

# The Convention on the Elimination of All Forms of Discrimination Against Women's Failures in Fiji

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SARAH FURMAN, FEB 29 2024

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted in 1979 to facilitate progress on gender equality, yet 44 years later, women continue to face human rights abuses. Gender-based violence (GBV) is one form of discrimination against women that has become increasingly rampant in recent years, with Fiji noted for having one of the highest rates of GBV in the world. Given this worrying trend, this essay seeks to investigate the question, 'Why have human rights conventions failed to decrease the occurrence of gender-based violence in Fiji?'.

The evidence suggests that a combination of historical, cultural, political, and environmental factors, coupled with the inherent challenges of monitoring and enforcing human rights treaties, can explain the prevalence of GBV in Fiji and CEDAW's lack of success in reversing current trends. Firstly, Fiji's colonial history, political instability, and cultural norms have hampered progress towards gender equality by exacerbating patriarchal underpinnings in society. This has created significant challenges in combatting GBV and fulfilling commitments under CEDAW, with women largely considered to be second-class citizens and men predominantly holding positions of power. Secondly, crises like natural disasters and pandemics are found to increase the occurrence of GBV. Fiji's vulnerability to the effects of climate change and the fertile conditions for domestic violence created by lockdowns during the COVID-19 pandemic have curtailed the efficacy and implementation of CEDAW to date, and emergencies are likely to lead to further human rights abuses against women in the future. Thirdly, even where CEDAW has been translated into domestic laws, Fijian women do not have equal and fair access to the legal system and face barriers in pursuing justice. Finally, monitoring and evaluation mechanisms for CEDAW are insufficient in holding signatories accountable, hampering progress in reducing GBV and advancing gender equality more broadly.

### Defining Gender-Based Violence

Amnesty International defines GBV as "when violent acts are committed against women and LGBTQIA+ people on the basis of their orientation, gender identity or sex characteristics." [1] Whilst GBV is not exclusive to women, the lack of data and research on LGBTQIA+ individuals' experiences in Fiji and the explicit focus of CEDAW on discrimination against women means this essay will specifically examine GBV against women. The two most common forms of violence against women are intimate partner violence and non-partner sexual violence. An estimated one in three women globally experience physical and/or sexual violence in their lifetime, mostly by an intimate partner. [2]

### Background and Context

CEDAW emerged from the growing recognition in the 1960s that patterns of discrimination against women meant they faced greater barriers to obtaining fundamental human rights. Passed in 1979, CEDAW entered into force in 1981 and is a legally binding treaty for signatories. [3] CEDAW condemns discrimination against women in all forms, including across political, economic, social, and cultural spheres. [4] The 1979 Convention does not explicitly mention violence; however, Recommendation 19 was additionally adopted by the Committee in 1992 and recognized GBV as a form of discrimination against women. [5] This was updated in 2017 under Recommendation 35, which expanded

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the definition of violence to include sexual violence and called for stronger domestic legal frameworks to protect women from violence.[6] Fiji ratified CEDAW in 1995,[7] obliging the national government to translate the Convention's terms into domestic law. The extent to which this has occurred will be explored in this essay.

Sustainable Development Goal (SDG) number 5—which strives for gender equality—is also relevant to consider in the context of human rights and GBV. Targets 5.1 and 5.2, in particular, seek to end all forms of discrimination and all forms of violence against women and girls.[8] Whilst the SDGs are not legally binding, they constitute an essential framework for establishing human rights standards and guiding the country's efforts to achieve sustainable development, including progress on gender equality.

The universality of human rights is an ongoing debate in academic literature.[9] Human rights, as defined in the Universal Declaration of Human Rights (1948), can be considered universal in that all human beings hold them and are, by definition, equal and inalienable. However, the existence of these rights does not automatically translate into them being upheld in practice.[10] Implementation of international human rights law is argued to be dependent on local context, with this extending to GBV.[11] The contention that human rights are not as universally applicable and respected in practice as they are in theory is important to consider in examining the failure of CEDAW to prevent GBV in Fiji. Whilst cultural norms alone may not provide a sufficient explanation,[12] the local context in Fiji has undoubtedly contributed to the prevalence of GBV,[13] opposing the claim that human rights are universal.

