



16/01/18

## **Introduction**

The Fiji Women's Rights Movement (FWRM), established in 1986, is a multi-ethnic and multicultural non-governmental organisation committed to removing all forms of discrimination against women and girls through institutional reform and attitudinal change.

FWRM uses feminist analysis in widely diverse fields including as a basis for this submission to address gender inequality with particular regard to the UN Convention on the Elimination of all of Discrimination against Women (CEDAW), which Fiji ratified in 1995, and the role of the State on the Fiji National Gender Policy as well as other human rights commitments, including Fiji's 2013 Constitution. The endorsement of these international and national commitments imply that women are equal partners in decision-making and implementation rather than just beneficiaries. FWRM also recognises the rights of people with diverse sexual orientation, gender identity and expression including men and women and the different ways they are affected by existing policies and laws.

FWRM welcomes the draft framework for National Employment Policy (Ministry of Employment, Productivity and Industrial Relations, 2018) for Fiji and the efforts by the Ministry of Employment, Productivity and Industrial Relations to conduct national consultations and seek input from a wide range of stakeholders across Fiji. We also acknowledge the effort of aligning the National Employment Policy with Sustainable Development Goal 8- *Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all* (United Nations, 2018).

FWRM appreciates the opportunity to make a submission to the 2017 Fiji National Employment Policy consultation process. Since our work largely focuses on women and girls we would like to specifically direct attention two major areas:

- The legislation regarding the age of a child
- The need to address key gender specific vulnerabilities within the labor force.

## **Part 1: Legal Age of a Child**

In accordance to this submission, FWRM would like to note that the issues herein is pertained to women of Fiji. We would further note that FWRM does not endorse any form of child labour. We recognise and promote the holistic development of children that allows them to enjoy childhood without the burden of employment.

The definition of a child contained in the Convention on the Rights of the Child (CRC), ratified by Fiji in 1993, *defines a 'child' as a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger* (UNICEF, 2018). *In addition to that* The Fiji Child Welfare Act (2010) sets out the interpretation of a child as *any person under the age of 18 (3(1))* (Fiji Government Gazette, 2010)

The draft policy however, states youth at 15-24 years which does not correlate to the definition of child or youth in Fiji. The definition of youth in the National Youth Policy (2011) is 15-35 years (Ministry of Education, National Heritage, Culture & Arts and Youth & Sports, 2011).

### **Recommendation**

FWRM would strongly urge this aspect of disparity to be looked into and aligned with other national policies and legislations like National Gender Policy (Ministry of Social Welfare, Women and Poverty Alleviation, 2014) , National Youth Policy, National Ageing Policy (Ministry of Social Welfare, Women and Poverty Alleviation, 2011), Fiji Child Welfare Act, and Fiji Retirement Policy.

## **Part 2: Gender specific vulnerabilities in the Labour Force Participation:**

The existence of systemic and structural barriers faced by women in Fiji hinders holistic opportunities and participation of women in the workforce and/or the formal and informal labour markets. The prevalence of patriarchal and heteronormative values, emphasis on gender roles, and discrimination faced by marginalised women is an impediment to recognising women's economic worth which hampers economic empowerment, furthermore, leadership of women. Section 74 of the Employment Relations Act (2007) places emphasis on providing equal opportunities in employment by:

*(a) prohibiting discrimination on particular grounds of actual or supposed personal characteristics or circumstances;*

*(b) ensuring equal rates of remuneration for work of equal value for all workers; and*

*(c) specifying lawful discrimination.*

The abovementioned section of the Employment Relations Act (2007) promotes equal employment opportunities by prohibiting discrimination on particular grounds of actual or supposed personal characteristics or circumstances; ensuring equal rates of remuneration

for work of equal value for all workers; and specifying unlawful discrimination (Fiji Government Gazette, 2007).

