



FIJI

ECPAT

# COUNTRY OVERVIEW

*A report on the scale, scope and context of  
the sexual exploitation of children*

JUNE, 2019



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## Preface

Recent years have seen unprecedented progress towards embedding the child's right to protection from sexual exploitation more deeply into the global agenda, no more so than the global mandate to eliminate the sexual exploitation of children (SEC) enshrined in the Sustainable Development Goals (SDGs) adopted by world leaders in 2015. ECPAT Country Overviews on SEC provide an effective tool for advocacy at all levels as well as for monitoring, including on government commitments made in the SDGs to end violence against children in all its different forms by 2030.

ECPAT Country Overviews are first and foremost, a desk review exercise that gather and present all the existing publicly available information into a comprehensive summary of all forms of SEC in a country. They do not contain any new primary data. They also provide an assessment of achievements and challenges in implementing counteractions - including the participation of children themselves - to eliminate SEC.

ECPAT Country Overviews also suggest concrete priority actions urgently needed to proactively advance the national fight against SEC and enable the monitoring of the implementation of international instruments on child rights related to sexual exploitation that have been ratified by the State. Furthermore, the ECPAT Country Overviews provide well-organised information and research, which can be used in preparing Alternative Reports and Additional Submissions to the Committee on the Rights of the Child and the Human Rights Council.

During the process, drafts are shared with ECPAT members, relevant local organisations, and experts working on the ground who review the content and supplement the information with other local sources and analysis. ECPAT International greatly relies on the contributions of all those involved in producing these reports and would like to express its profound appreciation for their invaluable inputs.



## At a Glance

Fiji is an archipelago of 332 islands located in the Pacific Ocean, of which 110 are inhabited. Children represent approximately 34% of Fiji's population of 899,000 people. Due to its location, the country is a regional hub for transportation, telecommunications, business and trade for the Pacific community of nations, which has resulted in increased urbanization and consequent shifts in the family structure and traditional ways of life.

Prominent factors leading to children's vulnerability to sexual exploitation in Fiji include poverty, being in street situations, disabilities as well as gender inequalities, violence and cultural taboos in talking about sex.

Recent data and information on the different manifestations of sexual exploitation of children were largely not available during the research for this report. However, past studies media reports and anecdotal evidence confirm that this crime exists and persists in Fiji. In terms of exploitation in prostitution, victims are mostly girls but boys are also noted to be victims. Many girls are exploited as a means of providing income for their families. Frequently, offenders and facilitators are members of their family or the community.

Half of the Fijian population has Internet access and mobile cell phones are widely available in Fiji. This rapid spread of access to technology brings many benefits, but also risks of sexual exploitation of children. It is clear that a major factor in children's sexual victimization is often parents' lack of awareness of the risks children face online.

Fiji is considered a source, transit and destination country for children subject to trafficking for sexual purposes. Moreover, within the country child victims have reportedly been subjected to informal adoption processes, which may lead to risks like domestic servitude or even sexual exploitation.

Tourism is a primary contributor to formal economy in Fiji. This is a factor shaping children's vulnerability to sexual exploitation. Although the risks of child, early and forced marriage in Fiji is lower than in other contexts due to recent legislative development, girls from disadvantaged or marginalized groups may still face risks.

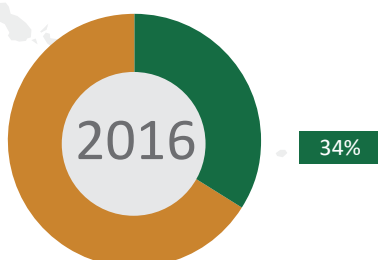
Despite signing it in 2005, Fiji has yet to ratify the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, the most relevant international legal standard on the sexual exploitation of children. However, Fiji has agreed to and reaffirmed its commitment to a number of international and regional initiatives that directly, and indirectly, work to address sexual exploitation of children, including the Sustainable Development Goals and the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. However, national legislation is not fully in compliance with these international standards and gaps persist to comprehensively address the sexual exploitation of children and the decriminalization of child victims of sexual exploitation.

Fiji's coordinating body on children's rights is the National Coordinating Committee for Children, which manages the National Child Protection Policy and includes an Inter-Agency Committee on All Forms of Child Abuse, Neglect and Abandonment. Much of Fiji's efforts to address the sexual exploitation of children have been implemented in the context of its anti-trafficking strategy and child protection programmes.

## POPULATION

SOURCE: UNICEF State of the World's Children Report 2016

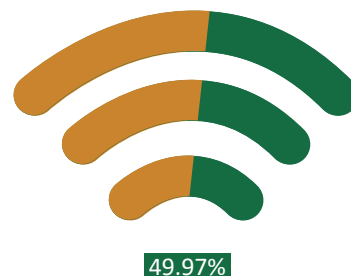
### Children under 18 years



## INTERNET ACCESS

SOURCE: ITU Statistics 2018: Fiji Country Profile

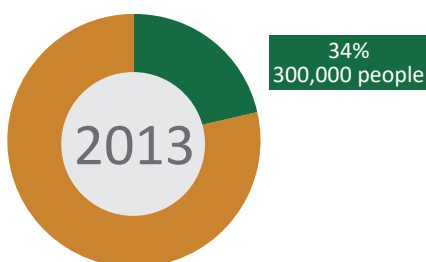
### Have internet access



## POVERTY RATE

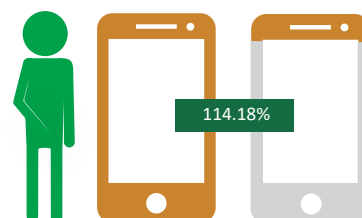
SOURCE: Poverty & Equity Data Portal: World Bank

### Living under the national poverty line



## MOBILE PHONE USERS

SOURCE: ITU Statistics 2018: Fiji Country Profile



114.18 mobile phone subscriptions per 100 inhabitants

## CHILDREN'S RIGHTS UNDER THE LAW

	Boys	Girls
Age of consent for sex	16*	16*
Minimum age for marriage	18	18
Legal working age	15^	15^
Compulsory age of schooling	14-15'	14-15'

\* With a few exceptions

^ With a few exceptions for children above 13

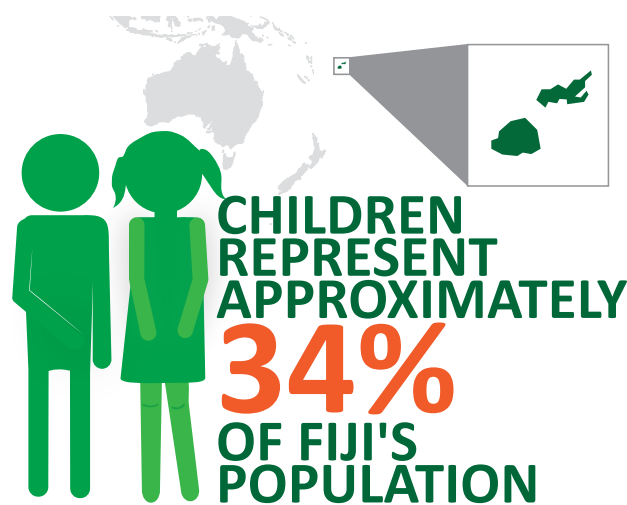
' 8 years of compulsory primary education (age group: 6-14)