## History, Politics, and Culture

The historical, political, and cultural context in Fiji has hampered progress on gender equality and exacerbated patriarchal underpinnings in society. This has potential ramifications for GBV, particularly in settings where men hold positions of power (both in the household and broader society). Domestic and intimate partner violence is common in Fiji, with 64 percent of women reporting physical or sexual abuse from a partner in their lifetime.[14] Fiji's high rates of GBV—one of the highest in the world—are often attributed to widespread traditional beliefs about gender roles and religious expectations that families should resolve disputes internally.[15] Although these are contributing factors, patriarchal attitudes entrenched in culture and religion alone cannot explain the overwhelming prevalence of GBV. A combination of structural, political, and cultural factors produced by Fiji's colonial history and political instability have influenced women's position in society and ability to realize their human right to physical security.

Fiji was administered by the British Empire from 1874 to 1970. Following independence, Fiji had a brief period as a democracy. However, four coup d'états occurred from 1987 to 2006, and it was not until 2014 that the country stabilized under the New Government.[16] This instability itself is not the root cause of violence against women, but it has contributed to the lack of progress towards gender equality. The "coup culture" and prevalence of militarism and authoritarianism have disempowered women.[17] Military rule denied women the right to participate in politics meaningfully and made them more susceptible to state-perpetrated violence. The increased lawlessness during this time of political instability also made women more vulnerable to domestic violence, with policy and legislative changes lacking practical impact and perpetrators of domestic violence receiving relatively light penalties.[18] Whilst the political environment has stabilized since 2014, the legacy of women's exclusion from politics in the colonial and coup periods is significant, with women occupying only 10.9 percent of positions in parliament today.[19] Consequently, women lack the political representation and decision-making power to drive meaningful change towards gender equality.

Furthermore, sociocultural norms mean women are often dissuaded from reporting instances of GBV to state authorities. Christian church leaders often advise women to endure violence rather than resist it and risk ostracisation by the community if they choose to make their allegations public.[20] Research reveals that 74 percent of women do not report cases of family violence to police.[21] This reflects the normalization of violent expressions of masculine authority in Fijian society, an attitude partly shaped by colonial and militaristic political history. The combination of colonial history, political instability, and entrenched patriarchal norms have, therefore, contributed to the prevalence of GBV in Fiji today despite the ratification of CEDAW, demonstrating the role of structural factors in hampering meaningful progress toward the realization of women's rights.

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## Gender-Based Violence in Crises

Research indicates that rates of sexual abuse and GBV increase during humanitarian crises and emergencies. Given Fiji's vulnerability to the effects of climate change and the fertile conditions for domestic violence created by pandemic lockdowns, the efficacy of CEDAW has been limited, with crises likely to pose a mounting problem in the future. Whilst much of the literature centers on conflict,[22] the COVID-19 pandemic saw an increase in violence against women around the world.[23] A new body of research investigating this relationship has since emerged. The Fiji Women's Crisis Centre national helpline recorded a 300% increase in domestic violence-related calls just one month after curfews and lockdowns were implemented in March 2020.[24] In addition to patriarchal cultural attitudes that relegate women as inferior to men, job losses and unemployment-related stress among men, social confinement, and women's lack of access to the formal justice system influenced the situation significantly during the lockdown.[25] The result was an environment that allowed violence against women to escalate dramatically.

Emerging research suggests climate-induced natural disasters could have a similar effect on rates of violence against women.[26] Climate disasters, including floods, earthquakes, cyclones, and droughts, are becoming increasingly frequent and severe, particularly in the Pacific region.[27] Sea levels are rising four times faster in the Pacific than the global average, and people living in Pacific Small Island Developing States are three to five times more at risk of exposure to natural disasters than those in other parts of the Asia-Pacific region.[28] The ramifications of this for GBV are significant. Given that GBV is found to proliferate during conflict and other crisis situations, climate disasters are likely to result in similarly increased rates of violence against women. This creates additional challenges in implementing CEDAW, with disorder and competing immediate priorities drawing attention and resources away from domestic compliance with human rights conventions.[29] Coupled with Fiji's cultural and political context, in which women largely lack authority and representation in positions of power, changes in the natural environment and cascading crises are amplifying the issue of GBV and creating further barriers to the implementation of CEDAW.

## Domestic Implementation of CEDAW

Even where CEDAW has been translated into domestic laws, women face barriers in pursuing justice and accessing the legal system in Fiji. A survey conducted by the Fiji Women's Crisis Centre found that 58 percent of women believed that people outside the family should not intervene in cases of domestic abuse or violence.[30] The Fiji Women's Rights Movement estimated that in 2016, only 7 percent of women suffering physical or sexual violence filed a report with police.[31] This connects back to the aforementioned patriarchal and cultural norms, and thus, the support to report violence or leave an abusive partner is limited in Fiji, creating a barrier for women even to begin to pursue justice or protection.