However, despite the above legislative provision, there are gender specific vulnerabilities and disparities that are prevalent in the workforce. The recent 2017 Population and Housing Census revealed that 49.3% of Fiji's population are females (Fiji Bureau of Statistics, 2018). With reference to the interest of the 49.3% of Fiji's population, FWRM would like to highlight the following gender specific issues for consideration for the Fiji National Employment Policy

#### **A. Unequal Labourforce Participation and Gender Pay Gap in Fiji**

According to the 2017 Population and Housing Census, "there is a significant gender differential in the Labour Force Participation Rates i.e. 76.4% for Males and 37.4% for Females" (Fiji Bureau of Statistics, 2018).

In reference to SDG target 8.5, women including persons with disability should be subject to equal pay for work of equal value. As of the 2014 Annual Employment Survey (Fiji Bureau of Statistics, 2014) average weekly wage by major occupation was FJ\$150.30: \$174.30 (per week), female: male ratio.

#### **Recommendations**

FWRM recommends the State to consider having specific language on equal pay for work of equal value in the National Wage Policy. There should be further encouragement across all sectors to adhere to this notion.

FWRM recommends investigation and production of gender de-segregated data on women's labour force participation, unremunerated care work, motherhood gap as well as female labour force patterns in Fiji as part of the broader objective to produce strategic action that seeks to address gendered occupational segregation as well as address the various forms of inequalities that exist within the female labour force participation in Fiji.

FWRM recommends State to include proposed strategic action that focuses on addressing the gender pay gap in Fiji within public and private sector as well as place emphasis on the promotion of gender economic equality in labour force participation.

#### **B. Sexual Harassment**

According to FWRM's Sexual Harassment in the Workplace Survey 2016, one in five women face sexual harassment in the workplace with high incidence in the food, beverage and hospitality industry in the western division (Fiji Women's Rights Movement, 2016).

## **Recommendation:**

FWRM recommends greater enforcement of sexual harassment policies in public and private sector.

FWRM recommends the Ministry of Employment to provide adequate training to implement Sexual Harassment policy in the workplace.

### **C. Maternity Provision**

*Section 100-101 of the Employment Relations Act (2007) focuses on ensuring women are not disadvantaged while taking maternity leave. In particular, This section looks at the rights of women on maternity leave in terms of number of entitled paid leave days (84 consecutive days), remuneration rate depending on the number of births and job security upon returning to workplace.*

The Act, however, is limited in the promotion of maternity care post leave with creation of safe and decent work place for lactating mothers. International Labour Organization's study on '*Breastfeeding in the workplace: Good for the mother, child, business and society*' states that having access to paid maternity leave and information is not enough. The lack of support at the workplace is one of the main reasons why women stop breastfeeding before the recommended time. Breastfeeding is not an obstacle to productivity: Research shows that women are more likely to stay in their job in the longer term, if they can breastfeed at work – which is a good way of retaining skilled workers (Addati, 2013).

In addition to that, many Asian countries (Indonesia, Japan, Korea, Taiwan) have introduced paid menstruation leave for female workers. Having menstruation friendly workplaces and policies to accommodate this is the first step towards recognizing and facilitating hygiene needs of the female worker.

Furthermore, there is lack of acknowledgment on the importance of father's role in child rearing and paternity leave, noticeably there is no mention of paternity leave in the 2007 Employment Relations Act. When discussing leave policies for parents, one needs to differentiate between at least three main types of leave: maternity leave, paternity leave, and parental leave. These concepts are seemingly self-explanatory, but every single type of leave possesses multiple meanings depending on national and political context. While maternity and paternity leave are directed towards mothers and fathers, respectively, parental leave is a gender-neutral form of entitlement, which thus can be used by both mothers and fathers (Axelsson, 2014) Basically what it means that if men are included too then they can be granted parental leave too to look after children in turn this is an encouragement to women not to feel bad about returning to work since they each have a turn at leave on these grounds.

Paternity leave provision is dependent on individual organizations policy and employee negotiating to take paternity leave. However it is crucial to acknowledge and make provision for paternity leave in our laws and policies in order to encourage father's to take paternity leave. FWRM acknowledges both parents share equal care for children. Lessons can be learnt from foreign countries such as Sweden, Australia and New Zealand which allow paternity leave which doesn't just benefit the baby and the mother but economy as a whole.

