

# Gender and the Constituent Assembly

PROMOTING WOMEN'S POLITICAL  
PARTICIPATION IN FIJI



**FWRM**  
FIJI WOMEN'S RIGHTS MOVEMENT

Produced by the Fiji Women's Rights Movement



November, 2012

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The Fiji Women's Forum acknowledges the assistance of Professor Cheryl Saunders in the compilation of this document.

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## Introduction

Women make up around 50% of the Fiji population but they continue to be underrepresented in national decision-making and are denied equal participation in such processes.

Any democratisation process that does not enable equal, fair and substantive participation of women, and does not take into account gender perspectives, lacks legitimacy and authority.

The Fiji Women's Forum (FWF) at its inaugural meeting in April 2012 identified four key priority areas that are of concern for women. One of these key priority areas is the promotion of women's participation in decision-making. The FWF agreed that the current democratization process needs to integrate representation of women at all levels.

In the current constitution making context, the Constituent Assembly is an entity being formed with the purpose and intent of adopting and legitimising the constitution.

The experiences of other countries have shown that constituent assembly membership, functioning, procedures, and decision-making often lack a gender perspective. Some countries have used quota arrangements to ensure the representation of women, but in general gender



perspectives are not adequately taken into consideration resulting in procedures and decision-making that marginalise women's participation and contribution.<sup>1</sup>

It is not only important that the membership of the constituent assembly is gender balanced but that the procedures and processes adopted are responsive to the realities of women and men.

A gender perspective enables the power relations between men and women, including the intersectionalities of ethnicity, culture, class, age, disability, sexual orientation, gender identity and geographical location, to be adequately taken into account when designing the process, and discussing and adopting the content of the constitution.

A gender perspective needs to be incorporated throughout the entire constituent assembly process.

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## International law

There are several international conventions and resolutions that stipulate the protection and promotion of women's political participation. Some of the relevant ones are:

- The preamble of the Convention on the Elimination of Discrimination against Women (CEDAW) states *"...that the full and complete development of a country, the welfare of the world and the cause of peace requires the maximum participation of women in equal terms with men in all fields"*.
- General recommendation No 23 made by the CEDAW Committee explains that *"No political system has conferred on women both the right to and the benefit of full and equal participation. While democratic systems have improved women's opportunities for involvement in political life, the many economic, social and cultural barriers they continue to face have seriously limited their participation. Even historically stable democracies have failed to integrate fully and equally the opinions and interests of the female half of the population. Societies in*

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<sup>1</sup> Experiences from the women members of the Nepal Constituent Assembly – Kathmandu, Nepal, 21-26 September 2012

*which women are excluded from public life and decision-making cannot be described as democratic. The concept of democracy will have real and dynamic meaning and lasting effect only when political decision-making is shared by women and men and takes equal account of the interests of both..."*

- The CEDAW Committee also states that *"...in order to achieve broad representation in public life, women must have full equality in the exercise of political and economic power; they must be fully and equally involved in decision-making at all levels, both nationally and internationally, so that they may make their contribution to the goals of equality, development and the achievement of peace. A gender perspective is critical if these goals are to be met and if true democracy is to be assured. For these reasons, it is essential to involve women in public life to take advantage of their contribution, to assure their interests are protected and to fulfil the guarantee that the enjoyment of human rights is for all people regardless of gender. Women's full participation is essential not only for their empowerment but also for the advancement of society as a whole"*.
- The United Nations Security Council Resolution 1325 calls on *"...all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia: (c) Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary"*.
- The Beijing Platform for Action 1995 states *"...the empowerment and autonomy of women and the improvement of women's social, economic and political status is essential for the achievement of both transparent and accountable government and administration and sustainable development in all areas of life. The power relations that prevent women from leading fulfilling lives operate at many levels of society, from the most personal to the highly public. Achieving the goal of equal participation of women and men in decision-making will provide a balance that more accurately reflects the composition of society and is needed*

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*in order to strengthen democracy and promote its proper functioning. Equality in political decision-making performs a leverage function without which it is highly unlikely that a real integration of the equality dimension in government policy-making is feasible. In this respect, women's equal participation in political life plays a pivotal role in the general process of the advancement of women. Women's equal participation in decision-making is not only a demand for simple justice or democracy but can also be seen as a necessary condition for women's interests to be taken into account. Without the active participation of women and the incorporation of women's perspective at all levels of decision-making, the goals of equality, development and peace cannot be achieved".*

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## Constituent Assembly Process

### **Design**

A Constituent Assembly should be designed so that it is legitimate in the eyes of the public; acts on the basis of its perceptions of public interest and not of self interest (of its individual members, of itself as an institution, of the parties or groups from which the members come or that they represent); and has the necessary competence (including having access to necessary technical assistance).<sup>2</sup>

Some recommendations for a well-designed Assembly, based on international standards, include:

- A basic understanding of gender should be part of the competence of the members.
- A gender expert should be one of the technical assistants that the Assembly has access to. This expert must be widely recognised and endorsed by the women's movement.
- The process of deliberating on and adopting the Constitution should not be rushed, as that prevents vulnerable groups including women, persons living with disability and young people from participating substantially and equally. It may take time for these groups to become comfortable in the process so that they are able to engage fairly with male dominated patriarchal groups such as the military, faith based organisations and political parties.

