

Fiji's women migrant workers and human rights
*the case of nurses and teachers in the Republic of
Marshall Islands*

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Abstract

Fiji's international labour migration studies are dominated by research on skilled mobility to metropolitan countries. By way of countering this emphasis, this paper focuses on human rights issues affecting women migrant workers who for employment reasons have moved from Fiji Islands to the Marshall Islands, as an example of intra-Pacific labour migration.

The paper examines four types of migrant rights—civil, social, political and industrial—and in particular, critiques the effectiveness of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) regarding the rights of migrant women workers.

The Fiji women nurses and teachers in the Marshall Islands are awarded all four types of rights. Nevertheless, the general lack of information and awareness of this type of protection, an absence of appropriate institutions and structures, and the non-ratification of CEDAW by the Marshall Islands government are barriers against the recognition and enjoyment of these rights.

The paper concludes with issues, problems and solutions towards realisation of rights for Fiji's women migrant workers.

Keywords

CEDAW; human rights; women's labour migration; legal aliens; undocumented women migrants; Fiji Islands.

low-wage countries and take up temporary positions in the hirer's local job market. The employment is for a limited time only and the workers—whose families do not travel with them—return home at the end of their stint, having earned high wages, accumulated work experience and (often) learnt new skills. The second type includes skilled workers and technical personnel (or professionals) who move to occupy overseas posts. These movements include but are not limited to intra-company transfers by multinational companies and governmental agencies, employment in regional organisations and the movement of those involved in international trade and commerce.

International labour migration from and within the Pacific is, by world standards, a recent development: the PICs have been seriously involved in it for the last 30 years only (Appleyard & Stahl 1995: 47–8). Until that time, the economies of the PICs had been highly traditional, agriculturally oriented socioeconomic systems. There were few educated local professional people, which implied a limited capacity to plan—let alone administer—the mammoth task of development and the socioeconomic transformation this requires. So whatever skill a Pacific Islander acquired was put to use for nation building and general development of the island state, until such time as that person departed for developed countries (a move often happening sooner rather than later and invariably somewhat disdainfully, even pejoratively, labelled 'seeking greener pastures'). Whether these skills were successfully transferred to those staying behind to assume the duties is highly doubtful. The coinage of the words 'brain drain' aptly indicated a lack of this skilled knowledge in the local stocks of labour (*ibid.*)

Apart from the inevitable and continuing internal rural–urban migration in Fiji, two general waves of international emigration of skilled professionals from Fiji can be established. First was the early migration towards the metropolitan countries of the United States and Canada, from the 1960s through to the early 1980s, and a second wave, for the most part to Australia and New Zealand, immediately before and after the coups of 1987 and 2000. A possible third stream, the one this article seeks to examine, began to emerge in the 1990s in the migration of skilled professionals from Fiji towards other Pacific Island countries (Rokoduru 2002).

Table 1 Emigration of skilled people by occupation by gender, Fiji, 2002–2003

Job Categories	2002			2003		
	Male	Female	Total	Male	Female	Total
Professional, technical and related workers	457	345	802	446	349	795
Administrative and managerial workers	281	87	368	289	95	384
Clerical, supervisors and related workers	196	325	521	216	302	518
Sales workers	80	47	127	74	60	134
Service workers	81	47	128	81	38	119
Agriculture, animal husbandry, forestry workers and fishermen	88	2	90	81	4	85
Production workers, transport equipment operators and labourers	404	85	489	484	86	570
Workers not classifiable	1110	1845	2955	1133	2033	3166
Total	2697	2783	5480	2804	2967	5771

Source Fiji Bureau of Statistics: Unpublished data, 2004.

The importance of Fiji migrant workers is indicated in the record of their remittances while they are away. Table 2 depicts the increasing overall levels of remittances received in Fiji from 1985 to 2002. Within those totals, the Fiji nurses working in Ebeye in the Marshall Islands jointly remit an average of between US\$1,300 and \$1,900 (FJ\$2,600–\$3,800) to Fiji in a fortnight (Rokoduru 2002: 45).

A fourth set of rights, *industrial rights*, is of particular significance for migrant workers, as their main reason for migration is to find and keep themselves in some form of employment. This set of rights includes the right to belong to a trade union, to participate in elections for office bearers of a trade union and to participate in elections to companies' councils, as well as the right to go on strike (Z. Layton-Henry, cited in United Nations 1998: 48).