# Introduction

## COUNTRY OVERVIEW AND SPECIFIC VULNERABILITIES LEADING TO THE SEXUAL EXPLOITATION OF CHILDREN

Fiji is an archipelago of 332 islands located in the Pacific Ocean, roughly two-thirds of the way from Hawaii to New Zealand. An estimated 110 of these Melanesian islands are inhabited. Viti Levu, the largest island is home to 70% of the country's population.<sup>1</sup> Children represent approximately 34% of Fiji's population of 899,000 people.<sup>2</sup> iTaukei (indigenous Fijians) and Indo-Fijians represent the two largest ethnic groups of the island nation, comprising 54% and 38% of the population respectively.<sup>3</sup>

Fiji's central location in the south Pacific has positioned the island nation as a regional hub for transportation, telecommunications, business, and trade.<sup>4</sup> The expansion in global trade has led to a fast transition from subsistence and traditional ways of living to a cash based economy.<sup>5</sup> The need for rural families, including children, to engage in the cash-economy has resulted in increased urbanization.<sup>6</sup> In 2017, nearly 56% of Fijians lived



in urban areas.<sup>7</sup> By 2030, predictions suggest that proportion will grow to 61%.<sup>8</sup> However, the past 25 years has seen slow and inconsistent growth paired with deficiencies in government revenue and management, which have negatively affected employment and security.<sup>9</sup>

Despite increased urbanization, about 44% of Fijians remain in rural areas, continuing to engage in traditional economies, some living in isolated

- 1 The World Bank. (2015, February 4). *Country Engagement Note for the Republic of Fiji for the Period FY2015-2017*.1. Report No. 93708-FJ.; U.S. Central Intelligence Agency. (2018, September 26). Australia-Oceania:Fiji. The World Factbook.; ECPAT International. (2015, March). *ECPAT Literature Review of the Pacific: Analysis of CSEC in Those Countries That Have Not Ratified the OPSC*.11.
- 2 UNICEF. (2017). *The State of the World's Children 2017: Children in a Digital World*. 174.
- 3 World Population Review. (2018). *Fiji Population 2018*.
- 4 The World Bank. (2015, February 4). *Country Engagement Note for the Republic of Fiji for the Period FY2015-2017*.2.
- 5 ECPAT International. (2015, March). *ECPAT Literature Review of the Pacific: Analysis of CSEC in Those Countries That Have Not Ratified the OPSC*.14.
- 6 *Ibid*.
- 7 The Fijian Government. (2018, October 1). Fiji Bureau of statistics releases 2017 census results. Press release.
- 8 The World Bank. (2015, February 4). *Country Engagement Note for the Republic of Fiji for the Period FY2015-2017*.3. Report No. 93708-FJ.
- 9 Save the Children Fiji. (2014, December 26). *Child Rights Situational Analysis Report*.13; ECPAT International. (2015, March). *ECPAT Literature Review of the Pacific: Analysis of CSEC in Those Countries That Have Not Ratified the OPSC*.14.

villages.<sup>10</sup> In both rural and urban areas, the economic transition and prevailing traditional lifestyles outside of the cities, has exacerbated “the poverty and vulnerability of the families that are subjected to economic pressure.”<sup>11</sup> Over two-thirds of working age people in Fiji engage in income-generating activities outside of the formal wage economy.<sup>12</sup> Working in the informal economy does not provide access to social protection mechanisms such as unemployment benefits or income support upon retirement.<sup>13</sup>

Urbanization has also shifted the typical family structure from a “relatively stable and sedentary, extended family” based in villages to a “more mobile nuclear family” living in cities.<sup>14</sup> Families that have migrated to urban centers, with limited access to social services and separated from the safety net of their community, face higher risks of poverty and/or living in the street.<sup>15</sup> Children in street situations in cities and towns have characterized this urbanization process.<sup>16</sup> These children in street situations, the majority of whom are boys, are particularly vulnerable to multiple forms of labour and sexual exploitation, including through prostitution and trafficking.<sup>17</sup> Children with disabilities, especially girls (in street situations or elsewhere), are distinctly vulnerable and are

discriminated against by other children as well as adults.<sup>18</sup>

Fiji’s traditional and conservative social context is another primary contributor to children’s vulnerability to sexual exploitation. Similarly to some (but not all) cultures in Pacific island countries, gender and age determine a person’s status in society in Fiji.<sup>19</sup> Men’s power and authority are supposed to be unquestionable within the community and the family.<sup>20</sup> This superiority is frequently reinforced with violence.<sup>21</sup> Over two-thirds of women (71%) have experienced some form of physical and/or sexual intimate partner or non-partner violence in her lifetime, nearly double the global average (35.6%).<sup>22</sup> Almost a quarter of women report having experienced some form of physical and/or sexual intimate partner violence as recently as in the last 12 months.<sup>23</sup>

The range of violence that children may witness and experience has considerable implications for their vulnerability to sexual abuse and exploitation as children and into adulthood.<sup>24</sup> The intergenerational transmission of violence, in particular, deeply informs children’s vulnerability in Fiji. Women who have experienced intimate

- 10 ECPAT International. (2015, March). *ECPAT Literature Review of the Pacific: Analysis of CSEC in Those Countries That Have Not Ratified the OPSC*.11.; The Fijian Government. (2018, October 1). Fiji Bureau of statistics releases 2017 census results. Press release.
- 11 ECPAT International. (2015, March). *ECPAT Literature Review of the Pacific: Analysis of CSEC in Those Countries That Have Not Ratified the OPSC*.14.
- 12 Fisk, K., Crawford, J. (2017, July). *Exploring Multidimensional Poverty in Fiji: Findings from a Study Using the Individual Deprivation Measure*.23. International Women’s Development Agency.; note: legal working age in Fiji is age 15, see ILO. (2015). Child labor in Fiji.
- 13 Fisk, K., Crawford, J. (2017, July). *Exploring Multidimensional Poverty in Fiji: Findings from a Study Using the Individual Deprivation Measure*.23. International Women’s Development Agency.
- 14 ECPAT International. (2015, March). *ECPAT Literature Review of the Pacific: Analysis of CSEC in Those Countries That Have Not Ratified the OPSC*.17. citing Laqueretabua, et al. (2009, April). Pacific Perspectives on the Commercial Sexual Exploitation. 9.
- 15 ECPAT International. (2015, March). *ECPAT Literature Review of the Pacific: Analysis of CSEC in Those Countries That Have Not Ratified the OPSC*.17.
- 16 ILO Country Office for South Pacific Island Countries. (2010). *Child Labor in Fiji: A Survey of Working Children in Commercial Sexual Exploitation, on the Streets, in Rural Agricultural Communities, in Informal and Squatter Settlements and in Schools*.61. Fiji: International Labor Organization.
- 17 *Ibid.*
- 18 Save the Children Fiji. (2014, October 25). *Submission to Universal Periodic Review 2014*. 3.
- 19 ECPAT International. (2015, March). *ECPAT Literature Review of the Pacific: Analysis of CSEC in Those Countries That Have Not Ratified the OPSC*.18.
- 20 *Ibid.*,.15.
- 21 *Ibid.*, 16.
- 22 Fiji Women’s Crisis Centre (FWCC). 2013. Somebody’s Life, Everybody’s Business- National Research on Women’s Health and Life Experiences in Fiji (2010/11): A Survey Exploring the Prevalence, Incidence and Attitudes to Intimate Partner Violence in Fiji.19.; UN Women. (2017, October 4). *Addressing Violence against Women Essential to Economic Empowerment*.
- 23 Fiji Women’s Crisis Centre (FWCC). 2013. National Research on Women’s Health and Life Experiences in Fiji (2010/11): A Survey Exploring the Prevalence, Incidence and Attitudes to Intimate Partner Violence in Fiji. 35.
- 24 Centres for Disease Control and Prevention. (2016). Violence Prevention: CDC-Kaiser ACE Study.; Ports, Katie C, Ford, Derek C, Merrick, Melissa T.(2015, September 19). Adverse Childhood Experiences and Sexual Victimization in Adulthood. *Child Abuse & Neglect*. Vol 51: 313-322.

