

**The Fiji Women's Rights Movement, the Fiji Women's Crisis Centre and the  
Citizen's Constitutional Forum**

**Submission to the Human Rights Sub-Committee of the Joint Standing  
Committee on Foreign Affairs, Defence and Trade**

**Inquiry into International and Regional Human Rights Mechanisms**

**Introduction**

The Fiji Women's Rights Movement (FWRM), the Fiji Women's Crisis Centre (FWCC) and the Citizen's Constitutional Forum (CCF) are pleased to make this joint submission to the Human Rights Sub Committee's Inquiry into International and Regional Human Rights Mechanisms. The submission focuses on the advantages and challenges of a regional mechanism for the Pacific Island countries. It makes the submission from the perspective of Fijian NGOs with a proven record of advocating for and defending human rights.

**About the organizations making this submission**

1. The Fiji Women's Rights Movement is registered as a women's human rights NGO under the Charitable Trusts Act, Cap. 67. Established in 1986, FWRM is a multi-ethnic non-governmental organisation dedicated to promoting democracy, good governance and human rights on the basis of universally accepted feminist principles. FWRM's goal is to improve women's domestic, social, legal, economic, health and political status in Fiji and to promote the equality of women in Fiji and in the Pacific Island Region.
2. The Fiji Women's Crisis Centre is a women's human rights organisation that was set up in 1984. The FWCC works in Fiji and the Pacific region providing a range of support services for survivors of gender-based violence as well as advocates and lobbies for the issues of human rights in Fiji and the Pacific. The FWCC coordinates the Pacific Women's Network against Violence against Women which includes the role of mentoring, training and providing support to other organisations working towards the elimination of violence against women in the Pacific.

3. The Citizen's Constitutional Forum is a non government organisation that advocates and educates for constitutionalism, democracy, human rights and multiculturalism in Fiji. CCF's vision for Fiji is to build a nation in which people live together in equality, justice and peace, respecting the rule of law under a constitution that guarantees democracy and human rights. CCF is not aligned with any political party.

## **Overview**

We support the establishment of a regional human rights commission for the Pacific Island countries. We consider that such a body would promote the recognition and observance of human rights standards in the region by:

- a. overcoming the lack of capacity in the smaller island states;
- b. enabling the formation of a critical mass of human rights expertise;
- c. providing greater independence from national governments;
- d. developing a Pacific voice in human rights debates; and
- e. providing an international forum for human rights issues that is closer and more responsive than UN agencies.

## **National Human Rights Mechanisms in the Pacific**

To date, there are few human rights mechanisms in place in the Pacific Island states. While it is open to the Ombudsman offices in Fiji and Papua New Guinea to include breaches of constitutional rights within the scope of their investigations, this is not the main focus of their activities. Ombudsman offices (which exist in Fiji, PNG, Samoa, Vanuatu and Cook Islands) are primarily charged with investigating the administrative conduct of public servants and departments, with a focus on redressing individual grievances and improving the quality of administration. They are not expected nor equipped to perform the broader roles envisaged for a human rights commission, such as public education about human rights, assisting courts or parties in litigation involving human rights issues, or assisting governments with their reporting or implementation obligations under human rights Conventions.

It should be noted that the Ombudsman's office in Fiji was abolished with the purported abrogation of the Constitution and that the Fiji Human Rights Commission now has substantially restricted powers under the Human Rights Commission Decree 2009.

Among the Pacific Island states, only Fiji has established a dedicated national human rights commission. In the period from 1997 to 2006, Fijian human rights NGOs supported the work of the Fiji Human Rights Commission (FHRC). For example, both the FHRC and the NGO's making this submission supported the Applicant in the court case of *Prasad* which challenged the abrogation of the Constitution in 2000.

However, following the 2006 coup, FHRC became discredited in the eyes of most Fijians because of its perceived association with and support for the instigators of the coup and the post-coup government. At a time when Fiji needed a strong, independent commission to defend the rights of its people, FHRC publicly defended the status and actions of the unlawfully installed government. Facing international criticism, FHRC withdrew from the International Coordinating Committee of National Human Rights Institutions (ICC) and the Asia-Pacific Forum of National Human Rights Organisations (APF), before an inquiry could be conducted into it by either organization. It was perceived by credible international organisations that the FHRC no longer met the criteria set out in the Paris Principles (see the report of the International Bar Association Human Rights Institute March 2009, *Dire Straights: A Report on the rule of law in Fiji*).

In the absence of a credible independent commission since 2006, many Fijians have preferred to bring their complaints of human rights abuses to NGOs such as FWRM and FWCC. Without the legal authority to investigate or settle these complaints the NGOs could only monitor and report on the situation, mostly through international mechanisms (reporting under UN Human Rights Conventions).

This episode in Fiji's recent history points to the need for an agency with sufficient independence from government to operate as a defender of human rights. Ideally, a national commission would take the lead in this respect. However, the Fiji experience highlights the difficulty that Pacific Island states may face in establishing a tradition of operational independence from government within a national commission. The challenges posed by small populations and close personal ties between those in government and in other public institutions are evident in Fiji; they will be even greater in the less populous Pacific Island states.

