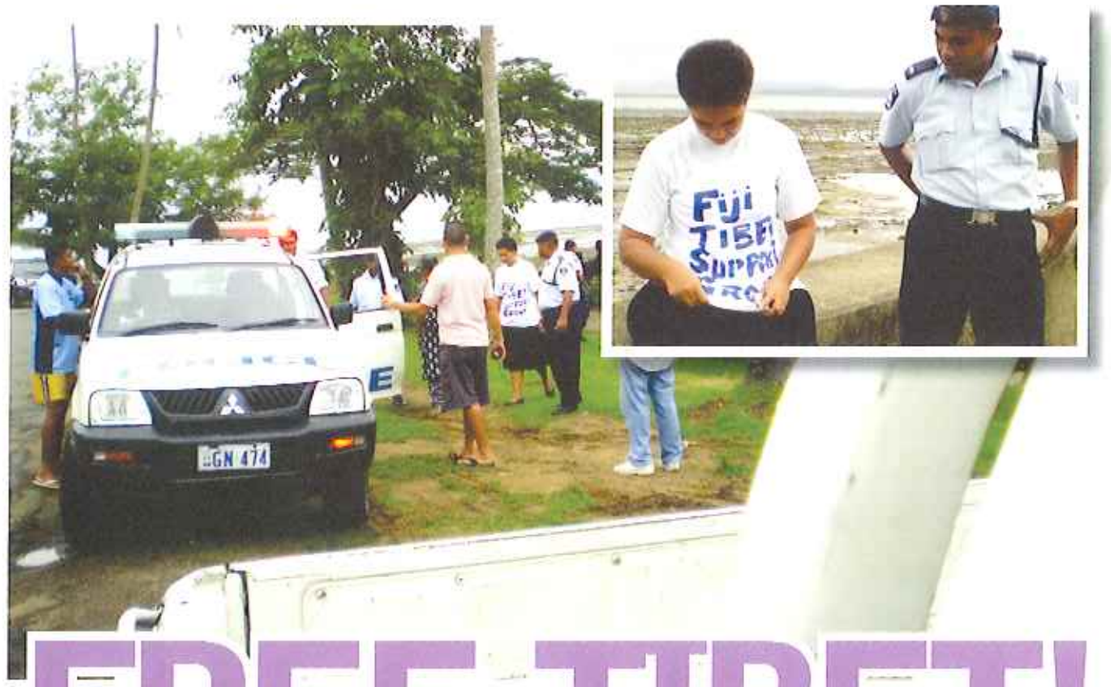
Concerns about intellectual property rights provisions and their implications for access to medicines are just one of many concerns about these far reaching agreements.

We know that any EPA with the EU is unlikely to attract any new significant business investment in the region[2].

If a free trade deal undermines human rights in the Pacific, and is detrimental to development in the region, then Pacific Island Governments really have no reason whatsoever to sign it.

Wesley Morgan is the Information, Education and Communications Officer at the Pacific Network on Globalisation, Suva, Fiji.
For more information, see www.pang.org.fj

[1] Oxfam International (2008)Partnership or Power Play? How Europe should bring development into its trade deals with African, Caribbean and Pacific countries. Oxfam Briefing Paper 110, 21 April 2008.
[2] AV Hughes (2004) Distant Prospects: Promoting investment in the Pacific through an ACP-EU agreement. Pacific Islands Forum Secretariat.



FREE TIBET!

By **Veena Singh**

Where is Tibet exactly? And why are people calling for a free Tibet?

In recent months there has been a lot of talk about Tibet, the tiny Himalayan home of the Dalai Lama, Buddhist monks and most recently, home to widespread protest against the oppressive regime under China. Following the brutal crackdown against monks and Tibetan protesters by Chinese authorities, international civil society held protests and largely peaceful shows of support in various countries. Here in Fiji, 17 people were arrested in April for holding a silent peace vigil along Suva's seawall, outside the Chinese Embassy, in support of human rights defenders in Tibet.

But what is the origin of the "Tibet issue"? Why all the fuss? It all began with the invasion and illegal annexation of Tibet over the period 1949 to 1951.The Chinese Government claims that Tibet signed the 17-point agreement for the peaceful liberation of Tibet. This was signed in 1951, after the defeat of the tiny Tibetan army. The agreement states that Tibetans invited Chinese troops to "liberate" Tibet. However, Tibetans say their government was coerced into accepting the document drafted by China and imposed upon the Tibetan negotiators under the threat of all-out military conquest.