partner violence are significantly more likely to report abuse of their children by their partner.<sup>25</sup> Likewise, women who had experienced intimate partner violence were more likely to have had a mother who was physically abused by her partner.<sup>26</sup> In 2015, based on a study of women in Pacific island countries, UNICEF reported that more than one in four women have been physically abused since age 15 by a non-partner and nearly one in ten women had experienced sexual abuse since age 15 by a non-partner.<sup>27</sup> One in five women were sexually abused before the age of 15.<sup>28</sup> Additionally, children whose mothers have experienced physical or sexual violence were twice as likely to repeat years of school or drop out of school, another risk factor for sexual exploitation.<sup>29</sup> Violence represents a regular feature of children's lives as they experience other forms of non-sexual abuse as well. Corporal punishment is an accepted form of discipline in families as well as in schools.<sup>30</sup> Over 70% of children have experienced some form of violent discipline.<sup>31</sup>

A deeply rooted "tradition of shame and silence" shape this culture of violence.<sup>32</sup> In the context of sexual abuse and exploitation, cultural taboos surrounding sex make the stigma against victims of violence even more detrimental.<sup>33</sup> Historically, reporting incidents of sexual violence has resulted in shame for the victim and their family, making them an even more vulnerable target for further violence.<sup>34</sup>

Fiji's frequent natural disasters also contribute to children's vulnerability to sexual exploitation. Natural disasters disrupt, and often breakdown, the social and legal order to such an extent that local capacity to cope is highly stretched.<sup>35</sup> In these situations, children are the most vulnerable to neglect, abuse and exploitation. Fiji sits in a tropical cyclone belt and in the Pacific Ring of Fire. The island nation is threatened by volcanoes, earthquakes, tsunamis, and landslides.<sup>36</sup> On average, the island nation experiences one cyclone each year.<sup>37</sup> Climate change has exacerbated the threats of these natural disasters. In 2016, Category 5 Tropical Cyclone Winston affected an estimated 350,000 Fijians, including 120,000 children.<sup>38</sup> As the threat of the consequences of climate change intensifies, efforts to enhance communities' resilience should include developing strategies to reduce children's vulnerability to SEC in the context of natural disasters.

25 *Ibid.*,10.

26 *Ibid.*,7.

27 *Ibid.*,12.

28 *Ibid.*,12.

29 *Ibid.*,13.

30 Save the Children Fiji. (2014, October 25). *Submission to Universal Periodic Review 2014*. 3.

31 UNICEF. (2012). Fiji- Statistics.

32 ECPAT International. (2015, March). *ECPAT Literature Review of the Pacific: Analysis of CSEC in Those Countries That Have Not Ratified the OPSC*.16.

33 *Ibid.*

34 *Ibid.*

35 Save the Children. (2015). *Child Protection in Emergencies Fact Sheet 2015*. 1.

36 The World Bank. (2015, February). *Country Note: Fiji*.5. Washington, DC: The World Bank.

37 *Ibid.*

38 UNICEF. (2016, March). *Cyclone Winston Fiji: Humanitarian Situation Report #6*. 1.



## Context for Sexual Exploitation of Children in Fiji

### EXPLOITATION OF CHILDREN IN PROSTITUTION<sup>39</sup>

Article 2 (b) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) defines 'child prostitution' as "the use of a child in sexual activities for remuneration or any other form of consideration".<sup>40</sup>

Very little research has been conducted recently to investigate the ways through which children in Fiji have been exploited through prostitution. Despite the legal prohibition against prostitution, it has been the primary form of exploitation among victims of SEC in Fiji.<sup>41</sup> Past studies, media reports and anecdotal evidence from NGOs and communities in Fiji have indicated that the

average age of children exploited in prostitution has decreased over time.<sup>42</sup> Similar reports have described that while girls comprise the majority of children exploited in prostitution in Fiji, boys are also exploited in this way as well.<sup>43</sup> In line with global trends, children in Fiji are exploited in both individual and organized operations, often in clubs and brothels operating as motels or massage parlours.<sup>44</sup> Older studies documented these forms of SEC occurring in urban centres like Suva and Nadi.<sup>45</sup>

Previous reports on SEC in Fiji suggest that similar factors drive SEC in prostitution there as in other contexts across the globe.<sup>46</sup> Many young girls are exploited in prostitution as a means of providing income for their families.<sup>47</sup> Frequently, both the offenders and facilitators include family members and close family friends.<sup>48</sup> Taxi drivers are often key actors as well, facilitating the exploitation of girls by transporting them to offenders in motels or

39 ECPAT prefers the term 'exploitation of children in prostitution' instead of 'child prostitution' in line with the recently widely adopted Terminology Guidelines. Interagency Working Group on Sexual Exploitation of Children. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*. 30. Bangkok: ECPAT International.

40 UN General Assembly. (2000, May 25). Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. (A/RES/54/263). Art. 2(b).

41 ECPAT International. (2015, March). *ECPAT Literature Review of the Pacific: Analysis of CSEC in Those Countries That Have Not Ratified the OPSC*. 21.

42 Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*. 16. Save the Children Fiji.; Taylor, L. (2017, December 8). Fiji urged to end the silence and crackdown on child prostitution. Reuters.

43 Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*. 16. Save the Children Fiji.

44 *Ibid.*; Capaldi, Mark. (2014, December). Unfinished Business: Ending Child Prostitution, Child Pornography and Child Trafficking for Sexual Purposes. 11-12. ECPAT International.

45 Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*. 16. Save the Children Fiji.

46 Unfinished Business: Ending Child Prostitution, Child Pornography and Child Trafficking for Sexual Purposes. 11-12. ECPAT International.