CEDAW and migrants

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) also addresses the rights of the woman worker (RRRT 2001; in this section, all description of the convention refers to this document). Articles 1–3, 5–7 and 9–16 are closely related to women migrant workers. Some of these articles, and issues and considerations that relate to them, deserve attention here.

Article 3 (Basic Human Rights) requires all signatories of CEDAW to award women their full basic human rights and freedoms on an equal basis with men. This clause would include migrant women workers as both emigrants and immigrants, as long as the two countries involved in their movement are signatories to CEDAW.

A potential issue with regard to these basic rights and freedoms is that the woman migrant worker may not enjoy them if she is travelling and/or working as an undocumented (illegal) migrant. The migrant woman's rights to life, shelter, health, education, justice and security, amongst other things, can be compromised by her quest for employment. In cases of undocumented women workers, these rights may be denied, even forcibly removed; for to come forward and demand the same rights would expose their illegal status and thereby rob them of employment and a livelihood.

Article 6 (Prostitution and trafficking) insists that governments must use every avenue to bring an end to all forms of trafficking in women and exploitation in prostitution. Further, the convention insists that governments must address the main causes of prostitution and take action to reintegrate prostitutes into society. Issues surrounding prostitution and trafficking of women (and children) lie outside the scope of this paper. The discussion here does not imply the involvement of any Fiji citizens in this highly criminal

of its migrant workers. Where assimilation and integration are encouraged by a host state, and the woman migrant is a skilled and documented worker, Article 11 will be observed and human rights in relation to work for migrant women workers may be generally guaranteed. But where women migrant workers are travelling and/or working illegally (undocumented), most of the rights related to work for women as proclaimed by CEDAW can be (and all too often are) ignored, abused or violated. Human rights conditions protecting migrant women workers can also be ignored and/or violated where there is a lack of human rights advocacy and offices that monitor human rights issues and their enjoyment.

Article 15 (Full legal status) especially protects the equal rights of the woman migrant worker to conclude contractual agreements and to administer property. Further, this article stipulates that migrant women workers will be accorded the same rights given to men with regard to laws relating to the movements of the person and the freedom to choose their residence and domicile. Provided the country has ratified CEDAW, this article supports the migrant woman worker who wishes to buy or own property in the host country. It also protects the rights of a migrant woman to enter into contractual employment and indeed, her rights in this respect are equal to those awarded to male migrant workers. Thirdly, this article re-affirms the rights of the woman migrant worker who chooses to reside and be a citizen of a country other than her country of origin. Fourthly, these rights must be equal to those awarded to her male counterparts. These rights, however, will not be enjoyed by undocumented women migrant workers; especially those who have been forced into prostitution and/or fallen victim to illegal human trafficking. Finally, women from countries that have not ratified CEDAW and migrant women workers who are not aware of the existence of such rights can be denied their rights out of ignorance.

Fiji women workers in the Marshall Islands

This convention supplies a framework for the consideration of the Fiji workers in RMI. By 2002, there were more than one hundred Fiji workers (some accompanied by some family members) living and working in the Marshall

In other words, migrant workers will be protected by Fiji's Employment Act and looked after by his ministry *only* on the condition that they signed their contracts in Fiji prior to their departure. A senior Labour Ministry official confirmed that it is possible for the Labour Ministry to negotiate and plead the case for a Fiji labour migrant—on salary/wages, work conditions, medical and social security, return after contract period and other contractual issues—*only* if the migrant has made known to the ministry her imminent departure to work in another country and left behind copies of relevant papers with the ministry (Divisional Labour Officer, Central/Eastern, in an interview, 21 June 2004). Representatives of Fiji's trade unions also acknowledged this state of affairs. The whole question of Fiji's migrant women workers, travelling as professionals and documented workers or otherwise, and their awareness of the roles of the Ministry of Labour and their respective trade unions to protect them as labour migrants deserves much more official attention than it is currently given.

a) Nurses

The sixteen nurses' ages ranged from 28 to 45 years of age, the average being 34 years. Thus they had from 15 to 32 years of work to go before reaching Fiji's revised retirement age of 60. All the nurses had Fiji qualification and registration. Only two had any family members living with them. Eleven of them were based at Ebeye Health Centre, where they constituted the largest single group of overseas nurses and almost one-third of the nursing staff (table 3). The terms of their contracts required that they work for an initial two-year period after which the contract may be annually renewed.