### **Recommendations**

In order to address the limitations of Maternity Provisions under the 2007 Employment Relations act, FWRM recommends the National Employment Policy to incorporate a review of the Maternity Provision within the Employment Relations Act as part of its proposed strategic actions.

FWRM recommends the inclusion of workplace that is "breastfeeding-friendly" under section 75 in order to provide women with comfortable, private facilities to express breast milk, access to a fridge to store it as well as a clean and safe environment.

FWRM recommends legislative change to the Employment Relations Act to address post care leave for new parents especially breastfeeding mothers.

FWRM strongly emphasizes the mandatory need for employers to include menstruation friendly workplaces and policies as a first step towards recognizing and facilitating hygiene needs of the female worker.

In regards to paternity leave, FWRM urges that paternity leave be be legally required under the Employment Relations Act so that it becomes mandatory for employers to provide paternity leave for its employees. More progressive wording of the relevant legislation like parental leave instead of maternity or paternity leave also needs to be taken under consideration.

FWRM calls for more robust proposition by State in formation of polices and infrastructures that can promote marketization of quality and affordable care for working mothers as well as provision of day care facilities and family friendly worktime arrangements by employers.

### **D. Domestic Violence and Cost**

Point 70 of the draft National Employment Policy notes that women's economic activity outside the home produces better outcomes for women. These outcomes include better health and reduced domestic violence for women. FWRM wishes to bring to attention the economic cost of domestic violence which was approximately F\$300 million in 2002— representing 7% of Fiji's gross domestic product (GDP) in that year (Fiji Government, 2010).

There is also a growing body of evidence which shows that victims and survivors of domestic and family violence often experience discrimination related to their experience of domestic and family violence, particularly in the workplace (Legal and Constitutional Affairs Legislation Committee- Australian Senate, 2013). These women may be discriminated against, for example, as a result of taking time out of work (sick leave) or because they temporarily have lower levels of productivity due to the violence that they are experiencing at home.

### **Recommendation**

Discrimination related to the experience of domestic and family violence can take various form. Hence FWRM recommends both the State and the Employers to take into consideration the following forms of discrimination :

- Denial of leave and access to flexible work arrangements that would assist victims and survivors to attend to violence-related matters, such as attending court or moving into a shelter
- having employment terminated for reasons relating to the violence they are experiencing, including a drop in performance or attendance caused by the domestic and family violence, or
- ⊖ being transferred or demoted for reasons related to the violence ( Australian Human Rights Commission, 2011).

### **-FWRM's Overall Recommendations:**

1. As stated earlier, the policy is a well-intended opportunity, however, the draft policy and its strategies are mainly focussed on the public sector. There needs to be stronger adherence and ownership encouraging the private sector to comply and strategize towards the National Employment Policy.
2. FWRM calls for greater recognition of social, cultural and political dimensions of productive as well as reproductive sphere which has significant impact on women economic equality especially in terms of their ability to participate in the labour force on par with men.
3. FWRM recommends the Policy to redress its heteronormative interpretation of labour force participation and include of sexual orientation in point number 3 of the National Employment Policy so the this policy is in alignment with Section 26 (3) of the 2013 Constitution which prohibits against any form of discrimination on the basis of sexual orientation.
4. In conclusion, the state needs to strengthen data collection to enable quality policy development and implementation. There needs to have a monitoring and evaluation plan incorporated in the draft policy which needs to be reviewed on an annual basis.