47 Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*. 16. Save the Children Fiji.

48 Unfinished Business: Ending Child Prostitution, Child Pornography and Child Trafficking for Sexual Purposes. 13. ECPAT International.

brothels.<sup>49</sup> Both boys and girls in street situations engage in prostitution as a survival strategy.<sup>50</sup> In Fiji, as in other contexts with expanding access to the Internet, technology plays a growing role in children's exploitation.<sup>51</sup> Some children engage in sexual exploitation by being 'on call' through mobile network groups of offenders while other children may establish their own network through personal contacts through friends, relatives, and hotels.<sup>52</sup>

Previous data has indicated that key factors pushing children into this form of exploitation included lack of access to education and alternative employment opportunities. Family problems, including parental neglect and lack of family support, were suggested as prevalent reasons for leaving school.<sup>53</sup> Financial hardships were also common reasons why children did not complete their education.<sup>54</sup> Peer pressure, academic difficulties, and pregnancy also contributed to children dropping out of school as well. Regardless of the reason for dropping out, children who discontinue school are at an increased risk of a range of abuse and exploitation both within and outside of labour force and there is a lack of services or mechanisms that can provide a safety net or support for them.<sup>55</sup> It is unclear whether these factors continue to be the main underlying reasons for children's vulnerability to sexual exploitation in prostitution, and additional studies are required for this and other aspects of exploitation of children in prostitution.

Although socio-economic status often plays a role in children's sexual exploitation through prostitution and other forms of SEC, the situation is complex and other factors contribute to this issue. While many children who are exploited in prostitution are in families with financial hardships or might not have access to education, this is not necessarily always the case.<sup>56</sup> In the 2010 ILO survey, a significant proportion of victims of SEC did not describe their family's socio-economic status as poor or very poor. Some child victims actively engaged in exploitative sexual activities in order to gain access to material goods such as clothing, accessories, drinks and cigarettes.<sup>57</sup> Assessing the alternative of lower wages in restaurants or hotels, some children engaged in prostitution in areas such as Savusavu, which is perceived as a hotspot for affluent foreign retirees.<sup>58</sup>

While previous research provides some framework for understanding SEC in prostitution in Fiji, updated studies are needed to address the different types of vulnerabilities and push and pull factors children may experience, which may or may not be directly linked to poverty. Just as the rise in the use of the Internet and new technologies has informed major developments in how children are exploited, it is likely that other recent phenomena are also shaping new trends in SEC in prostitution. These gaps in current and comprehensive analysis of SEC in prostitution in Fiji will need to be explored in order to formulate stronger policies and strategize practices that will more effectively address this issue.

49 Radio New Zealand.(2010, August 5). Fiji taxi drivers aske to help combat child prostitution and abuse. *Radio New Zealand.*; Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*.16. Save the Children Fiji.

50 Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*.16. Save the Children Fiji.; Taylor, L. (2017, December 8). Fiji urged to end the silence and crackdown on child prostitution. Reuters.

51 ECPAT International. (2016). Online child sexual exploitation.

52 ILO Country Office for South Pacific Island Countries. (2010). *Child Labor in Fiji: A Survey of Working Children in Commercial Sexual Exploitation, on the Streets, in Rural Agricultural Communities, in Informal and Squatter Settlements and in Schools*. 48. Fiji: International Labor Organization.

53 *Ibid.*, 50.

54 *Ibid.*

55 *Ibid.*

56 Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*.17. Save the Children Fiji.

57 ILO Country Office for South Pacific Island Countries. (2010). *Child Labor in Fiji: A Survey of Working Children in Commercial Sexual Exploitation, on the Streets, in Rural Agricultural Communities, in Informal and Squatter Settlements and in Schools*. 53. Fiji: International Labor Organization

58 Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*.18. Save the Children Fiji.

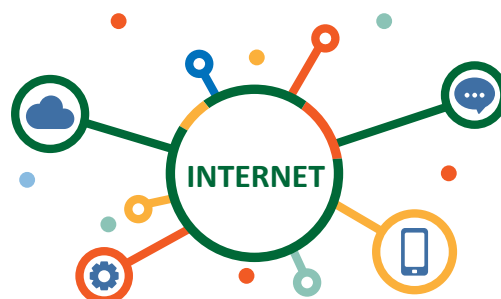
## ONLINE CHILD SEXUAL EXPLOITATION (OCSE)

Online child sexual exploitation (OCSE) can include child sexual abuse/exploitation material (CSAM/CSEM),<sup>59</sup> live streaming of child sexual abuse, online grooming of children for sexual purposes, sexual extortion of children and various CSAM/CSEM-related conducts (production, distribution, downloading).<sup>60</sup> Article 2 (c) of the OPSC defines ‘child pornography’ as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”.<sup>61</sup>

The explosive rise of the percentage of adult and children using the Internet across the world has contributed to children’s increased risk of sexual exploitation. Offenders everywhere are increasingly relying on the Internet and new communication technologies to exploit children and distribute CSAM/CSEM near and far. In Asia and the Pacific, around 70% of 15-24 year olds are connected to the Internet.<sup>62</sup> In 2017, there were 114 mobile cellular subscribers per 100 people in Fiji.<sup>63</sup> Fijian law prohibits both the production and possession of CSAM/CSEM; however, the limited data available, along with recent legislative efforts, indicates that OCSE poses a threat to children there.<sup>64</sup>

It is likely that children engaged in any one of the forms of sexual exploitation are victims of multiple forms of SEC, including OCSE.<sup>65</sup> Even in the context of an attentive family, children can still be at risk of OCSE given the often private and

**IN ASIA AND THE PACIFIC,  
AROUND 70%  
OF 15-24 YEAR OLDS  
ARE CONNECTED  
TO THE INTERNET**



hidden nature of many children’s Internet use and difficulties monitoring their usage. In Fiji, a major factor that has been identified in children’s sexual victimization, online or otherwise, is parent’s lack of awareness of the risks that their children face online.<sup>66</sup> Despite the growing ease with which children access the Internet and subsequently increased vulnerability to offenders online, parents and other family members may not be aware of their children’s activities online.

The limited data on CSAM/CSEM in Fiji is outdated but has identified cases of girls being exploited in the production and dissemination of CSAM/CSEM.<sup>67</sup> Whether the offenders in these cases were disseminating these materials through the Internet is unclear. Urgent data on the evolving nature of OCSE is needed to determine the scope in Fiji and to inform appropriate responses to the risks faced by children.

59 ECPAT prefers the terms ‘child sexual exploitation material’ or ‘child sexual abuse material’, but in a legal context still uses ‘child pornography’ in line with the recently widely adopted Terminology Guidelines, 40.

60 ECPAT. (n.d.). Issues we work on. Bangkok: ECPAT International.

61 OPSC, Article 2(c).

62 UNICEF (2017), “The State of the World’s Children 2017: Children in a Digital World,” 46, accessed 2 October 2018, [https://www.unicef.org/publications/files/SOWC\\_2017\\_ENG\\_WEB.pdf](https://www.unicef.org/publications/files/SOWC_2017_ENG_WEB.pdf)

63 International Telecommunication Union, World Telecommunication/ICT. (2018). Mobile cellular subscriptions (per 100 people). The World Bank.