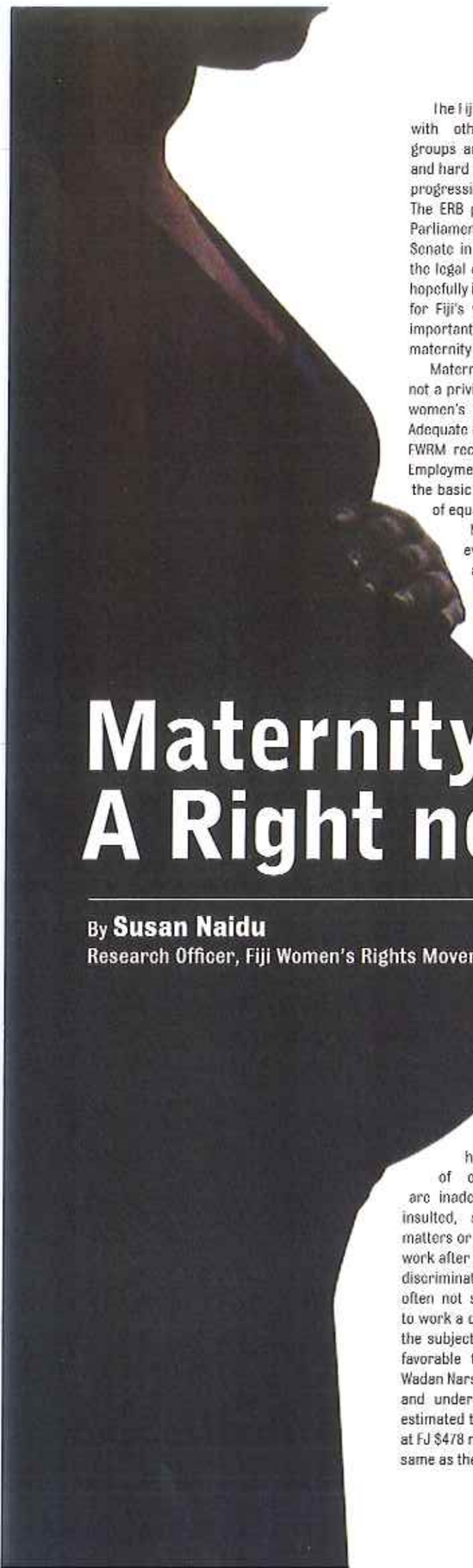
Resistance to the Chinese occupation took on organised forms as early as 1952, reaching massive proportions in 1959:

> *The uprising was brutally put down by the Peoples Liberation Army of China, which claimed to have killed over 87,000 Tibetans between March 1959 and October 1960 in Central Tibet alone. The Dalai Lama fled the country under the protection of Tibetan guerrilla forces only hours before the compound where he had stayed was shelled by Chinese artillery, killing thousands of Tibetan people who had gathered around the palace to protect him.*
>
> *Neither the uprising, nor the Dalai Lama's escape was planned. All the facts show that the Dalai Lama did all he could to prevent an open confrontation between Tibetans and the Chinese army. The consequences of the confrontation was devastating: Chinese troops massacred thousands of people; tens of thousands were taken to concentration camps or labour camps, where many died; Tibetan cultural and religious institutions were destroyed and the population was subjected to terror campaigns and massive "re-education" efforts, similar to the Cultural Revolution experienced in China in years to come.*

Opposition to China's occupation of Tibet then continued underground, and internationally by Tibetans in exile, until the people of Tibet again rose up in mass protest last year. Following the brutal suppression of the protesters in 2007, global civil society has focused on the irony of the Olympic Games – a symbol of peace and fair play – being hosted by China. It was particularly offensive that the Olympic torch relay would be run through Tibet, the site of such widespread human rights violations. Tibetans, and those who support their plight, stand up not against the Olympic Games, but for the upholding of the Olympic principles that means fair treatment for Tibet and respect for their human rights.

We need to show support for Tibetans and others who suffer human rights violations at the hands of oppressive regimes. When human rights are violated we should not just sit back and pretend that everything will turn out fine and that it isn't our concern. Ignoring such atrocities only encourages violence, because when we say it isn't our problem, we're saying that we have no problem with war, conflict and oppression.

Veena is a graduate of the Fiji Women's Rights Movement's Emerging Leaders Forum (ELF). Her article is also published in this month's Mail Life magazine



Maternity Protection: A Right not a Privilege

By **Susan Naidu**
Research Officer, Fiji Women's Rights Movement

The Fiji Women's Rights Movement, together with other women's groups, community groups and concerned citizens, lobbied long and hard to include equality provisions in Fiji's progressive Employment Relations Bill (2005). The ERB passed through the lower house of Parliament, and was being debated in the Senate in late 2006. FWRM looks forward to the legal enactment of the ERB by Parliament, hopefully in 2009, as a big step towards equality for Fiji's women workers. One of the most important provisions in the Bill is adequate maternity protection, or maternity leave.

