FWRM
FIJI WOMEN'S RIGHTS MOVEMENT

FWRM Submission on Proposed Child Care Protection Bill

FWRM SUBMISSION ON THE PROPOSED CHILD CARE & PROTECTION BILL 2023

Introduction

The Fiji Women's Rights Movement (FWRM), established in 1986, is a multi-ethnic and multicultural non-governmental organization committed to removing all forms of discrimination against women through institutional reform and attitudinal change, through targeted research and advocacy[1]. One of the greatest accomplishments of FWRM's targeted advocacy work was the codification of the Fiji Family Law Act 2003, a result of persistent, human rights based and feminist advocacy work. FWRM's core institutional values are **feminism, democracy, multiculturalism, good governance, rule of law** and **human rights**. As such FWRM holds dear principles upholding these core values and is committed to its continued efforts in advocating for them.

Fiji's Context

Fiji has ratified internal law such as the Convention on the Elimination on All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), Beijing Platform for Action (BPFA) as well as the Sustainable Development Goals (SDGs) which all require Fiji to promote principles of the best interest of the child. This also includes eliminating any harmful practices which may affect children, including the girl child. In addition to this, Fiji through the SDGs has agreed to work towards achieving gender equality and peaceful, just and strong institutions.

On the domestic front, section 41 of the Constitution of Fiji stipulates the rights of every child in Fiji which demands that every child be

"...be protected from abuse, neglect, harmful cultural practices, any form of violence, inhumane treatment and punishment, and hazardous or exploitative labor;…"

In addition to this the Fijian government has just launched the National Action Plan to Prevent Violence Against All Women and Girls (2021 – 2026) which will be a whole of government and whole of nation action plan to prevent violence before it happens. This includes violence against all girls.

FWRM's Constituency

FWRM, as a feminist organization that does policy and legislative lobbying, uses every advocacy opportunity to provide a gender lensing to laws as proposed by the State. In the past FWRM has been able to successfully incorporate gender issues into local laws (eg sexual harassment into employment law and development of family law amongst others). Therefore issues relating to children, in the context of the girl child, is of significant interest to FWRM because girls' makeup about half of the child population in Fiji[1].

[1] https://www.fwrm.org.fj/about accessed 18/07/2023

The GIRLS Program

FWRM's GIRLS program **(Grow Inspire Relate Lead Succeed)** which is a leadership program for young girls, over the years has identified various issues faced by our girls in Fiji[2]. These include patriarchy, lack of leadership by women, safe spaces and lack of quality education. For years, gender inequalities rooted in traditional and religious structures continue to impede girls' progress in Fiji. Fueled by patriarchy, girls' right have not been fully achieved as girls continue to call for a seat on decision making spaces, safer spaces and access to quality education to name a few priorities. Making up at least 18% of the country's population (ages 0-19), Fijian girls are not spared when it comes to violence and are at a higher risk.

Consequently in its **3rd Forum in 2023 the GIRLS Forum** has made specific calls to the State[3] including

- Calling upon meaningful inclusive education approaches that are considerate of all dis/abilities
- Calling upon the inclusion of girls' voices....need existing national policies to be reviewed and strengthened to ensure girls' lived realities are addressed within these.
- Gender Responsive education on SRHR by the Ministry of Education, Heritage and Arts (MEHA). The 3rd Girls Forum have identified the need to have Comprehensive Sexuality Education (CSE) into our curriculum. We believe having CSE in our curriculum will create positive and healthy discussions about our bodies, create a healthy learning environment in our classrooms while creating a lasting positive impact on girls' sexual and reproductive health.

Issues of Concern

1. **Gender Neutral Laws – language used in law**

FWRM submits that all laws **should not be** gender neutral, however should reflect the lived realities of all women and all girls in Fiji. Laws which are **gender-responsive**, will consider women and girls in all our diversities, including gender diverse people, rural women/girls, women/girls living with disabilities and other lived realities. All laws must reflect what the experiences of women and girls are, including our experiences of gender-based violence.

Adding onto this, any law relating to children must be centered on values of care, respect and wholistic development of children. Further to this the Bill should complement principles as laid out in the Convention on the Rights of the Child and must place the child at the center of all discussions relating to children's care and protection (child-centered approach).