## References

- Australian Human Rights Commission. (2011). *Family Violence and Commonwealth Laws: Employment and Superannuation- Australian Human Rights Commission Submission to the Australian Law Reform Commission*. Australian Human Rights Commission.
- Addati, L. (2013, August 5). *Breastfeeding in the workplace: Good for the mother, child, business and society*. Retrieved from ILO: [http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_218710/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_218710/lang--en/index.htm)
- Axelsson, T. (2014, April). *Report for the research project "Paternity leave: Impacts on male careers"*. Stockholm: Örebro University. Retrieved from <http://oru.diva-portal.org/smash/get/diva2:717640/FULLTEXT01.pdf>
- Fiji Bureau of Statistics. (2014). *2014 Annual Employment Survey*. Suva: Fiji Bureau of Statistics.
- Fiji Bureau of Statistics. (2018, January 5). *2017 Population and Housing Census: Age, Sex, Geography and Economic Activity*. Retrieved from Fiji Bureau of Statistics: <http://www.statsfiji.gov.fj/census>
- Fiji Government. (2010). *Millennium Development Goals: Second Report, 1990–2009*. Suva.
- Fiji Government Gazette. (2007, October 2). *Employment Relations Promulgation*. Retrieved from Ministry of Employment, Productivity and Industrial Relations: [http://www.labour.gov.fj/images/Laws/erp\\_2007.pdf](http://www.labour.gov.fj/images/Laws/erp_2007.pdf)
- Fiji Government Gazette. (2010). *Child Welfare Decree 2010*. Retrieved from Fiji Government: [http://www.fiji.gov.fj/getattachment/995bfb6b-b829-424f-8a7c-8c73a9a8df96/Decree-No-44---Child-Welfare-Decree-2010-\(pdf\).aspx](http://www.fiji.gov.fj/getattachment/995bfb6b-b829-424f-8a7c-8c73a9a8df96/Decree-No-44---Child-Welfare-Decree-2010-(pdf).aspx)
- Fiji Women's Rights Movement. (2016). *Sexual harassment of women in the workplace in Fiji- 2016 follow up study*. Retrieved from Fiji Women's Rights Movement: <http://www.fwrm.org.fj/images/fwrm/publications/analysis/FWRM-Public-Copy-MG-050916.pdf>
- Legal and Constitutional Affairs Legislation Committee- Australian Senate. (2013). *Human Rights and Anti-Discrimination Bill 2012*. Canberra: Commonwealth of Australia.
- Ministry of Education, National Heritage, Culture & Arts and Youth & Sports. (2011, August 15). *National Youth Policy*. Retrieved from Youth Policy: [http://www.youthpolicy.org/national/Fiji\\_2011\\_National\\_Youth\\_Policy.pdf](http://www.youthpolicy.org/national/Fiji_2011_National_Youth_Policy.pdf)
- Ministry of Employment, Productivity and Industrial Relations. (2018, January 15). *Ministry of Employment, Productivity and Industrial Relations*. Retrieved from <http://www.labour.gov.fj/images/Publications/FijiNEPFinalDraft.pdf>
- Ministry of Social Welfare, Women and Poverty Alleviation. (2011, November). *National Ageing Policy*. Retrieved from Ministry of Social Welfare, Women and Poverty Alleviation: [http://www.health.gov.fj/wp-content/uploads/2014/09/8\\_Fiji-Ageing-Policy.pdf](http://www.health.gov.fj/wp-content/uploads/2014/09/8_Fiji-Ageing-Policy.pdf)
- Ministry of Social Welfare, Women and Poverty Alleviation. (2014, March 5). *National Gender Policy*. Retrieved from Ministry of Social Welfare, Women and Poverty Alleviation: <http://www.fiji.gov.fj/getattachment/db294b55-f2ca-4d44-bc81-f832e73cab6c/NATIONAL-GENDER-POLICY-AWARENESS.aspx>

UNICEF. (2018, January 15). *Convention on the Rights of the Child Guiding Principles*. Retrieved from UNICEF: [https://www.unicef.org/crc/files/Guiding\\_Principles.pdf](https://www.unicef.org/crc/files/Guiding_Principles.pdf)

United Nations. (2018, January 15). *Sustainable Development Goal 8*. Retrieved from Sustainable Development Knowledge Platform: <https://sustainabledevelopment.un.org/sdg8>