Maternity protection is a necessity – a right, not a privilege – that safeguards and ensures women's right to work, and motherhood. Adequate maternity protection was among key FWRM recommendations incorporated in the Employment Relations Bill, which also included the basic equity principle: Equal pay for work of equal value.

Maternity rights at work have evolved over the years, both in law and in common practice. Despite this undeniable progress, women sooner or later run up against a basic problem in their working lives: Inequality of treatment at work because of their role in the reproductive process.

Everywhere in the world, the pregnant worker is exposed to many risks: job loss, suspension of income, deterioration of health because the assurances of employment and associated rights are inadequate. Being demoted, dismissed, insulted, sidelined, prejudiced against in matters or promotion of women who return to work after giving birth are too often victims of discrimination. Because domestic duties are often not shared equally, most women have to work a double day and are thus sometimes the subject of colleagues' resentment or less favorable treatment by the employer. Dr. Wadan Narsey, in Gender issues in employment and underemployment and incomes in Fiji, estimated total value of household work in Fiji at FJ $478 million annually, which is almost the same as the sugar industry. Of this women and girls contribute 76% which is FJ $363 million worth of work.

ILO research has shown that giving up a career doesn't just represent a long-term loss in income for the women and her family, but as Dr Narsey also raises, is a countless waste of potential that is harmful to economic growth.

Fiji has signed onto eight major international programmes of action on gender equality, including: the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the Millennium Development Goals (MDGs), UN Security Council Resolution 1325 (women, peace and security), Beijing Platform for Action, Commonwealth Plan of Action and Pacific Platform for Action.

CEDAW is an important legal instrument for the universal implementation of gender equality. Article 11 requires that all appropriate measures to eliminate discrimination against women in the field of employment be taken to ensure that women enjoy the same rights as men, in particular:

Fiji must prohibit and impose sanctions for dismissal on the grounds of pregnancy/ maternity leave and marital status; introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or allowances; encourage the establishment and development of a network of child-care facilities; and provide special protection to women during pregnancy in types of work proved to be harmful to them.

The UN CEDAW Committee recommended to the Fiji Government in 2002 that legal reforms to make pregnancy leave mandatory and deal with sexual harassment in the workplace should be done as soon as possible.

Now we have a draft piece of law in the Employment Relations Bill, but how can we ensure that employers do not fling aside job-seekers of child-bearing age?

The answer to this question lies in basic changing of attitudes about men and women, and their contributions to our society. Pregnancy is human resource development. Reproduction is where our work force comes from. The healthier the work force, the more productive they will be. Granting special protection to women who are pregnant or who have given birth is not an exception to equality of treatment but a pre-requisite for non-discrimination at work.

CEDAW State Report and NGO Shadow Report on track

The State report to the UN Committee on the Convention on the Elimination of all forms of Discrimination Against Women, should be ready by July, 2008.

Director for Women Kiti Makasiale updated the Fiji Women's Rights Movement during a meeting earlier this year. The discussion was a space for the FWRM, as Chair of the NGO CEDAW Advisory Committee, and the Department for Women to integrate information collected on CEDAW to generate a substantial report.

Writing of the CEDAW report requires constant consultation and briefing, where NGOs have a legitimate role in the implementation, monitoring and reporting process. As such NGO Advisory Committee's involvement will ensure inclusiveness, transparency and accountability.

Work on the NGO Shadow report, which is also due to be presented to the UNCEDAW Committee next year, is also well underway. FWRM held a CEDAW Capacity-Building Workshop from the 20th to 22nd May, to help prepare the NGO CEDAW Advisory Committee for the work ahead. Officials from the Department of Women also attended. Participants focused on five thematic areas: Violence against women; sexual and reproductive health and rights; family life; women at work; and women in decision-making.

The workshop generated a lot of public interest in CEDAW. FWRM's Executive Director, Virisila Buadromo, appeared on live television talk-back show *Have your say*, with NGO CEDAW Advisory Committee member and head of the Pacific Concerns Resource Centre, Tupou Vere.

The Poor Relief Society: Fulfilling basic needs

It started off in 1956 as an initiative to ease the burden of increasing poverty. For over half a century the Poor Relief Society has been assisting women who have limited means of survival. These include elderly women, widows, single mothers and women living in informal settlements.

The Poor Relief Society, an NGO CEDAW Advisory Committee member, currently distributes food rations to 17 households every month - 14 of these are headed by women.

Sharda Segran, a leading member of Poor Relief Society, said after the recent political upheaval, the subsequent economic downturn has not only exacerbated the situation for poor women and their families, but also of the Poor Relief Society itself. As a result, the Society had to reduce its number of household distributions, she said.