64 ILO Country Office for South Pacific Island Countries. (2010). *Child Labor in Fiji: A Survey of Working Children in Commercial Sexual Exploitation, on the Streets, in Rural Agricultural Communities, in Informal and Squatter Settlements and in Schools*. 48. Fiji: International Labor Organization.; Lacanivalu, Losirene. (2018, April 20). Vuniwaqa: Support online, sex offenders bills. Fiji Sun.

65 ILO Country Office for South Pacific Island Countries. (2010). *Child Labor in Fiji: A Survey of Working Children in Commercial Sexual Exploitation, on the Streets, in Rural Agricultural Communities, in Informal and Squatter Settlements and in Schools*. 41. Fiji: International Labor Organization

66 *Ibid.*, 52.

67 Pacific Regional Rights Resource Team. (2006). *Child Sexual Abuse and Commercial Sexual Exploitation of Children in the Pacific: A Regional Report*. 38. Fiji: UNICEF Pacific.

To address OCSE and other forms of SEC, it will be imperative to equip parents and caretakers, teachers and service providers with information about risks and strategies to reduce children's vulnerability. Doing this will have to involve also working with parents and relatives to give them the tools to more adequately supervise their children. Additionally, informed protection strategies, policies, and efforts to increase reporting will require more data to provide a more comprehensive scope of OCSE in Fiji.

## SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL PURPOSES

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), defines 'trafficking in persons' as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".<sup>68</sup>

In case of child victims, Article 3 (c) of the Protocol specifies that "the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in

persons' even if it does not involve any of the means stipulated in Article 3 (a)".<sup>69</sup> In other words, the Protocol recognises that children can never be willing participants to their own exploitation.

For its part, the OPSC deals with the 'sale of children', defined as "any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration".<sup>70</sup>

Both concepts are often used in conjunction and without any clear distinction. However, despite a certain overlap, 'sale of children' is not identical to 'trafficking'. The 'sale of children' always involves some form of commercial transaction, which trafficking in children does not require, but does not necessarily include the purpose of exploiting a child (e.g. sale of children for illegal adoption). Therefore, 'sale of children' is not necessarily related to sexual abuse and sexual or other forms of exploitation. Lastly, the 'sale of children' can take place without physically moving the child out of his/her social environment, whereas trafficking inherently depends on the movement of the child.<sup>71</sup>

Fiji is identified as a source, destination, and transit country for children subjected to trafficking for sexual purposes.<sup>72</sup> Within the country, victims of SEC tend to be highly mobile, traveling between various urban areas to accommodate the demand.<sup>73</sup> Some of these children may be actively engaging in their own sexual exploitation, noted particularly amongst those who are operating individually, working their personal networks. However, taxi drivers or other facilitators participate in transporting children also operating within organized network to various locations to be sexually exploited. Movement among children to Suva from other divisions is particularly high when demand increases during the Hibiscus Festival and

68 UN General Assembly. (2000, November 15). United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). Res. 55/25 of 15. Art. 3 (a).

69 *Ibid.*, Article 3 (c).

70 OPSC, Article 2 (b).

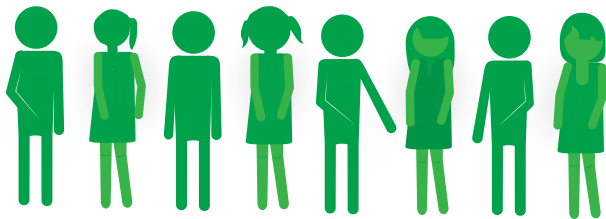
71 ECPAT International. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, 58. Bangkok: ECPAT International.

72 United States Department of State. (2018). 2018 Trafficking in Persons Report. 187.

73 ILO Country Office for South Pacific Island Countries. (2010). Child Labor in Fiji: A Survey of Working Children in Commercial Sexual Exploitation, on the Streets, in Rural Agricultural Communities, in Informal and Squatter Settlements and in Schools. 56. Fiji: International Labor Organization



## FIJI IS IDENTIFIED AS A SOURCE, DESTINATION, AND TRANSIT COUNTRY FOR CHILDREN SUBJECTED TO TRAFFICKING FOR SEXUAL PURPOSES



national sports competitions.<sup>74</sup> Similar patterns are observed when demand is high in tourist areas such as Nadi, the Coral Coast and Sigatoka.<sup>75</sup> In recent years, children have become increasingly mobile around Fiji for study and work reasons. This increased mobility necessitates further research to determine the patterns and hotspots for where sexual exploitation is taking place. These trends are consistent with global trends in the trafficking of children for sexual purposes.<sup>76</sup>

In Fiji, specific cultural practices often increase children's vulnerability to sex trafficking. As in other Pacific cultures, the nuclear family is not considered the "basic social unit" in Fijian culture,<sup>77</sup> though there is an ongoing transition to a more nuclear family structure among working educated parents in urban and peri-urban areas.<sup>78</sup> A common practice (though less common among Fijians of Indian descent)<sup>79</sup> of informal adoptions

persists in which parents, often in rural areas, send their children to attend high school in urban centres. While it may help parents to balance the costs of education and other major expenditures, also increases children's vulnerability to SEC. When families send their children to live with extended relatives or other families, often in larger cities, they may be sexually exploited as a means of exchange for housing, school fees, clothing and forced into domestic servitude. In other cases 'adopted' children are taken abroad to be sexually exploited.<sup>80</sup> There have also been cases of parents selling their children for money and goods and those children being sexual exploited.<sup>81</sup> Both boys and girls have been victims of these forms of sexual exploitation.

### SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM (SECTT)

The sexual exploitation of children in travel and tourism (SECTT) is defined as any "acts of sexual exploitation embedded in a context of travel, tourism, or both".<sup>82</sup> The UNWTO Framework Convention on Tourism Ethics recognises that the exploitation of children conflicts with the fundamental aims of tourism and should be strongly combated with the cooperation of all the States concerned.<sup>83</sup>

Tourism is the primary economic activity in Fiji, accounting for 38% of the Gross Domestic Product.<sup>84</sup> In comparison to many of its neighbours, Fiji's tourism infrastructure is more

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid.*

<sup>76</sup> ECPAT International. (2016). *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism 2016*. 13-15.

<sup>77</sup> United Nations Economic and Social Commission for Asia and the Pacific. (2009). *Pacific Perspectives on the Commercial Sexual Exploitation and Sexual Abuse of Children and Youth*. 34. United Nations.

<sup>78</sup> Save the Children Fiji. (March 2019). Personal communication.

<sup>79</sup> Save the Children Fiji. (March 2019). Personal communication.

<sup>80</sup> United Nations Economic and Social Commission for Asia and the Pacific. (2009). *Pacific Perspectives on the Commercial Sexual Exploitation and Sexual Abuse of Children and Youth*. 34-35. United Nations.

