

STATE PARTY EXAMINATION OF FIJI'S SECOND, THIRD, AND FOURTH PERIODIC REPORT

67TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
1-19 SEPTEMBER 2014

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Fiji ratified the Convention on the Rights of the Child (CRC) on 13 August 1993. On the 4th-5th September 2014, the Committee on the Rights of the Child (the Committee) examined the second, third, and fourth periodic report of Fiji. It was last examined on 25 May 1998. In the time since their last review, the State party has removed all reservations to the CRC.

Opening Comments

The delegation of Fiji was led by Mr. Josefa Koroivueta, from the Ministry of Social Welfare. He was supported by a small delegation consisting of representatives of the Ministry of Education, Ministry of Health, and the Permanent Mission in Geneva.

Mr. Koroivueta began by stating Fiji's commitment to the CRC. He explained that Fiji is a small State of 18,333 square meters. Fiji's Bill of Rights underwent legislative reforms in 2013 and currently provided for a wide range of socio-economic rights, including education, healthcare, access to transportation, safe water, and social security. Furthermore, he said that Fiji was in a period of social, cultural, and political reform and it was important to take advantage of this opportunity to improve human rights through meaningful dialogue. He concluded by expressing the State party's hopes that partnerships with the United Nations and its treaty bodies could be forged through positive dialogue.

Note: This report is prepared at the discretion of Child Rights Connect. The content is designed to give a summary of the key discussions during the session of the Committee on the Rights of the Child but it is neither an official nor fully comprehensive report. More reports and further information can be found at www.childrightsconnect.org/index.php/publications-resources/crc#countrysum 1

The country rapporteurs, Mr. Guran and Mr. Mezmur, welcomed the delegation from Fiji and looked forward to discussing the situation of Fijian children.

General Measures of Implementation

Coordination

The Committee asked for clarification on the effectiveness and structure of the National Coordinating Committee on Children (NCCC). The delegation responded that since the inception of the NCCC, it had fallen under the responsibility of several different ministries and was therefore not very effective. However, in 2013 the State began reforming the structure to include both technical members and permanent secretaries from relevant ministries. This structure was approved by the NCCC and was sent to the cabinet for approval. The Committee asked what coordination between civil society and the NCCC took place. The delegation referred the Committee to the State report which listed current NCCC membership, which was composed of both government entities and NGO representatives.

The Committee asked for information on the status of the children's desk officer in the Fiji Human Rights Institution. The delegation responded that there was currently no children's desk officer, but Section 45 of the 2013 Constitution drafted a new human rights body. The creation of a child rights officer was expected in the drafting process, which would be approved by Parliament in late-September 2014.

Budget Allocations

The Committee asked for information regarding tracking of budget allocations for child rights issues. The delegation informed that the NCCC budget was dependant mostly on UNICEF and several ministries, which funded different aspects; however, it had no specifically allocated budget for children's rights. The Department of Social Welfare had a budget of 4.4 million Fijian dollars, and approximately 215,000 Fijian dollars were spent on child protection programmes. The delegation confirmed that the budget for the coming year would include a specific budget allocation for the NCCC.

The role of civil society and non-governmental organizations

The Committee asked for information on the Public Emergency Regulation (PER) and its effects on NGO participation. The delegation responded that the PER had been repealed in 2012. If an NGO wished to hold a public demonstration, they had to apply for a permit. Under the 2013 Constitution, courts could cite international law when making a decision, as well as foreign legislation, such as in the case of the *Oakes test* (from Canadian court case *R. v. Oakes*, 1986), which was used as best practice for limitation of NGO participation. According with this test, law enforcement had to prove that rejected applications were threats to the security of the State.

The Committee asked for information regarding the current situation of NGOs, and what their role in the preparation of the State report was. The delegation explained that the State report included an annex that listed NGOs which contributed. It said that the government had Memorandums of Understanding with NGOs. However, the delegation recognised that Fijian culture discouraged child participation.

Data collection

The Committee expressed concern over data collection, as there was no existing statistical office in Fiji. The delegation responded that the State was working towards a coordinating system, and welcomed suggestions from the Committee on a model system that Fiji would benefit from.

Definition of the Child

The Committee asked if the Constitution provided an overarching definition of the child. The delegation clarified that Section 163 of the Constitution stated that the term child was applicable to any individual who has not reached the age of 18 years. It stated that all other legislation was subordinate to the Constitution.