On first Wednesday, of each month pre-packed grocery parcels are handed out from RB Centre Point Supermarket. The recipients of the ration generally come from HART homes in Narere and Nasinu, as well as from informal settlements in Raiwaqa and Nausori.

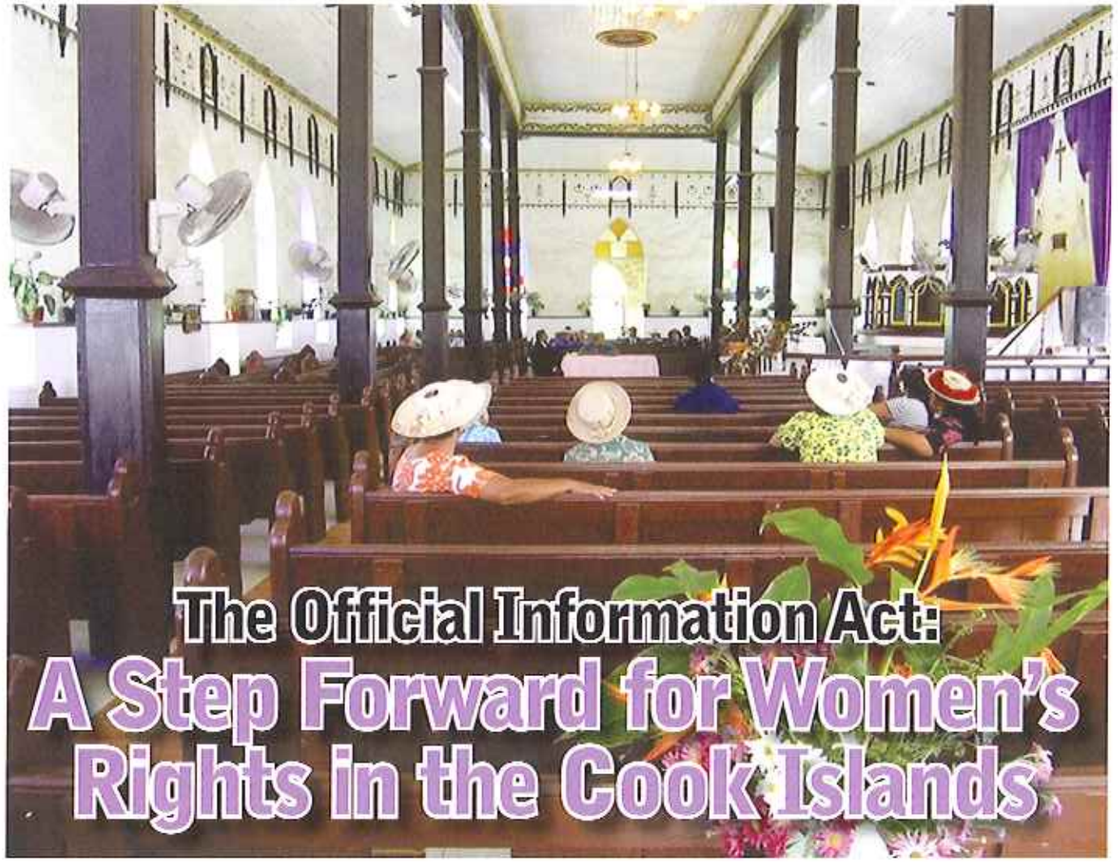
For 56 year old Suruj Devi, coming from Nausori to pick up the ration itself turns out to be costly. She is barely able to afford bus fare, but also faces the pressures of raising a granddaughter whose school needs go beyond her financial capacity. Mrs. Devi says the situation has worsened since the December 2006 coup.

"It's getting difficult day by day, medicines are not available in the hospital, the bus fare has gone up and prices of food going up everyday", she said.

Society members raise funds through personal donations, monthly meeting fees, food stalls, raffles, and sales, as well as donations from businesses and colleagues residing overseas.

The Poor Relief Society is calling on members of the public, for their support towards combating poverty, and isolation rural women often suffer.

The Poor Relief Society is an affiliate of National Council of Women Fiji and a member of NGO CEDAW Advisory Committee. For more information email susan@fwrm.org.fj



The Official Information Act: A Step Forward for Women's Rights in the Cook Islands

In February 2008, the Cook Islands set an important precedent for the Pacific, becoming the first Pacific Island Country to enact a right to information (RTI) law. The Official Information Act is intended to provide the people of the Cook Islands with a legally protected right to request official records and places a corresponding duty on the government to provide requested information, unless disclosure would harm a legitimate interest such as national security, international relations or law enforcement. Over 70 countries worldwide have passed right to information legislation, recognising the crucial role that transparent governance can play in facilitating the practical realisation of human rights and gender equality.

