



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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REFERENCE: AA/Follow-up/Fiji/53

27 November 2012

Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the combined second, third and fourth periodic report of Fiji at the Committee's forty-sixth session, held in July 2010. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/FJI/CO/4). You may recall that in the concluding observations, the Committee requested Fiji to provide, within one year, further information regarding the specific areas of concern identified by the Committee in paragraphs 11 and 13 of the concluding observations.

The Committee welcomes the follow-up report received on 10 January 2012, although it was received with a four-month delay, under the CEDAW follow-up procedure (CEDAW/C/FJI/CO/4/Add.1). At its fifty-third session, held in October 2012 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 11** of the concluding observations, “to take immediate, clear and credible steps to adopt a new constitution through a collaborative process involving the full participation of women”: According to information available to the Committee, the State party has taken recent steps to adopt a new constitution, including the nomination of a Constitutional Review Commission that includes three women out of five members and the announcement of an agenda. The recommendation has **been partially implemented**.

Regarding the recommendation “to fully restore the rule of law and the independence of the judiciary through, inter alia, the re-establishment of the Judicial Service Commission”: While the State party provided detailed information on the current situation of the rule of law and the judiciary in Fiji, it failed to indicate the steps taken to fully restore the rule of law and the independence of the judiciary. The Committee considers that the recommendation has **not been implemented**.

Concerning the recommendation “to hold free and fair elections as early as possible”: The State party indicated that steps had been taken in preparation for elections to be held in 2014. It further stated that the Office of the Supervisor of Elections had adopted a gender mainstreaming policy which is designed to strengthen the participation of women at each stage of preparation and conduct of elections. The Committee considers that the recommendation has **been partially implemented**.

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Regarding the recommendation “to ensure that the constitutional review process addresses the need to incorporate the principle of equality of women and men, in line with article 2, as well as the definition of discrimination against women and to include a clear procedure for the enforcement of fundamental rights in line with article 1 of the Convention”: The State party indicated that section 38 of the 1997 Constitution guarantees the right to gender equality and that the Human Rights Commission Decree defines discrimination and provides for the right not to be discriminated (para. 8.1 of the State party’s follow-up report). However, the definition of discrimination against women and the enforcement of fundamental rights in the provisions of the domestic law related to the principle of equality of women and men are not fully in line with articles 1 and 2 of the Convention. The Committee considers that the recommendation has **not been implemented**.

The Committee recommends that the State party provide, **by July 2013**, additional information on steps taken to:

- 1) Accelerate the adoption of a new constitution through a collaborative process involving the full participation of women as well as fully restore the rule of law and the independence of the judiciary;
- 2) Ensure women’s participation in the 2014 elections, which should be free and fair; and
- 3) Ensure that the constitutional review process addresses the need to incorporate the principle of equality of women and men and a definition of discrimination against women as well as the inclusion of a clear procedure for the enforcement of fundamental rights, in line with articles 1 and 2 of the Convention.

Regarding the recommendation made **in paragraph 13** of the Concluding Observations “to ensure the protection of human rights, including the rights of human rights defenders and to take steps to ensure that the Public Emergency Regulation and the Media Decree do not infringe upon the rights of women, including women human rights defenders, and their right to freedom of expression”: The Committee **did not receive information** from the State party to assess whether the recommendation has been implemented.

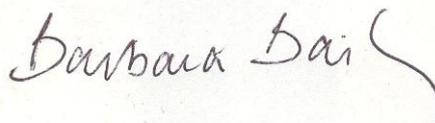
The Committee recommends that the State party provide, **by July 2013**, additional information on steps taken to:

- 1) Ensure the protection of human rights, including the rights of human rights defenders; and
- 2) Ensure that the new Public Emergency Order Act and Public Order (Amendment) Decree adopted in 2012 and the Media Decree do not infringe upon the rights of women, including women human rights defenders, and their right to freedom of expression.

The Committee looks forward to pursuing its constructive dialogue with the authorities of Fiji on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Barbara Bailey
Rapporteur on follow-up
Committee on the Elimination of Discrimination against Women