Table 3 Nurses by nationality, Ebeye Health Centre, 2002

Country of origin	No.
Marshall Islands	15
Philippines	6
Fiji	11
FSM	6
Total	38

Source Fieldwork, Ebeye Health Clinic, 2002.

Hawai'i), whereas local citizens travel visa-free; d) being taxed more than the locals; e) not enjoying full social security benefits unless they were citizens; and f) having to pay a minimum of US\$35.00 for a medical check-up if they were not covered by Medicare or were in health plans that placed particular restrictions on cover for aliens.

It should also be noted that 37% of the women, while indicating that their rights were 'the same as other people', did not explain in any detail how these rights benefited them.

Closer analysis elaborates some areas, suggesting that the situation may not be totally bad. Most of the women indicated that they were compensated for any injuries or illnesses they may suffer in the course of their employment. Of the total, 85% of the women indicated that they were included for protection and compensation should they experience health and safety-related problems while working in the Marshall Islands. At least 3 nurses, though, pointed out that no protective masks and/or garments were issued to them as protection against tuberculosis (TB), despite the fact that this disease is rated as one of the most infectious disease on Ebeye. Yet another nurse noted that there were no occupational health and safety (OHS) policies or regulations in place, nor was there a health inspector on the island of Ebeye.

Upon being asked whether they could change jobs using the same work permit, 60% indicated this was not allowed, while 32% of the women did not know whether this was possible. In actuality, the Marshall Islands government does not allow its legal aliens to change workplace under the same work permit. Work permits are issued for specific advertised vacancies only. (As with political rights and citizenship, this no doubt falls well within the national government's rights.)

In comparison to local citizens, 58% of the women migrants stated that they did not enjoy equal opportunities for further training and/or acquisition of new skills. These women noted that they were generally allowed to attend work-related workshops that were held at local venues. They could not, however, attend such workshops at international venues. In most cases, only the locals were considered for workshops and further training (either overseas or local) because the Fiji women were viewed as already skilled and were there to train the local staff and impart their knowledge, not to increase their own

be said that women in Ebeye, whatever their national origin, enjoy an equal lack of privilege. (A further interesting equality to emerge was that like Marshallese women, Fiji women workers would not be taxed on their lottery winnings.)

As far as superannuation goes, 52% of the respondents agreed that they had access to some type of superannuation scheme, while 32% claimed they were not covered in any such scheme. One teacher noted that she was already on retirement and was collecting her monthly social security cheque on top of her pay. Nevertheless, some of the women commented that because of certain conditions implemented by the Marshall Islands government, deductions to superannuation schemes and Medicare were non-refundable at the end of their contracted term of employment. This included a provision restricting them from being able to withdraw from the superannuation scheme until they reached the age of 55 years. Furthermore, the social security cheque can only be released to the worker if she presents herself physically back in the Marshall Islands upon turning 55. This can become a costly exercise given that the stay in the Marshall Islands may be relatively brief before the woman returns to Fiji or moves on to other parts of the world.

The next group of questions concerned various individual freedoms. Freedom of association seemed to pose little problem. Responses from 88% of the women said they were granted full freedom to meet and form themselves into whatever interest groups they cared to form or join, while only 12% indicated they lacked this freedom. Evidence of this freedom was quite visible in the social groups that the women had formed or joined, including religious, similar-occupational, study, ethnic minority and other entertainment groups. Organised group activities occupied the women's time outside of their regular work hours.

Concerning freedom of expression, 72% of the respondents indicated they were awarded this right in the Marshall Islands, while 24% stated otherwise and the remaining 4% did not provide an answer to this probe. This, of course, did not mean that all communication was easy. The majority of women stated that the communication of ideas, changes and complaints to fellow workers, supervisors and administrative staff was sometimes difficult, but largely because of language barriers and difficulties, rather than because any restrictions were placed on them. In other instances, communicating these

5 Political rights

The majority of these women (74%) indicated not only that they did not enjoy full freedom of political association and expression, but that they were happy with this state of affairs. They acknowledged their alien status and were hesitant to compromise their employment contract for the sake of participating in political activities. Most of the women were not willing to participate in the political life of their host country, and showed no interest in doing so. Others were quite vehemently reluctant to see any change in this status and pointed to certain stipulations in their employment contracts that discouraged political activity on the part of aliens. As aptly averred by one respondent: '*E tabu!* My contract stipulates that this is not allowed! Political association and expression is taboo! My contract stipulates this is not allowed!'

