

against the instructors include rape, forced sodomy, indecent assault, cruelty and maltreatment of subordinates, according to an army statement. No details of the accusations have been made public by the Army.

JUSTICE AT LAST FOR ASSASSINATED DOMINICAN WOMEN

According to journalist Larry Rohter, history and the Dominican people have found a particularly appropriate way to avenge the assassination by the dictator Rafael Trujillo of three of his enemies. The current vice president and deputy foreign minister of the Dominican Republic are descendants of “the Butterflies,” as the Mirabal sisters were known in their days as members of the anti-Trujillo underground. A change in the country’s political climate has completed the transformation of the Mirabal sisters into symbols of both popular and feminist resistance. Throughout Latin America, the Mirabals are regarded as feminist icons.

The most visible manifestation of the Mirabals’ vindication will soon be on display along the Malecon, the capital’s seaside promenade. There, a 137-foot obelisk that Trujillo put up in his own honor is now enveloped in scaffolding in preparation for the installation of a mural with the image of each of the three dead women and their sister. The Mirabals are also given recognition in Dominican textbooks as national martyrs.

LAND REFORM IN NEPAL HAS BEEN REFORMED TO ELIMINATE DISCRIMINATION

The Land Reform Act 2021 in Nepal was challenged in court by the Forum for Public Interest as discriminatory to women. The Act contains a provision, which de-

nies the transfer of tenancy rights to the daughters of a tenant, whether married, unmarried or widowed. The Forum for Public Interest used the Convention for the Elimination of Discrimination Against Women to argue the case. In January 1997 the Act was amended and now confers tenancy rights on daughters and daughters-in-law who are at least 35 years of age.

U.S. CLOTHING RETAILER AGREES TO A CODE OF CONDUCT

According to the ICFTU newsletter, *Free Labour World*, the U.S. clothing retailer The Gap has agreed that its subcontractors, who operate in one of El Salvador’s Free Trade Zone (FTZs), should abide by a Code of Conduct concerning labor standards that would be independently monitored. There has been considerable negative publicity worldwide concerning poor working conditions and subsistence wages received by the mainly female workforce that assembles clothing for The Gap.

The labor news in El Salvador isn’t all so assuring, however. *Free Labour World* also reports that in the same year at least six enterprises in the country closed down to avoid being unionized, and then reopened under another name, having sacked all the unionized workforce.

VIENNA PHILHARMONIC AGREES TO ADMIT WOMEN MUSICIANS

In February, Anna Lelkes, a female harpist who had been working with the orchestra on an adjunct basis for 26 years, became the first woman to formally join the Vienna Philharmonic Orchestra since its founding 155 years ago.

Consideration of the policy change raises both unique and

common objections—that the sound of the orchestra is attributable to its “maleness” and that maternity leave would cost money.

Facing public pressure, and particularly the protests of women’s groups during an overseas tour, the orchestra gathered in an extraordinary meeting and agreed to admit women, beginning with Lelkes. The decision was made possible by the government’s guarantee to pay the salaries of players who were substituting for women on maternity leave.

Source: *The Women’s Watch*, March 1997

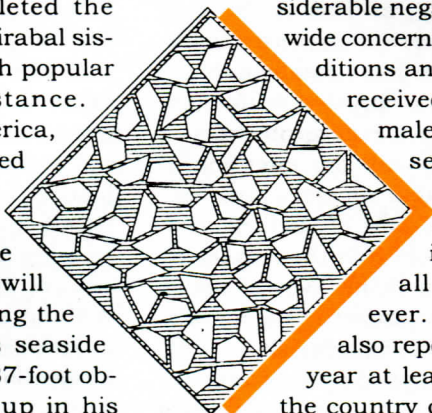
DRAFT LAW ON SEXUAL OFFENSES

After 10 years of awareness-raising through workshops, mass media campaigns and the like, the Fiji Women’s Rights Movement (FWRM) submitted its draft legislation on sexual offenses on 21 November 1996. The draft was received by Anthony Gates, one of the three lawyers appointed by the Fiji government to review the Penal Code.