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2 Brandt, M. et al, "Constitution-making and Reform Options for the Process", Interpeace, 2011

- The selection of the membership, chairperson and committees should be carried out through a process which gives them legitimacy. Members should include political parties and traditional politicians, as well as other representatives of the people, such as women community leaders, youth activists and faith-based leaders. Experts recommend a combination of election or selection by different civil society groups, as well as direct nominations to the Assembly to repair shortcomings in its representativeness.<sup>3</sup>
- The chair should be voted in or selected by the members of the Constituent Assembly. There should be a vice chairperson. It should be mandated that one of them be a woman.
- The different Constituent Assembly members should be given opportunity in terms of resources and time to be able to consult with their constituencies on the draft constitution.
- Choice of venues for meetings should have disability access.
- Child care facilities or allowances should be made available during meetings to accommodate women that may be breastfeeding or who have younger children that require care.



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3 Brandt, M. et al, "Constitution-making and Reform Options for the Process", Interpeace, 2011



- The schedule of meetings should take into consideration that some women may not be able to commit to meetings late in the evenings. The timing of the meeting should be decided in consultation with women and be at convenient hours having regard to family and obligations that women may have.
- The duration of the Constituent Assembly process should also not impose a double burden on women. Women may be reluctant to participate due to the burden of household chores, care giving and child rearing. The meeting duration should be spread over a reasonable period of time to allow for women's participation. Substantial investment of time would be required for this process and if the process is gender blind then the continuous participation of women in the constituent assembly, including the quality of their participation would be compromised.
- The Secretariat of the Constituent Assembly should have employee/s with experience in gender analysis. This is to ensure that the design of the process takes into account gender perspectives. A gender expert should also be part of the Constituent Assembly technical support team..
- Code of conduct of members should include sexual harassment and gender/sex discrimination as grounds for disciplinary action.
- A Constituent Assembly rules book should be written which should be made readily available, and which takes into consideration gender perspectives. Women should actively participate in the formulation of the rules.
- The rules book should address specific issues such as the timing allocation for members to speak or present. In a patriarchal society men are usually allowed to run beyond their time or interrupt other presenters. The rules should clearly stipulate the time allocations and that both women and men should be given equal opportunities to speak.

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During the designing of the process all this should be taken into consideration to ensure that there is legitimacy, competency of members, and both men and women's interests are heard. Implementation of this will also encourage and enable women and other vulnerable groups to accept appointments and participate effectively in the process.

## ***Membership***

Having an approximately equal number of women and men on the Constituent Assembly will allow for the realities and experiences of women to be taken into consideration during the deliberations on the content, to produce a Constitution that responds to and protects all members of society. Some recommendations in this regard are:

- The overall membership of the constituent assembly should be approximately 50% women. This can be achieved by employing policies in which nominations received from different bodies and people include equal nominations for both men and women.
- There should be a thematic committee on gender. Membership of this group can be made up of both women and men. This committee would ensure the Constitution does not discriminate against women and has provisions that protect, promote and realise women's rights.
- The membership of all the thematic committees should have approximately equal representation of women and men, along with proportional representation of different ethnic and age groups.
- The steering committee membership should have equal representation of women and men. A gender expert should be part of this committee.
- Gender stereotyping tends to relegate women to issues that are perceived to be women-friendly such as welfare and children's rights. Concerted efforts must be taken to ensure that such gender stereotypes are not perpetuated. It is expected that through the overall membership of 50% women on the constituent assembly it would be easier to dispel these stereotypes and claim spaces in discussions that encompass, for example, security forces, religion and electoral systems.

Power relations among women and men should be equalised to allow for effective participation. This can be achieved through parity in appointment of men and women; fair and equal speaking requirements; equality in leadership roles and full sharing of information. This will assist in creating an enabling environment for women and other vulnerable groups to participate.

It is important to have women visibly participating in public political spaces to start changing the current culture that reinforces gender stereotypes with male-dominated political spaces. This will help in balancing political power in our societies. The membership of the Constituent Assembly should be carefully thought out from a gender perspective to confer legitimacy on the assembly and to enhance its chances of success and acceptance.



### **Caucus**

Gender socialisation and the different roles given to women and men tend to prevent women from actively and confidently participating in public forums and sharing their views and opinions. The political capacity of women is affected by marginalisation with the intersection of gender, religion and culture. This all prevents women from being able to shape decisions and make substantial contributions.

Typically, in political parties, the military, faith-based organisations and trade unions representation is dominated by men. This strengthens the “boys” network and acts to exclude women from dialogue and decision-making.

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*Women's equal and substantial participation in decision-making is an important element of the democratisation process.*

Through the use of a women's caucus, political power can be shifted to provide more balance. Some recommendations are:

- Women from all different groups should meet, discuss issues and, if possible, come to a consensus. These decisions should be shared or relayed to the committees or the larger Constituent Assembly.
- There should be strength in numbers when talking on matters and issues which are attracting resistance, e.g. temporary special measures for women's political participation
- Women should feel welcome and be able to discuss issues or matters that are considered "male territory" such as the security forces, development, and finance.
- The support of feminist and women's movements to provide technical assistance to the caucus should be facilitated.

## **Conclusion**

Women's equal and substantial participation in decision-making is an important element of the democratisation process.

In order for the Constituent Assembly to work well for everyone, it must be designed with an understanding of gender and power relations, which promotes and ensures the equal participation of women and other vulnerable groups.