The delegation informed that the Juveniles Act defined a child as any person under 17, but the high court had applied the CRC age to this Act.

General Principles

Right to be heard

The State has made efforts to engage more children in participation. Importantly, the voting age was changed from 21 to 18, which encouraged politicians to reach out to secondary school students. Additionally, the delegation explained that the Ministry of Education had worked to ensure that children were heard within the school system.

Non-discrimination

The Committee was concerned about deep-rooted gender roles in the State and asked what progress was being made in this regard. The delegation responded that in April 2014, the Fijian cabinet endorsed the Fiji National Gender Policy. Section 5 (17) of this policy provided for gender statistics and research in the areas of agriculture, peace and security, budgeting, health, reproductive health and abusive substances. Further, the delegation said that the State was attempting to discourage gender-biased cultural values including religious and cultural leaders, and NGOs in efforts to raise public awareness on the issue. The delegation also noted that the Fiji Women's Federation, which had held an advisory role, was seeking to obtain a statutory role to enforce gender policy. The Committee asked if there was child participation within the Fiji Women's Federation. The delegation replied that there was not, but acknowledged that having an underage chair would be beneficial.

Civil Rights and Freedoms

Corporal Punishment

The Committee recognised that the 2013 Constitution abolished corporal punishment, but asked if there was other legislation that imposed sanctions for perpetrators. The delegation responded that both the Penal Code and the Juvenile Act criminalised corporal punishment. However, perpetrators had never been properly prosecuted because of cultural and social acceptance of this practice.

Domestic Violence

The delegation explained that the State party enacted the Domestic Violence Decree which made the reporting of suspected cases of child abuse mandatory for doctors, teachers, legal practitioners, law enforcement, and social welfare officers. The Committee commended the State on its Domestic Violence Decree, and asked if training was provided to these professionals. The delegation responded that integral training had been carried out throughout the country since the adoption of the decree. Other professionals attended the trainings on a voluntary basis; this included nurses, who were not yet required to report. The Committee further asked what consequences professionals faced if they did not report. The delegation explained that failure to report was a criminal offence subject to criminal prosecution. In the case of wrongful report, there were no sanctions on professionals, and the reporting process was made as simple as possible.

Additionally, if a doctor determined it unsafe for a child to leave a medical facility due to possible mistreatment, the Child Welfare Decree created a Care and Treatment Order, allowing the doctor to keep the child for up to 72 hours. The delegation reported that the Child Welfare Decree led to an increase in reporting child abuse from 312 in 2013 to 447 in the first half of 2014.

Protection from Abuse and Neglect

The Committee asked about the traditional practice of reconciliation, *bulubulu*, and its use by courts. The delegation responded that sexual violence and rape are non-reconcilable offences, as outlined in the Domestic Violence Decree. However, the delegation informed that reconciliation was available to lessen sentencing, but required the court to examine all considerations (eg. age of victim, whether pregnancy resulted, if children were witnesses, and if the attacker showed change).

Birth registrations

The Committee was concerned about the stagnation of birth registration rates for those over age of 5 in the last 24 months. It noted that registration was not free, and asked to what extent this curtailed registration, especially in remote areas. The acknowledged that the Births and Registration Act provided for late registrations fees; however, a nationwide amnesty for late registrations of birth was in effect, which addressed the issue that approximately 30% of children under 5 who were not registered.

Right to Participation

The Committee requested information on how children could organise and assemble; and asked specifically if there were associations made of only children. The delegation responded that demonstration was a Constitutional guarantee, regardless of age

Child Marriages and Age of Consent

The Committee asked what the age of consent was. The delegation responded that the age of consent was 16 and it was a criminal offense to have sexual intercourse with any person under this age, whereas the minimum age of marriage was 18. The Committee noted that arranged marriage was still practiced in Fiji and asked what was being done to ensure that all marriages were voluntary between adults. The delegation cited the recent jurisprudence of..... that applied a gender-based approach to the issues, by interpreting “forced” as the result of social and cultural pressures.