Article 19 of the Universal Declaration of Human Rights states that "Everyone has the right to…seek, receive and impart information and ideas through any media and regardless of frontiers". In the Pacific, the Constitutions of the Federated States of Micronesia, Fiji, Kiribati, Solomon Islands and Tuvalu all recognise a right to seek and receive information as part of the right to freedom of expression. The Papua New Guinea Constitution explicitly recognises the right of access to official documents and the Constitution of Fiji requires Parliament to enact freedom of information legislation.

The right to information is unique. Almost 60 years ago the United Nations General Assembly recognised that "Freedom of Information is a fundamental human right and the touchstone for all freedoms to which the United Nations is consecrated". It is clear that the right to information can be a practical tool for women's empowerment. Access to information laws provide a means by which women can question the government about their commitment to protecting and promoting women's rights, identify when their rights are being violated and hold governments accountable for their constitutional and international rights obligations.

Right to information laws have proven instrumental in unearthing the prejudicial treatment of women and opening these practices up to public scrutiny. For example, information obtained under the United Kingdom's Freedom of Information Act 2000 revealed that in spite of a professed commitment to gender equality, the BBC continued to pay its female news reporters significantly lower salaries than their male counterparts. Media coverage of the findings generated enough media pressure for the BBC to commit to conducting a thorough equal pay review by late 2008.

Women in Australia used the Freedom of Information Act 1982 to ask why their government had refused to subsidise Herceptin – a breast cancer drug with the potential to save hundreds of lives. Although the information was refused, the pressure generated by the request lead to the eventual subsidisation of the drug under the Australian Pharmaceutical Benefits Scheme. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) also recognises women's right to information about family planning and healthcare in order to take responsibility for their own and their families' wellbeing.

The enactment of the Official Information Act 2008 is a significant step forward for the rights of women in the Cook Islands. Women's groups in the Cook Islands can use the new law to gather hard facts to challenge the policies and systems that perpetuate the violation of women's rights, and to lobby for the more effective promotion and protection of their rights by the Cook Islands Government. Their lead can be an inspiration to women's rights activists through the region.

Women Human Rights Defenders in Fiji

From page 1

their human rights defending. However, in today's context in Fiji, they face new challenges; and one of the biggest is isolation. After each crisis in 1987 and 2000, human rights activists, unionists, academics, and later, human rights organisations stood in solidarity and spoke out for a return to democracy and the rule of law. Post 2006, Fiji's civil society is fractured along a perceived "purist" versus "pragmatist" or "rule of law" as opposed to "social justice" divide. This is despite the fact that many organisations are concerned with both the areas of economic and social rights, as well as civil and political rights. Some women's organisations, such as the Fiji Women's Rights Movement and the Fiji Women's Crisis Centre, along with other NGOs, individual activists and supporters, have continued to hold firmly to principles of human rights – the indivisibility of these rights, and their foundations in democracy and the rule of law – speaking out against the military regime and refusing to acquiesce.

However, this has been an often lonely position as many former allies within civil society have seen the rhetoric of economic and social rights touted by the interim regime as a rare opportunity to serve their constituents. Others have simply chosen to work with the military-headed government because they see it as the only path to moving Fiji forwards. Added to this mix is the Fiji Human Rights Commission, a human rights defender in 2000, but post-2006 it is now seen as a coup-apologist and has been largely discredited internationally. Fiji's judiciary has also been viewed with some concern since the coup with the removal of the Chief Justice, new appointments and the loss of many experienced judges from the Court of Appeal. Then there is the military regime's current attack on Fiji's media, which has included the deportation of two newspaper publishers in the last three months. Women human rights defenders are more isolated than ever before, with the traditional protection of the national human rights body, and perhaps even the judiciary, compromised, and renewed attacks against the remaining level of protection, a free media.

It has taken four coups, but the truth is glaring: Fiji's coup cycle is more than an academic discussion, it is a destructive reality. The scars of successive coups, associated violence, disillusionment and exhaustion have led to the strange landscape in today's Fiji – fractured civil society, jaded citizenry and a military regime that speaks a twisted form of human rights while doing a peculiar legal dance with Fiji's progressive 1997 Constitution (that is apparently "still in place" despite the shaky rule of law and ongoing human rights violations). While women human rights defenders will continue to call for elections as promised in 2009, and speak out about human rights, it is now time to address this unusual terrain by taking a harder look at our alternative vision for Fiji. Organisations like the Fiji Women's Rights Movement have a stated vision, such as a country which is run on the basis of non-discrimination, and where the principles of human rights, feminism, democracy and the rule of law prevail. But women leaders recognise that we need more; we need to get out of our reactive crisis mode and deepen the conversations about what we want Fiji to look like after the next twenty years.