<sup>81</sup> *Ibid.*

<sup>82</sup> ECPAT International, Defence for Children, Ministry of Foreign Affairs of the Netherlands. (2016, May). *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism (hereinafter Global study on SECTT)*. Bangkok: ECPAT International.

<sup>83</sup> UN General Assembly. (11-16 September 2017). Consideration, approval or adoption of the UNWTO Framework Convention on Tourism Ethics. UN Doc. A/RES/707(XXII). Art. 5 (3).

<sup>84</sup> The World Bank. (2015, February 4). *Country Engagement Note for the Republic of Fiji for the Period FY2015-2017*. 10. Report No. 93708-FJ.

developed.<sup>85</sup> Over half of visits each year come from Australia with many also coming from New Zealand, followed by the United States and Europe, with increasing numbers of Chinese visitors as well.<sup>86</sup> The country's dependence on tourism is one factor of many that shape children's vulnerability to sexual exploitation, especially regarding SECTT and trafficking. Offenders include family members and foreign tourists, crew members on foreign fishing vessels, taxi drivers, and businessmen.<sup>87</sup>

The Fiji Women's Crisis Centre (FWCC) has highlighted that the crackdown on SEC in Asia, combined with limited public awareness and legal loopholes, may position the Pacific region as the next preferred destination of travelling child sex offenders.<sup>88</sup> As with other forms of sexual exploitation in Fiji, there is limited information on SECTT but there is some research and strong anecdotal evidence that it presents a serious threat to children in the country.<sup>89</sup> In older reports, child victims of SEC have reported traveling from Suva to tourist areas such as Nadi, the Coral Coast and Sigatoka when there is increased demand.<sup>90</sup> This indicates that children are likely being trafficked to these tourist areas to be exploited by visitors. Updated studies are needed to determine in what areas of the country children are most vulnerable to SECTT.

As travel has become more affordable and accessible in an "increasingly interconnected" world, more people are traveling and arriving in areas of the world that may have previously been more remote.<sup>91</sup> The rising risk of SECTT is

one consequence of this global phenomenon.<sup>92</sup> Recent studies have demonstrated that across global contexts, vulnerability to SECTT is relatively higher in tourist areas with higher concentrations of events and hotels and are more frequent during holiday seasons.<sup>93</sup> Similar to other global contexts, older reports have indicated that boys in Fiji are exploited in this form to an increasing extent but have even less access to rehabilitation, reintegration or counseling services than many girls.<sup>94</sup> As a result, they often experience greater difficulty escaping exploitation.<sup>95</sup>

## CHILD, EARLY AND FORCED MARRIAGE (CEFM)

The Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines) define 'child marriage' as "a marriage in which at least one of the parties is a child. It also refers to the act of marrying off children, usually young girls, with or without their consent".<sup>96</sup> Some forms of child marriage are related to commercial sexual exploitation of children, in cases where child marriage is linked to forced child labour, slavery and bondage, servitude or payment of a dowry.<sup>97</sup>

85 Pacific Regional Rights Resource Team. (2006). *Child Sexual Abuse and Commercial Sexual Exploitation of Children in the Pacific: A Regional Report*. 37. Fiji: UNICEF Pacific.

86 The World Bank. (2015, February 4). *Country Engagement Note for the Republic of Fiji for the Period FY2015-2017*. 10. Report No. 93708-FJ.

87 United States Department of State. (2018). *2018 Trafficking in Persons Report*. 187.

88 Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*. 20. Save the Children Fiji.

89 *Ibid.*, 19.

90 United Nations Economic and Social Commission for Asia and the Pacific. (2009). *Pacific Perspectives on the Commercial Sexual Exploitation and Sexual Abuse of Children and Youth*. 34-35. United Nations.

91 ECPAT International. (2016). *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism 2016*. 13.

92 *Ibid.*

93 ECPAT International. (2016). *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism 2016*.; Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*. 19. Save the Children Fiji.

94 *Ibid.*

95 Wing, H., Koster, V., Griffin, V. (2005). *The Commercial Sexual Exploitation and Sexual Abuse of Children in Fiji: A Situational Analysis*. 19. Save the Children Fiji.

96 Terminology Guidelines, 63.

97 ECPAT International and Plan International. (2015). *Thematic Report. Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage*. Bangkok: ECPAT International.

Reports have demonstrated that girls who are victims of CEFM in Fiji, similarly to elsewhere, also often experience other forms of sexual exploitation throughout their lives.<sup>98</sup> They are especially at risk if their husbands abandon them, often without the skills or education to engage in legal employment or the ability to access support services. East Asia and the Pacific are home to 12% (75 million) of the women first married or in a union before age 18.<sup>99</sup> The rates of CEFM in Fiji are lower than in the average for the region Pacific, although girls from disadvantaged or marginalized groups may still face risk.<sup>100</sup>

The risk to girls of early/forced marriage in Fiji may be relatively lower than in other contexts in part due to recent legislative developments that require that girls are 18 years of age before they can be legally married.<sup>101</sup> However, further research is required to validate the implementation and enforcement of this legislation, particularly in isolated village communities.

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98 United States Department of State, Bureau of Democracy, Human Rights, and Labor. (2018, April 20). *2017 Country Reports on Human Rights Practices: Executive Summary*.

99 UNICEF. (2018). *Child Marriage: Latest Trends and Future Prospects*.3.

100 *Ibid.*, 5.

101 Parliament of the Republic of Fiji. (2009). Marriage Act (Amendment) Decree 2009. Part 2, Article 9.; Save the Children Fiji. (2019, February). Personnel communication.

## International, Regional and National Commitments and Legislation on SEC

Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council

International Instruments		Date of ratification/accession
Convention on the Rights of the Child - 1989		13 August 1993
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - 2000		Signed 16 September 2005 but yet to be ratified
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)		17 April 2002
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organized Crime)		19 September 2017
Regional Instruments		Date of ratification/accession
The Pacific Plan		2005
Pacific Regional Rights Resource Team (RRRT)		1995
report		
Committee on the Rights of the Child (CRC review)	4 August 2011	<p>Key observations related to SEC:</p> <p>“The Committee notes with deepest concern, however, that sexual exploitation and abuse of children is prevalent in the State party, including through organized child prostitution networks and brothels;</p> <p>The Committee urges the State party to take all the necessary measures to address those recommendations from the concluding observations of the initial report under the Convention that have not been sufficiently implemented, particularly those related to allocation of resources, data collection, birth</p>