Family Environment and Alternative Care

Adoption

The Committee commended the State party on its ratification of the Hague Convention on Inter-Country Adoption in 2012. It asked why the Adoption Decree, which would help to implement the convention, was still in draft form for more than 2 years, since June 2012, and what steps were being taken to expedite its adoption. The delegation responded the delay was due to the constitutional reform process; it was expected that the draft decrees would be examined soon after the September 2014 general elections.

The Committee noted that there had been an increase in the number of adoptions from China, Pakistan, and India. It asked if there were any bilateral agreements to address the main challenges. The delegation informed that it had ratified the Hague Convention in 2012, and any adoptions applied through the Hague Convention were given process; applications made under the Adoption Act were dismissed due to a residency requirement.

Alternative care

The Committee expressed concern regarding the culture of informal inter-family adoption, and asked if these children enjoyed the same rights as formally adopted children. The delegation explained that “Kinship Adoption” was common in Fiji, as children in maritime areas tended to move to urban centres to complete secondary school. Most often, these children lived with extended family members. In cases of abuse, the Department of Social Welfare would be informed and would remove the child concerned. The delegation stated that institutionalisation was always the last option.

The Committee asked what the State was doing to discourage parents from giving their children up to institutions due to poverty. The delegation answered that in this case, the State provided counselling for the parents to prevent institutionalisation. The State also offered social protection programmes in the cases of extreme poverty.

Basic Health and Welfare

HIV and AIDS

The Committee noted the progress made thanks to the 2011 HIV/AIDS decree, but asked what measures had been taken to monitor issues of HIV/AIDS. It also noted the disparity in its implementation in rural and urban areas. The delegation responded that in 2011, the Ministry of Health developed HIV/AIDS testing strategies, called the HIV Testing and Counselling Policy and Prevention of Transmission. This included a training package and manual. Additionally, the decree outlined procedures to be taken in HIV/AIDS positive instances. The delegation cited that HIV/AIDS cases in 2013 were: 5 in children between the ages of 0-4, and 0 for children aged 5-19.

Children with disabilities

The Committee asked what support was given to parents of children with disabilities, especially girls who were more likely to be sexually abused. The delegation responded that social services were provided, and steps were taken to ensure children could stay with their families. The Fiji National Council for Disabilities was the body that determined minimum

standards and decided if parents were able to care for children. The Department of Social Welfare dealt with this issue on a case-by-case basis and ensured that minimum standards were met; the ministry closely monitored children who were placed in specialized institutions. 9 institutions existed in the country, and each housed up to 30 children. The delegation said that sexually abused girls were normally institutionalised, as their parents were found unable to take care of them.

The Committee asked how many professionals worked with children with disabilities, specifically children requiring speech therapy. The delegation responded that there were no permanent professionals on speech therapy, but that international specialists provided temporary services. Additionally, the Fiji National University had been requested to develop a curriculum for missing services, such as speech therapy.

Obesity & Breastfeeding

The Committee noted that 1 out of 8 children had problems with obesity and diabetes. It asked what the government was doing to deal with these issues. The delegation cited that the Ministry of Health developed a strategic plan for non-communicable diseases (NCDs) and was trying to tackle risk factors including nutrition and promotion of young child feeding and breastfeeding with the “From Womb to Tomb” programme. Additionally, all division hospitals were made baby friendly, which was addressed on a 10-step basis. The delegation stated that mother support groups were present in all 19 subdivisions. The National Breast Feeding Committee was scheduled to meet on 24th September 2014, and the delegation expressed its hope that there would be a more comprehensive strategy after this meeting.

Teenage pregnancy

The delegation informed there had been an increase in teenage pregnancies in the past 10 years. The Minister of Health began an adolescent health programme aimed towards educating adolescents on sexual and reproductive health. The programme covered 500 schools in 400 communities, which included 5 rural islands.

Drug and alcohol issues

The Committee asked if an established drug unit had been created, and what services were available for recovery and psychological support to children involved in substance abuse. The delegation informed that the Advocacy Council trained teachers and schools personnel to identify children using drugs or similar substances as well as children victims of abuse. When a case of drug abuse was identified, the child protection officer of the school would contact the family of the child and refer the case to specialists.

Education, Leisure and Cultural Activities

Pre-school education

The Committee noted that early childhood education was limited in rural areas and outer islands and asked what measures ensured that these children had access to education. The delegation responded that there were 4 regional officers and 9 district officers assigned to assess the situation in remote areas and make appropriate recommendations. The delegation also informed that there were a number of unregistered early childhood education centres, but the Fiji Education Management System was registering these schools so they could be

brought to early childhood education national standards. There were about 1,030 such centres registered.