Finally, about 78% of the women respondents declared that they did not have any voting rights to participate in voting at either the local (municipality) or national government levels and were content to let things continue as they were. The remaining 22% were not even aware whether they were allowed this right at all. The majority of women had deliberately chosen to fall in with being excluded from political activities in the Marshall Islands. In the absence of information about their participation in political processes in Fiji, one can only speculate that this may imply that the women prioritised employment security and economic gains too highly to compromise the countless employment opportunities in the Marshall Islands by actively participating in the country's political affairs.

Field study conclusions

During their work period in the Marshall Islands, Fiji's migrant women workers are eligible for all four sets of rights—civil, social, political and industrial. These rights vary in degree according to the type of occupation and the contract designed for each occupational category, but these women enjoyed the rights by virtue of their status as documented, legal aliens.

A good number of women in this field study were not aware or fully informed of their rights as migrant women workers. About 20–30% of women responded '*Don't know*' or chose not to answer the probes on each of the migrant rights issues raised in the study. This implies an urgent need for greater

The issue of abuse and/or violation of the rights of the Fiji woman migrant worker can also be addressed by the appropriate ministries of the Fiji government, for example the Labour, Health and Education ministries. In order for this to happen, the women migrant workers need to sign their contracts in Fiji (meaning that they will be treated as expatriates in their host country) so that they will be covered under Fiji's Employment Act. Sadly, this has not been the case for most of the women migrant workers in the Marshall Islands and they have been deprived of this avenue for protection.

The absence of trade unions in RMI has effectively closed a legitimate, recognised avenue through which the Fiji teachers and nurses can air their grievances. Should the Fiji women migrant workers seek the help of Fiji's trade unions to address issues of abuses and violations of their rights in RMI, it would be a futile exercise on two counts. First, as noted, Marshall Islands has no recognised sister trade unions that can help the nurses and teachers tackle their grievances. Secondly, there are, as yet, no (bilateral or multilateral) agreements between Fiji and its Pacific Island neighbours specifically requiring host island governments to protect the rights and to provide for the security needs of women migrant workers who arrive on their shores to contribute work, knowledge, skills and innovations. The problem is exacerbated by the fact that Marshall Islands has not ratified CEDAW and therefore need honour none of the rights advocated therein.

That there is no Human Rights Commission or office in the Marshall Islands further reduces the opportunities for redress of abuses/breaches and violations of the migrant workers' rights for the Fiji women in Marshall Islands. The presence of such an office keeping a 'watching brief' could lead to a speedy redress of the women's grievances.

Discussion

The field study, literature research and numerous interviews with individuals and organisations highlighted issues and problems, and suggested solutions, with regard to women migrant workers from Fiji and into Fiji.

Within the processes of Fiji's women migrant labour, the Fiji stakeholders identified include the migrant, the migrant's immediate family and extended community, the government (which, apart from ministries in which some

countries. There is almost a conspiracy of silence about workers' rights, in the rush to establish worker mobility in the interests of the 'market' and the 'big players'.

The Fiji government generally adopts a negative approach to the topic of labour migration. While recognising that it cannot compete with bigger countries in the labour market, it has implemented policies that seem designed to punish returnee migrants and discourage their return. A good example is that of Fiji returnee nurses, who have to start again at the lower salary rungs upon their re-employment in Fiji, despite their many years of working experience accrued here and abroad and the probable additional skills they acquired while away. At the same time, other policy omissions discourage would-be migrants from departing for other countries. These negative approaches hinder development efforts and the spread of new skills and ideas to the local receiving community.

Affiliation of Fiji women workers to trade unions is a positive step towards protection of their labour and human rights. The networks developed between sister trade unions within the nation and region could serve to protect migrant women workers with regard to their employment and other related conditions, as well as to safeguard their rights as women migrants.

There is a need for the Fiji government to collaborate with other relevant banking and financial institutions to facilitate and simplify procedures for sending and receiving remittances, and to co-ordinate these with other Fiji migrant destinations around the Pacific. Insurance schemes established for women migrants would provide protection for them and act as incentives for undocumented Fiji women migrants to become documented workers.

The Fiji government and other interested stakeholders need to design and implement an education curriculum and programmes for specific migrant-worker training institutions. Work standards, expectations of overseas employers, contractual issues and employment packages, migrant rights, health issues—especially HIV/Aids protection and education, safety and security issues, remittances and banking procedures, and personal hygiene and etiquette—could be included. Fliers providing vital contact information for specific cases of emergency and for other migrant needs could be distributed at every point of entry into the country.

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