Human Rights Bodies	Date of latest submitted report	Comments
		registration, corporal punishment, sexual abuse and children with disabilities.” <sup>102</sup>
Committee on the Rights of the Child (OPSC review)		Fiji has yet to ratify the OPSC
Human Rights Council – Working Group on the Universal Periodic Review	17 December 2014	<p>Key recommendations related to SEC:</p> <p>“Take more vigorous public action against all forms of child trafficking for sexual exploitation, labour or other purposes (Lebanon);</p> <p>Strengthen and implement policy measures to eliminate child trafficking (Maldives)</p> <p>Redouble its efforts in implementing such policy as the Fiji National Gender Policy through a set of clear and measurable strategies (Indonesia)</p> <p>Give effective implementation to the Fiji National Gender Policy and the Women’s Plan of Action for 2010–2019, and renew efforts in fighting all cases of discrimination and violence against women (Italy)</p> <p>Build on the work of Fiji’s Ministry of Women, Social Welfare and Poverty Alleviation to improve the protection of women and girls by effectively addressing gender-based violence, particularly intimate partner violence, and by advancing programmes to combat gender discrimination (United States of America).”<sup>103</sup></p>

## INTERNATIONAL AND REGIONAL COMMITMENTS

International commitments	
Commitment	Start date
Sustainable Development Goals	2016
Stockholm Declaration and Agenda for Action against the Commercial Sexual Exploitation of Children	December 2001
SIDS Action Platform	September 2014

<sup>102</sup> United Nations Human Rights Office of the High Commissioner. (2014, October 13). Committee on the Rights of the Child: Concluding Observations on the Combined Second to Fourth Periodic Reports of Fiji.

<sup>103</sup> Universal Periodic Review. (2014). Fiji: Database of Recommendations.

International commitments	
Commitment	Start date
Bangkok Regional Commitment and Action Plan of the East Asia and Pacific Region against Commercial Exploitation of Children (pre-Yokohoma), 2001	2001
Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, 2002	2002
Pacific Regional Workshop on Combatting Poverty and Commercial Sexual Exploitation of Children (reaffirming commitment to Stockholm Declaration)	September 2003

In response to many of the human rights treaties and commitments that Fiji, and many of its island neighbours, have signed and agreed to implement, the Pacific Regional Rights Resource Team (RRRT), based in Suva, Fiji, conducted the Ratification and Implementation of Human Rights Treaties Project from 2012-2015 in Fiji and other Pacific island countries. In partnership with OHCHR and the Pacific Islands Forum Secretariat, RRRT advocated and promoted the benefits of implementing core UN human rights conventions and implementing human rights standards through national initiatives.<sup>104</sup> In particular, a significant emphasis was placed on the implementation of the Convention on the Rights of the Child and the Convention of the Rights of Persons with Disabilities.<sup>105</sup> Through this project, RRRT provided training and support to national human rights focal points to enable them to guide reporting at the national level and the alignment of national legislation with international human rights standards. Other core project components included training and supporting lawyers, magistrates, key implementing agencies and civil society on applying and implementing human rights standards.<sup>106</sup>

In accordance with the UN Convention of the Rights of Persons with Disabilities, Fiji passed the Rights of Persons with Disabilities Act in March 2018.<sup>107</sup> While it does not explicitly state the provisions applicability to children, the Act also articulates that all persons with disabilities

have the right to protection from “all forms of exploitation, violence and abuse, including gender-based violence.”<sup>108</sup>

Much of Fiji’s work towards achieving the Sustainable Development Goals (SDGs) has focused on climate and environment-related action and economic developed initiatives.<sup>109</sup> However, it has also committed significant resources towards achieving Goal 16 and Goal 5, which promote inclusive societies and gender equality and the empowerment of all women and girls respectively. For example, Fiji’s Access to Justice Project will work to improve access to justice for women and girls in particular, as well as potentially child victims of sexual exploitation through trainings with key actors within the legal system on how to better foster facilitate child-friendly processes.<sup>110</sup>

Fiji has agreed to and reaffirmed its commitment to a number of international and regional initiatives that directly, and indirectly, work to address SEC. Fiji has consistently engaged in the Bali Process, which held its seventh ministerial conference and Second Bali Process Government and Business Forum in August 2018. During the Ministerial Conference, recommendations from business to government were adopted which focused on enhancing “collaboration on tackling modern slavery.”<sup>111</sup> Efforts to implement the Bali Process have also focused on implementing the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and

104 RRRT. (n.d.). *Human Rights Programme: Ratification and Implementation of Human Rights Treaties Project*.

105 *Ibid.*

106 *Ibid.*

107 Parliament of the Republic of Fiji. (2018, March 2). Rights of Persons with Disabilities Act 2018.

108 *Ibid.*, Article 6(35)(1).

109 Parliament of the Republic of Fiji. (2018, March 5). The Parliament of Fiji and the Sustainable Development Goals: A Self-Assessment, 3-6.; Fiji Sun (n.d.). Sustainable Development Goals. *Fiji Sun*.; Shalini, Shirika. (2018, May 19). Campaign launched to help Fijians understand Sustainable Development Goals. *Fiji Sun*.

110 UNDP Pacific Office in Fiji. (n.d.). Fiji Access to Justice Project.; Save the Children Fiji (2019, February). Personnel Communication.

111 The Bali Process. (2018). *The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime*.

promoting child protection practices in the private sector.<sup>112</sup> Notably, the Fijian government signalled its intention to enhance its work with the private sector and civil society to “improve the protection, rehabilitation and reintegration of victims of human trafficking regardless of their nationality.”<sup>113</sup>

At the conclusion of the Third International Conference on Small Island Developing States (SIDS Conference) in September 2014 in Samoa, approximately 300 “genuine and durable” partnerships were announced that would work towards achieving sustainable development.<sup>114</sup> In the wake of the 2014 Third International Conference on SIDS, the UN General Assembly passed Resolution A/70/202 to establish the SIDS Partnership Framework to “monitor and ensure the full implementation of pledges and commitments”.<sup>115</sup> The 18 “Samoa Pathway Priority Areas” include social development and gender equality and women’s empowerment. Towards achieving progress in these two priority areas, Fiji, along with several other Pacific island countries, partnered with the Australian government and UNICEF on a project (2014-2017) to protect children from violence, abuse and exploitation in the Pacific.<sup>116</sup>

Despite these commitments and initiatives, key gaps in areas of focus and mechanisms persist. For example, Fiji has not joined any global or regional initiatives specifically addressing OCSE. At the regional level, while there has been growing discussion advocating for the establishment of a human rights framework for the Pacific, it continues to be the only region that lacks a regional human rights mechanism.<sup>117</sup>

Most recently, Fiji became the first Pacific Island Nation elected to the UN Human Rights Council, which is “charged with the promotion and protection of all human rights around the world.”<sup>118</sup> This may present human rights and child’s rights advocates in Fiji with a unique

opportunity to highlight the status of children in regards to sexual exploitation in the country and to promote the establishment of a regional human rights mechanism to monitor violations and progress in this area and others.