Education

The Committee asked if primary education was free of charge and what the age of compulsory education was. The delegation informed that primary and secondary education was free. An allowance of up to 1.60 Fijian dollars was given to families who earned less than 15,000 to cover transportation costs. A zoning policy determined the approximate cost of transportation for each child, and they were given coupons for boats or buses. The Committee noted that there was a shortage of schools in remote areas and asked how children in these areas received access to education. It was especially concerned for young children who were not able to travel far without an adult. The delegation explained that schools were placed within a 2km radius of inhabited areas. However, there were boarding schools that children could attend. To address the issue of young children who were not able to travel long distances from home, 4 infant local schools covering the first three years of schooling had been established.

The delegation further explained that children receive free textbooks until the 10th year of school. However, parents had to provide their children with clothes, food, and supplies.

Education for children with disabilities

The Committee noted that special schools for children with disabilities seemed to be preferred over inclusive education and asked if the government was planning to do more for inclusive education. The delegation informed that preference was given to special schools because parents considered them safer than public schools. The Ministries of Health and Education were trying to mainstream students with disabilities into public school settings by promoting non-discrimination and providing training to local teachers.

Special Protection Measures

Street Children

The Committee noted the use of children for begging and asked the delegation to explain actions taken to combat this. The delegation responded that there are minimal cases of children on the street; a recent project revealed a total of about 8. However, if a child was found begging, the Department of Social Welfare would assist the family while giving a warning. Upon second infraction, the Department of Social Welfare would remove the child from the parent's care. The delegation also informed that the State was working with NGOs to create homes where these families could be trained. The Committee inquired if the State had programmes to assess and help street children. The delegation restated that they have very low instances of street children and that there were programmes available for street children to both insert them back into educational systems, and to train them in technical skills. The Committee asked what was the formal process; how were they encouraged to return to school. The delegation responded that there was no formal process, but instead was taken on a case-by-case basis. The State undertook training with schools and law enforcement officials on approaching and removing children from the streets if they were of school age. The children were then placed back in school and the family was assisted through social protection programmes. In cases where they could not go back to school, registration with national

employment centre was facilitated where they could complete skills training for employment.

Child labour

The Committee requested information on child labour in domestic service and sexual exploitation. The delegation began by stating, that although the International Labour Organisation had conducted a survey that showed that Fiji had a 70% child labour rate, the groups of children that were evaluated were not demonstrative of the entire child population, and therefore this number was inaccurate. However, the delegation recognised that child labour was an issue, and the Minister of Labour had established a child labour unit. The unit was mandated to conduct: legislative advocacy, training for labour inspectors, investigations and referrals to public prosecution, and public awareness.

Juvenile justice

The Committee asked if children outside of Suva could access child-sensitive court hearings. It also inquired about the bail of juveniles in conflict of the law. The delegation responded that the Chief Judge required mandatory training of all judges and magistrates, making every court juvenile friendly. This included a change in physical court spaces.

The Committee asked if children between the ages of 14 and 18 could receive alternative penalties or if they could be incarcerated. The delegation responded that, under the Crimes Decree, children under 10 were not held criminally responsible, but for children aged 10-14, the prosecution had the burden to prove that the child was mature enough to identify the action as wrong. The delegation stressed the government's priority in diverting as many juvenile cases as possible from court. It did this by encouraging mediation as well as ensuring that the best interest of the child is taken into consideration by prosecutors.

Concluding Remarks

The head of delegation, Mr. Josefa Koroivueta, thanked the Committee for its attention and questions and reaffirmed the State party's commitment to the CRC. He informed the Committee that its suggestions were useful in giving the State strength to make meaningful changes. He stressed the need to construct a more robust way to deal with children's issues on a holistic note.

Mr. Mezmur, the country rapporteur, expressed the Committee's appreciation of the progress made, but acknowledged a lack of strategy to deal with some issues. He expressed hope that the election at the end of September 2014 would not reverse progress in children's rights. Mr. Mezmur ended by informing the delegation that this year marked the 25th anniversary of the CRC and expressed the desire that the government raised awareness in that context so it had meaning to children on the ground.