How will we address rising fundamentalism in the form of ethno nationalist politics? What can we do to lessen the fundamentalist backlash against ethnic minorities and the indifference to violence against women and other vulnerable people in our militarised society? What do we see as the role of the army in our new Fiji? We know this all begins with elections, but what then? Should we ask the next democratically elected government to seriously look at electoral reform? How do we ensure that women are involved in all these decisions? Women human rights defenders need to ask these questions of each other, but we also need to look for other spaces where we can build a shared vision. One such space in the NGO Coalition of Human Rights, which, while struggling, remains the only forum that bridges current civil society divisions and brings differing perspectives to the same table. We need to move past anger and territorialism to seek out these spaces, away from state or military-led initiatives, to help articulate a viable and more hopeful future for Fiji. After twenty years, women human rights defenders are well-equipped to lead the way.

A version of this article also appeared in the recent edition of *Just Change* magazine

Welcome to the first issue of Balance for 2008!

It has already been a busy year for us: February saw FWRM being called up by the Court of Appeal for statements we made about recent appointments to that court as well as public statements by a judge. The editor of the Fiji Sun was also summoned. We both received a dressing down. FWRM was informed that its point of view was legally and factually incorrect and the Fiji Sun was told off for printing our release. We stand by our press release and see the whole exercise as a form of intimidation. We thank everyone who supported us.

In April, five FWRM staff members were among 17 people arrested for unlawful assembly, following a peaceful vigil supporting the Tibetan people's call for independence from China. FWRM is grateful for the support from friends, family, partners and FWRM board members. Particular mention needs to go to Human Rights Commissioner Shamima Ali and Munro Leys lawyer Faizal Hannif for their help and support.

Now in June, we welcome local and regional participants, as well as international experts, to the Transitional Justice Pacific Roundtable. This important discussion, in partnership with No Peace Without Justice comes at a crucial time for Fiji.

The year so far has shown that it is still difficult for organisations like FWRM - that support the rule of law, human rights and democracy - to have their views heard publicly. Rights to free speech and freedom of expression are slowly being whittled away. Therefore it is important to always defend these rights whenever they are challenged. FWRM maintains that women's rights can not be achieved in a vacuum. That is why our position has not faltered in the last 21 years.

In Solidarity,
Virisila Buadromo

Changing faces of the Movement

Michelle Reddy

Shabina Khan

The Fiji Women's Rights Movement is pleased to announce two exciting changes at the FWRM office in Suva. Michelle Reddy, previously one of our Human Rights Training Officers, has moved across to take on the new challenge of Young Women's Officer. Michelle has been with FWRM as a HRTO since 2006, and took on her new role in the Young Women's Programme earlier this year.

"As the programme is going regional, one of the challenges is to maintain the links between graduates of our leadership training in Fiji and the young women of PNG, the Solomon Islands and Tonga," Michelle said. Michelle is herself a graduate of FWRM's Emerging Leaders' Forum (ELF), who left a teaching career to pursue her passion for women's rights at FWRM.

Shabina Khan, a part-time political science postgraduate student, has also worked as a teacher and was part of the UNDP Young Professionals Programme. She joined FWRM last month in the role of Human Rights Training Officer.

"FWRM appealed to me because of its work towards achieving gender equality," Shabina said, on her first day in office. "Also, in my role as a HRTO, I will be able to work with different levels of people, creating awareness on human rights."

The Movement also bid farewell to long-time staff member, Ranjecta Chand. Ranjecta, who was the Administrative Assistant for close to five years, left FWRM in February for her new life in New Zealand. Ranjecta, with her husband and one-year-old daughter Raina, have settled in Christchurch. Taina Naitubo, a former FWRM volunteer, is the new face at reception as Relieving Administrative Assistant.

Please email taina@fwrm.org.fj or shabina@fwrm.org.fj or michelle@fwrm.org.fj for more information.

Thank you for the support

THE FIJI Women's Rights Movement thanks its supporters from around the Pacific region on the recent Woman of Courage Award given to our Executive Director, Virisila Buadromo in Washington DC, in March this year.

The award acknowledged Virisila and FWRM's work in promoting human rights following the military coup in December 2006. Virisila herself was illegally detained and beaten by soldiers in an attempt to silence the Movement.

"The award is an important opportunity to raise international awareness of Fiji's political situation; and to lobby for Fiji's return to democracy, an end to human rights violations and upholding the rule of law in our country," said FWRM Board Chair, Gina Houng Lee.