Fiji has implemented policies and legislation to reduce GBV in line with its commitments under CEDAW, yet significant gaps persist. These include a lack of clarity around how Fiji's legal system and state legislation interact with traditional customs, ambiguity in legislation on non-consensual sex within relationships and whether this is criminalized, and insufficient funding and resources to fulfill policies. Notably, domestic violence itself is not a crime under Fijian law and is only considered criminal when it falls into the category of another offense (e.g., common assault, rape, assault causing bodily harm).[32] Moreover, Fijian women often lack awareness of their human rights and the legal processes designed to protect them from violence, hampering efforts to eliminate violence against women.[33] The development of Fiji's National Action Plan to Prevent Violence Against Women (2023-2028) seeks to address these gaps and facilitate a more coordinated approach to fulfilling CEDAW,[34] but at present, obstacles to achieving this goal remain. Whilst changes to domestic legislation represent progress towards conforming with human rights conventions, there is little evidence that these reforms have had a significant impact.[35] Barriers, including social pressure not to report incidents of violence, limited awareness of legislative rights, and weak implementation of relevant laws and policies, have all contributed to the failure of CEDAW to reduce GBV in Fiji, despite some translation of commitments into domestic policies and law.

## Monitoring and Compliance with CEDAW

Monitoring and evaluation mechanisms further inhibit CEDAW's success, with these largely being insufficient in

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holding signatories accountable. Under CEDAW, member parties are legally obliged to submit regular reports to the Committee to CEDAW specifying how the country is working to fulfill its commitments.[36] Reports must be submitted within one year of ratification and every four years following or upon request.[37] Reporting obligations have driven progress in some areas but have not been overly successful in ensuring countries follow through with their commitments in practice. A submission to the Committee to CEDAW by the Fiji NGO Coalition on CEDAW highlights several issues that have arisen regarding implementation. Whilst this list is too extensive to explore in full here, the submission emphasizes that "Fiji's compliance with its CEDAW obligations has been sparse and limited." [38] Several laws, including the *Employee Relations Act (2007)* and *Domestic Violence Act (2009)*, are gender neutral, disregarding gendered experiences in the workplace and the fact that the majority of domestic violence victims are women. Whilst Fiji has several social protection schemes aimed at advancing women's rights, evaluation of these schemes and their effectiveness has been limited due to fragmentation across ministries and the lack of transparency.[39] Overall, the submission reveals several gaps in the monitoring and evaluation of legislation, policies, and programs aimed at eliminating discrimination against women.

Lastly, Fiji has not ratified the 1999 Optional Protocol to CEDAW,[40] which permits individuals or groups in a jurisdiction to lodge complaints to the Committee to CEDAW, triggering an inquiry procedure.[41] This further hampers the efficacy of CEDAW in Fiji and the capacity of individuals and the Committee to hold the Fijian government accountable. Without appropriate monitoring and compliance mechanisms to force the translation of promises into action, GBV is likely to remain widespread in Fiji.

## Conclusion

CEDAW's failure to decrease the occurrence of GBV in Fiji can be attributed to several intersecting factors. The country's colonial history and subsequent political instability, coupled with patriarchal societal structures and values, have hampered progress on gender equality and suppressed action to combat GBV. Evidence that rates of GBV increase during crises is pertinent to the Fijian context, particularly given the extreme conditions created by the pandemic and Fiji's vulnerability to climate-induced natural disasters. Given its geographical characteristics, climate disasters and cascading crises are likely to inhibit further efforts to reduce GBV in Fiji in future years. Domestic implementation of CEDAW has been seemingly strong on paper, but this is not reflected in practice, and inequitable access to the justice system for women has undermined CEDAW's effectiveness. Inadequate monitoring and compliance mechanisms have also contributed to the lack of progress to reduce GBV. Addressing the gaps and challenges explored in this essay is crucial if Fiji is to fulfill its commitments under CEDAW and achieve SDG5, ultimately enhancing the lives of women and leading to better economic, social, and political outcomes for all of society.

## Notes

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[15] Leah Rodriguez, "This Small Nation Has One of the Highest Rates of Gender-Based Violence in the World," *Global Citizen* (2020). <https://gblctzn.co/nDAkiRY8uHb>.

[16] George, "'Lost in Translation': Gender Violence, Human Rights and Women's Capabilities in Fiji."

[17] George, "'Lost in Translation': Gender Violence, Human Rights and Women's Capabilities in Fiji," 84.

[18] George, "'Lost in Translation': Gender Violence, Human Rights and Women's Capabilities in Fiji."

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