The criminal legislation and the common law are unsupportive and unfair to rape survivors. The current law requires the survivor to “prove” the assault, resulting in low reporting of the crimes of rape and indecent assault. Despite this, police records show an 84 percent increase in rape and attempted rape cases over the past 10 years.

These statistics are only of cases which have been reported and many remain unreported. The trauma associated with the court system and the stigma attached to the survivor act as major deterrents. Added to this, the rape trial is almost always conducted in the magistrates court.

◆ The magistrates court has jurisdiction only over cases where the maximum penalty is five years imprisonment. Moreover, there is a



lot of inconsistency in sentencing, with rapists walking away with suspended sentences. In many cases, while the magistrate's summing up is hard hitting and condemnatory, imposition of a light sentence (one to two years) dilutes the effect of his words.

◆ Also, in the magistrates court, the prosecutor is a policeman who does not have legal academic qualifications. This tips the scales in favor of the accused who is almost always represented by the best criminal defense lawyers with experience and academic knowledge on their side.

◆ At present, in rape trials, the judge/magistrate warns assessors or himself that it is wrong to convict the accused without corroboration. Corroboration is independent evidence that the rape did occur. This practice assumes that women lie about rape and presents the need for independent witnesses. In most rape and indecent assault cases, there is no corroboration in the form of an independent witness or supporting medical evidence. Most rape survivors inform only their families of the incident, and the law does not see family as independent enough. Also, in the majority of cases, the survivors shower before a medical examination can be carried out. Very few of us would know that we have to tell an "outsider" we were raped, and run to the doctor and police straight after the incident.

After giving due consideration to these issues, the FWRM made the following recommendations:

◆ *Move all sexual-assault trials to the high court.* The proposal asks for a minimum of five years imprisonment for all sexual-assault offenses, which would then fall outside of the jurisdiction of the magistrates court.

◆ The rape survivor in a High Court trial be represented by a *qualified prosecutor* who has a law degree.

◆ Court practices such as the judge warning the assessors on the need for *corroboration should be abolished.*

◆ Removal of the "*most recent complaint*" practice. There are a lot of issues brought up in the legislation which are extremely progressive.

◆ Request for a "*level playing field,*" mindful of the "*right to fair trial,*" rather than a law which is biased in favor of either party. The changes suggested will assist the survivor as the law (especially the common law) is currently biased towards the accused.

FWRM believes that the women of Fiji should have ownership over such a progressive draft. It is also a first for

Fiji, as this is the first time a women's organization has actually submitted a completed draft legislation to the government.

It was with the intention of allowing other women's organizations to be part of such history-making event that the movement invited representatives of major women's organizations to a workshop on the draft legislation. After three days of debates and deliberations, consensus was reached on all issues brought forward by the document. The workshop concluded on the fourth day with 16 major women's organizations endorsing the proposed legislation. A march was planned through the streets of Suva on Thursday, 21 November. In solidarity with the international movement on "Thursdays in Black" the FWRM printed stickers declaring "Thursdays in Black - Demanding a World Without Sexual Assault." These stickers were distributed to onlookers along with flyers on the proposal.

The march concluded with the

presentation of the submission and petition to the Fiji Law Reform Commission. We received extremely good publicity from all media organizations; both the daily newspapers highlighted the FWRM march on the front page. It is interesting to note that a few days after the workshops, there was a letter to the editor of the *Fiji Times* accusing FWRM of promoting homosexuality as we had recommended that the section titled "Indecent Practices Among Males" be deleted.

Where to now?

It is apparent that in Fiji (as well as many other parts of the world), judicial attitudes and the common law developed over the years have blatantly discriminated against the rape survivor who in most cases is a woman. Law reform to be effective would have to be accompanied by corresponding changes in attitudes or this will result in poor interpretations. In the event, despite a good written law rape survivors will remain shortchanged of the justice they deserve and are entitled to. Gender-sensitivity training for judges is essential to ensure that justice is served. Without a corresponding change in judicial attitudes, the law will always fall short of its aims.

Source: *Forum News*, Vol.9, No. 4, December 1996