FWRM said the award also recognises the unacknowledged work of women human rights defenders in Fiji and the wider Asia Pacific Region.

Militarism in the ancient city of temples

By Virisila Buadromo

Siem Reap, Cambodia was the setting of the Asia Pacific Forum on Women and Law Development (APWLD) annual regional council meeting in early April. Over three days in the ancient city of temples – well not the site itself, but ten kilometres away in the new city - fundamentalism, globalisation and militarism and how they affect women in the region was discussed and dissected.

What enriched the discussion was hearing about the history of Cambodia and the Khmer people in both ancient and contemporary times. While this was not a formal part of the meeting, we visited the ancient sites as well as networked with local women's groups. We got a snapshot of the rich and sometimes violent Khmer history which made the 2008 APWLD meeting both special and significant – particularly regarding the issues we were discussing.

The role that militarism played in Cambodia was similar to Fiji's experience, particularly the role of religion or religious leaders in justifying the actions of the military usurpers. In its presentation, the Fiji Women's Rights Movement talked about how the Methodist Church and Christian fundamentalists defended coup makers in 1987 and 2000. This was juxtaposed against the role of the Catholic Church and its leaders in supporting the current regime. It was interesting how the two religious bodies quickly changed sides when it suited. In Cambodia, it was the religion of the conquerors that saw the Khmers convert from Hinduism to Buddhism.

Another interesting discussion followed the presentation made by Azra Sayeed from Roots, a grassroots organisation in Pakistan. She talked about the role of America in the militarization of Pakistan following 9/11. For Fiji Islanders at the meeting, it was really interesting to hear Pakistan's experience of President Musharaf calling for national elections. A self proclaimed communist, Sayeed shared how it was quite hard for her to decide on whether or not she could support a call for elections and democracy when it could mean the legitimisation of the status quo. However after much debate, she decided to support a call for parliamentary democracy. In January, Pakistan went to the poll, and the situation that Sayeed dreaded occurred. However, she has decided to give it a chance.

Representing FWRM at the meeting were Chair, Gina Houng Lee, Vice Chair Avelina Rokoduru and Executive Director, Virisila Buadromo. As Pacific representatives at APWLD, FWRM took the opportunity to thank out-going regional coordinator, Lynnsay Francis for her contribution to APWLD. In the two years that Lynnsay was at the helm of APWLD, she has made a huge effort to ensure that the voices and experiences of Pacific women are heard and taken note of at regional and international fora. Lynnsay, we thank you for your hard work and welcome you back to the Pacific. Her term ends in June.

About us

The Fiji Women's Rights Movement is a multi-ethnic and multi-cultural non-governmental organization committed to removing discrimination against women through institutional reforms and attitudinal changes.

By means of core programmes and innovative approaches, FWRM practices and promotes feminism, democracy, good governance and human rights.

We strive to empower, unite and provide leadership opportunities for women in Fiji, especially for emerging young leaders, indigenous and locally-born women.

The FWRM vision is for the women of Fiji to be free from all forms of 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.

Join us

YES! I want to support the Fiji Women's Rights Movement

ANNUAL FEE:

Waged - $10 • Organisation - $30

Non-waged/Student - $5

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website: www.fwrm.org.fj
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Mail: GPO Box 14194, Suva, Fiji Is

LOOKOUT!

New Convention for the disabled

The Fiji Women's Rights Movement (FWRM) joins the Fiji Disabled Peoples Association (FDPA) in celebrating the UN Convention on the Rights of Persons with Disabilities (CRPD). The Convention came into force on May 3rd this year, one month after the required twentieth country ratified the landmark treaty which guarantees the rights of some 650 million people worldwide.

The Convention, together with its Optional Protocol, will be a powerful tool in tackling the obstacles faced by persons with disabilities: discrimination, segregation from society, economic marginalization, and lack of opportunities for participation in social, political and economic decision-making processes.

The FDPA has been lobbying to ensure that Fiji also ratifies this important convention, and is seeking your support in this advocacy. For more information email fdpa@connect.com.fj

Free Legal Clinic

The Fiji Women's Rights Movement, in partnership with the Fiji Young Lawyers Association, is continuing to host the Free Legal Clinic. Every fortnight, women who cannot afford a lawyer, can get free legal advice from members of the FYLA at the FWRM Office, 21 Knollys Street, Suva. The Clinic is held every second Wednesday, from 5.30pm. Please call FWRM on 3312711 or 3313156 to make an appointment, or email Unaisi@fwrm.org.fj .