Without denying the potential worth of strong and independent national commissions in the region, we consider that a regional human rights institution could have provided a valuable alternative mechanism which could better withstand government pressure in circumstances such as those operating in Fiji after 2006.

### **The Need for a Regional Human Rights Mechanism**

Although the Sub Committee is charged with looking at the Asia Pacific region, it is unlikely that a human rights commission for the entire region would be viable. The countries are too diverse and geographically distant to form any coherent grouping for these purposes. It is also likely that the small countries of the Pacific would be swamped by the populous countries of Asia. We consider that it would be far more effective to support a mechanism focusing on the island countries of the Pacific as a sub-region of Asia Pacific. Although each country is proud of its own distinctive history, culture and traditions, there is sufficient commonality between the countries in this region to make a regional mechanism viable.

We consider that a number of benefits would flow from establishing a regional human rights mechanism in the Pacific:

- a. *Overcoming the lack of capacity in the smaller island states.*

It is clear that many of the smaller island states in the Pacific will struggle to establish a national human rights commission. They lack the resources and expertise needed to found a viable commission, even if they support the concept in principle. If we were to wait for all of them to establish a national commission before proceeding to a regional commission, we might never see a regional body.

- b. *Enabling the formation of a critical mass of human rights expertise*

Given the relatively small number of Pacific Islanders with significant background in human rights, there is a potential advantage in concentrating expertise within a regional human rights commission rather than having the relevant staff dispersed among isolated national agencies. This concentration could provide the critical mass of expertise necessary to address in sufficient depth the wide range of human rights issues that arise in the Pacific. This resource would be available to assist national

commissions, national governments or NGOs. In time, those staff trained in the regional commission might proceed to work within national commissions.

*c. Providing greater independence from national governments*

A regional commission, accountable to the governments as a whole, would be better placed to resist the pressures of individual governments and could provide more objective assessments of the human rights issues arising in individual Pacific Island states.

*d. Developing a Pacific voice in human rights debates*

Individually, the Pacific Island states are too small to have a significant influence in global bodies concerned with human rights. However, a regional commission would have a greater chance of being heard, of creating awareness of the particular concerns of Pacific people, of bringing Pacific understandings of human rights to the wider world community.

A regional commission, by raising awareness and assisting in human rights education throughout the Pacific, could contribute to the development of shared perceptions and understandings in the courts and agencies of the Pacific region. These understandings would be sensitive to local traditions and practices yet maintain international human rights standards.

A regional commission could also be expected to address some of the larger issues that affect all of the Pacific Island states, such as human rights aspects of climate change, human rights and religion, gender discrimination or access to land, in ways that might be beyond the capacity of individual national commissions. It could be asked to coordinate regional responses to these issues, for consideration by national governments and agencies.

*e. Providing an international forum for human rights issues that is closer and more responsive than UN agencies.*

The existing international human rights bodies, based in Geneva or New York, seem remote from and scarcely aware of the Pacific. An intermediate international forum in the Pacific would be more accessible to Pacific Islanders and less threatening to Pacific governments. In the event that a regional commission was given responsibility for investigations and adjudication of human rights claims, it would be provide a more

immediate and inexpensive forum for redress rather than having to proceed to more remote international bodies. A regional commission might also provide a link to UN agencies and representatives; it might for example facilitate visits by special rapporteurs to the countries of the region.

### **The Powers and Functions of a Regional Human Rights Commission**

The precise powers and functions of a regional commission remain to be worked out. We envisage an evolutionary approach: a regional commission might in the first instance be charged with building capacity within the region through education; with assisting governments to meet their responsibilities for reporting and implementation under the various Conventions and the UPR; with offering assistance in the establishment of national commissions, and in their operations once they exist; and with monitoring and reporting on general State compliance with human rights obligations. At a later stage, it might be tasked to receive, investigate and resolve complaints from individuals about human rights infringements. We believe that this staged approach would be the best way to build up the reputation and credibility of the body and ensure that it has the confidence of Pacific peoples and governments before it starts assessing complaints.

#### **Contacts:**

##### **1. Fiji Women's Rights Movement**

Virisila Buadromo  
Executive Director  
P.O Box 14194  
Suva  
Fiji Islands

Tel: (679)3312711/(679)3313156

Fax (679)3313466

Email: [info@fwrn.org.fj](mailto:info@fwrn.org.fj) or [virisila@fwrn.org.fj](mailto:virisila@fwrn.org.fj)

Website: [www.fwrn.org.fj](http://www.fwrn.org.fj)

##### **2. Fiji Women's Crisis Centre**

Shamima Ali  
Coordinator

88 Gordon Street  
Suva  
Fiji Islands

Tel: (679) 3313300

Fax: (679) 3313650

Email: [fwcc@connect.com.fj](mailto:fwcc@connect.com.fj)

Website: [www.fijiwomen.com](http://www.fijiwomen.com)

### **3. Citizen's Constitutional Forum**

Reverend Akuila Yabaki  
Executive Director  
P.O Box 12584  
Suva  
Fiji

Tel: (679)33908379

Fax: (679)3308380

Email: [ccf@connect.com.fj](mailto:ccf@connect.com.fj)

Website: [www.ccf.com](http://www.ccf.com)