FWRM also submits that the laws reflect diverse gender identities present in Fijian society, by moving away from using gender binary terms in language of the law eg. using only him/her. According to the 2013 Fijian constitution under article 26 (3a) no one should be discriminated against because of their gender, including gender identity and expression. This includes using inclusive gender language for gender diverse peoples.

2. **Violence experienced by the girl child**

The girl child experiences a wide range of issues in Fiji every day. These include gender-based violence in the form of **rape, sexual assault, abuse, neglect and forced and early child marriages**. All this is the result of patriarchy, which is the root cause of violence against women and girls. The proposed Bill must undertake to **work collaboratively** with CSOs like FWRM and other key government agencies such as the Ministry of Education, Health etc to

---

[2] https://www.fwrm.org.fj/publications/research-analysis accessed 12/07/2023

[3] ttps://www.fwrm.org.fj/images/fwrm2017/PDFs/outcome/3rd_GIRLS_Forum_Revolutionary_Document_2023_1.pdf accessed on 12/07/2023

adequately provide care and protection for children. **Preventative measures to protect children NAP** will be far better than just providing mechanisms to address violence after it is committed against children.

FWRM's Annual Rape Case Analysis: Sexual Violence Against the Girl Child
Following on from the research titled Balancing the Scales: Improving Fijian Women's Access to Justice 2017, FWRM now carries out annual rape case analysis for every rape case which is published on www.paclii.org. The cases analyzed are those that have been finalized in court in that particular year.

The youngest age of the victim/survivor since 2016-2022 continues to be under 5 years old[4].

In addition to this, a **fast-tracked sexual offences court** will also be a step in the right direction, to avoid child victims/survivors having to wait for years before giving evidence in court, thereby re-living their trauma repeatedly. This can ensure that no further harm is experienced by a girl child who has experienced violence in her life.

3. **Standard of Care for Children's homes**
The State should place high priority for strictly monitoring its children's homes by carrying out a rigorous assessment of the day-to-day functioning of these homes. With recent revelations of gross human rights and child rights violations in these homes, at this juncture of enacting new laws regulating state owned homes for children, the State has opportunity to revisit how these homes are functioning. Particular emphasis should be on the treatment of the girl child. Standard operating procedures should be properly formulated and adequately implemented to ensure smooth running of the homes with zero tolerance for abuse and neglect. All Homes in Fiji must have a rights-based approach that creates an environment where the girl child feels safe, loved, cared for, and where their protection and best interest of the child informs the way the services are provided. Gender sensitivity training should be part of the orientation process for all new and existing staff at these homes.

4. **Accountability and Transparency**
FWRM submits that section 20 referral pathways be strengthened and accountability with relation to complaints is ensured as follows:

eg if a complaint concerning a child is lodged by service providers the receiving body should go back to the complainant and provide update on outcome of complaint. There must be a time limit for when complaints should be finalized. Outcomes of complaints should be

[4] https://www.fwrm.org.fj/images/Sexual_Violence_Against_Women_and_Girls_Rape_Case_Analysis_2022.pdf accessed 13/07/2023

documented, and where possible included in public reports. Annual reports must be prepared and made publicly available as soon as practical after each financial year, for accountability purposes. Referral pathways should be gender responsive which responds to the needs of girls in all diversities (rural, disability, ethnic, SOGIESC and all).

Child Protection and Safe Guarding Policy

Just as with the mandatory sexual harassment policy requirement for all employers under the Employment Relations Act, similarly this new law **should require all organizations/ companies/ entities to** have a Child Protection & Safeguarding Policy. The proposed National Child Safeguarding Policy should also further **complement** the efforts to provide care and protection under this new proposed law.

RECOMMENDATION

Therefore, FWRM recommends that

1. The State write laws in a gender-responsive manner, avoiding gender neutral language, and recognizing the gendered nature of crimes committed against children;

2. The State take appropriate steps to balance the scales with regards to gender-based violence, including gender sensitivity and awareness training for children in schools;

3. The State in establishing statutory bodies and offices such as the Director for Children, incorporate values of accountability and good governance mechanisms to ensure transparency and best practice when it comes to governing all issues covering children, including girls in all their diversities;

4. The State continue to work with feminist CSOs like the Fiji Women's Rights Movement to build capacities on gender issues, and how to effectively incorporate gender lensing into child protection laws.