Tok Talk

The Fiji Women's Rights Movement will be hosting an intergenerational dialogue, in partnership with the Asia Pacific Forum on Women, Law and Development (APWLD), at the upcoming AWID Forum. The 11th AWID International Forum on Women's Rights and Development will be held in Capetown, South Africa, in November. The FWRM/APWLD session is titled Tok Talk: Nourishing an Asia-Pacific feminist movement. Email michelle@fwrm.org.fj or tara@fwrm.org.fj for more information.

Transitional Justice Pacific Roundtable

The Transitional Justice Pacific Roundtable, being held in Nadi from 24-27 June, is jointly organized by the Fiji Women's Rights Movement and No Peace Without Justice. The Roundtable will discuss the role of and potential for various accountability mechanisms or processes in the promotion and protection of democracy, the rule of law and human rights in the Pacific sub region. Participants will be leaders drawn from government and related institutions, civil society, the legal profession and the media in Fiji, Papua New Guinea, Solomon Islands, Tonga and Vanuatu.

For more information email Virisila@fwrm.org.fj

FIJI WOMEN'S RIGHTS MOVEMENT

Balance

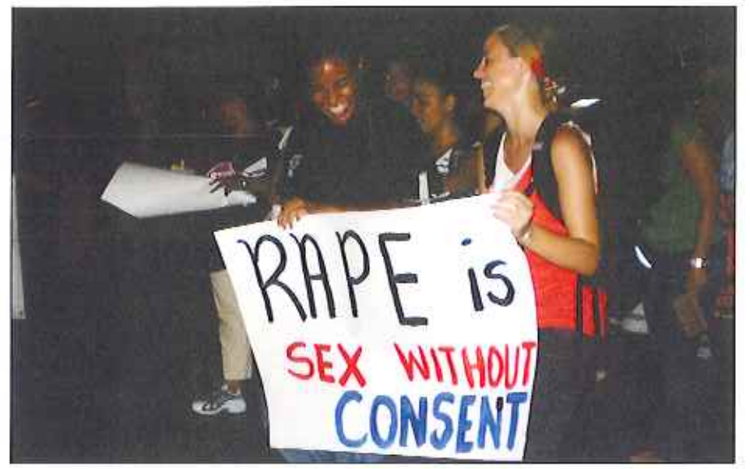
"HELPING TO BALANCE THE SCALES"

JUNE 1/2008

Women Human Rights Defenders in Fiji:

Old challenges, new vulnerabilities and finding our way

By **Tara Chetty** and **Virisila Buadromo**



Women human rights defenders have played an important role in Fiji's often turbulent history over the past twenty years. They have been leading activists, academics and advocates who have spoken up, shared information, and sheltered fellow activists in the wake of the political crises and conflicts in post-independence Fiji. Women human rights defenders in Fiji have faced very specific challenges, shared with their counterparts around the world. But today's civil society, in the aftermath of Fiji's most recent political conflict, sits in very complicated terrain, and feminist activists are dealing with new vulnerabilities, while struggling to find a new way forward.

In December 2006, Fiji experienced its fourth coup d'état in two decades. The country was stunned, despite ample notice and our experience with takeovers - we had our first two military coup d'états, led by the acting head of the army, Sitiveni Rabuka, in 1987; and had a civilian takeover of parliament, led by infamous frontman George Speight, in 2000. Our most recent coup was led by the military commander, Frank Bainimarama, who had risen to prominence in 2000 when he survived a mutiny and restored order during the chaos of the 56-day hostage crisis at Parliament House. Eight years on, and he now heads the interim regime that has been governing Fiji for over a year, after installing himself as interim Prime Minister in early 2007.

Women human rights defenders began speaking out for a peaceful solution to the political crisis in 2006, long before the coup itself. They were among the leaders of a citizen's group and the NGO Coalition on Human Rights that called for the commander and the leader of the re-elected government to come together for talks. Despite the failure of these efforts, women human rights defenders continued to speak out for peace, and called for the army to return to barracks and an immediate return to democracy following the coup on December 5th, 2006.

Women human rights defenders were quickly targeted for their activism, with threats and intimidation from the army and their supporters. Imrana Jalal, a human rights lawyer, was threatened with rape during an anonymous phone call which originated from a telephone near the Queen Elizabeth Barracks in Suva. Other activists were also threatened, and late on Christmas Eve 2006, three women human rights defenders were among the six people illegally detained at the Queen Elizabeth Barracks and beaten by the army for their links to pro-democracy activism. Executive Director of the Fiji Women's Rights Movement, Virisila Buadromo, was among those taken in and described the particular vulnerabilities facing a woman human rights defender – particularly the threat of sexual violence, and threats of violence against her loved ones.

Women have faced similar challenges and vulnerabilities, at the hands of the army or civilian rioters, over the last twenty years of

Cont'd in page 3