## NATIONAL LEGISLATION

### Exploitation of children in prostitution

The Employment Relations Promulgation (2007), under Article 91 detailing prohibiting the worst forms of child labour, criminalizes “the use, procuring or offering of a child for prostitution”.<sup>119</sup> The Crimes Decree 2009 offers further detail on the prohibition of the exploitation of children in prostitution.<sup>120</sup> The Decree sets a sentence of twelve years for parents for any person with custody, charge or care of a child who “sells, lets for hire or otherwise disposes” of a child with the intention that the child will be employed or used for the purpose of prostitution, illicit sexual intercourse, any unlawful and immoral purpose, or with the knowledge that the child will be exploited for these purposes.<sup>121</sup> A sentence of imprisonment for twelve years is also imposed in cases when a person “buys, hires or otherwise obtains possession” of a child with the intention that the child will be subjected to any of the aforementioned forms of sexual exploitation.<sup>122</sup> However, the first provision is limited by the offender’s relationship to the child. The wording of Article 226(1) seems to suggest that if the person selling or letting for hire the child does not have a custodial obligation toward the child, then they would not be punishable under this law.<sup>123</sup> In research for this report, no information on the interpretation and concrete application of this provision was identified.

In Article 230, the Decree deems knowingly living “wholly or in part on the earnings of prostitution,”

112 The Bali Process. (2015, March). Regional Symposium on Trafficking for the Purposes of Labour Exploitation: Trends, Key Issues and Regional Cooperation. Bangkok Thailand. 25-26 March 2015. Co-Chairs’ Summary.2.

113 Vula, Timoci. (2018, August 8). Collect response to transnational crimes. *The Fiji Times*.a

114 SIDS Action Platform. (2017). SIDS Partnership Framework.

115 Risse, Nathalie. (2016, May 9). SIDS Action Platform Provides Updates on Partnership Framework.

116 UN DESA. (2016). Protecting Children from Violence, Abuse and Exploitation in the Pacific.

117 Secretariat of the Pacific Community (Pacific Regional Rights Resource Team). (2012). Regional Human Rights Mechanisms: Pathways for the Pacific. Suva, Fiji: Pacific Regional Rights Resource Team.

118 Kumar, Ashna. (2018, October 14). Fiji, First in pacific to be in UN Human Rights Council. *Fiji Sun*.

119 Interim Government of the Republic of Fiji. (2007, October 2). Employment Relations Promulgation. Part 10, Article 91(c).

120 Parliament of the Republic of Fiji. (2009). Crimes Decree 2009. Part 13, Article 226.

121 *Ibid.*, Part 13, Article 226(1).

122 *Ibid.*, Crimes Decree 2009., Part 13, Article 227(1).

123 *Ibid.*, Part 13, Article 226(1).

a summary offence that carries a sentence of six months imprisonment.<sup>124</sup> The article does not specify whether this punishment would also apply to children being exploited in prostitution who may be living on the earning they have received from their exploiters, potentially leaving child victims of prostitution vulnerable to prosecution for their exploitation.

It is noteworthy that certain provisions in the Crimes Decree prohibit the “defilement” of a child under age 16 or permitting the “defilement” of a child under age 16 on a premises, allow as “a sufficient defence” proof that the offender had “reasonable cause to believe”, or did believe, that the child was at least 16 years of age.<sup>125</sup> As it is currently worded, these laws leave child victims vulnerable to sexual exploitation and other forms of sexual abuse as it implies the decriminalization of the offence on those grounds set out in the provision.

### Online child sexual exploitation (OCSE)

Although Article 91 of the Employment Relations Promulgation (2007) more overtly criminalizes the sexual exploitation of children in CSEM/CSAMs, it does not address the reality of the largely online nature of this exploitation in the current context.<sup>126</sup> The Article forbids the “use, procuring or offering of a child...for the production of pornography or for pornographic performances.”<sup>127</sup> In a similar fashion, Article 62A of the Juveniles (Amendment) Act dictates that a person who “records from, reproduces, places onto, views, or accesses on or from, media or records of pornographic activity directly or indirectly involving juveniles, or persons who look like juveniles whether they are or not.”<sup>128</sup> The Article further criminalizes the production, participation in, viewing, dissemination, selling, and purchasing of “media or recording of” pornographic activity directly or in directly involving children or individuals who look like children whether they are or not.<sup>129</sup> The omission of the online nature of the production,

dissemination and use of CSEM/CSAM reflects the fact that the amendment was enacted in 1997. However, it is worth noting that the act is quite progressive in including in the definition of CSAM also materials involving persons who do look like children whether they are or not as prescribed by the Council of Europe Convention on Cybercrime.<sup>130</sup>

Fiji has not passed legislation specifically addressing OCSE. However, the Fijian parliament passed the Online Safety Act in 2018, which makes it a punishable offense to post an “intimate visual recording of an individual,” unless there is consent.<sup>131</sup> The Act explicitly qualifies that the requirement of consent “does not include the consent of a child.”<sup>132</sup> This clarifies that posting, or threatening to post, an intimate visual recording of a child would be prohibited under any circumstances. A violation of this prohibition carries a fine of up to \$20,000 or imprisonment of up to five years, or both.<sup>133</sup> Despite prohibiting intimate visual recordings, the provisions do not mention any prohibition of audio recordings or static images, leaving significant loopholes in its protections.

The Online Safety Act established an Online Safety Commission with the authority to receive complaints related to electronic communication that causes or is meant to cause harm.<sup>134</sup> However, delineation of who can submit a complaint is restrictive. According to the Act, only “a child, the child’s parent or legal guardian, or the school principal or head teacher of a school if the child is a student at the school and consents,” may submit a complaint to the Commission on the child’s behalf if they believe the child is the “subject, or targeted recipient, of electronic communication intended to cause or likely to cause harm.”<sup>135</sup> To provide more protection for children, the law should be consistent with the mandatory reporting obligations imposed on all professionals listed in the Child Welfare Act 2010.<sup>136</sup>

124 *Ibid.*, Article 230(1)(a).

125 Parliament of the Republic of Fiji. (2009). Crimes Decree 2009. Part 12, Articles 215(1-2), 219-220.

126 Interim Government of the Republic of Fiji. (2007, October 2). Employment Relations Promulgation. Part 10, Article 91.

127 *Ibid.*, Article 91(c).

128 Parliament of the Republic of Fiji. (1997). Juveniles (Amendment) Act, 1997. Article 62A(1)(a).

129 *Ibid.*, Article 62A(1)(b).

130 Council of Europe. (2001). Convention on Cybercrime (Budapest Convention on Cybercrime).Article 9(2)(b).

131 Parliament of the Republic of Fiji. (2018, May 16). Online Safety Act. Part 4, Article 25(1).

132 *Ibid.*, Part 4, Article 25(4).

133 Parliament of the Republic of Fiji. (2018, May 16). Online Safety Act. Part 4, Article 25(2)(a).

134 *Ibid.*, Part 2, Article 6(1-8).

135 *Ibid.*, Part 2, Article 13(13)(1-2).

136 FWCC. (2018). Fiji’s Women’s Crisis Centre Submission: Online Safety Bill No.7 of 2018. 9.



The Online Safety Act's primary purpose was to address cyberbullying.<sup>137</sup> While sexual exploitation can occur in the context of cyberbullying, the bill's scope does not offer strong protection for children against most forms of online sexual exploitation according to international standards. For example, while the bill potentially criminalizes posting, distributing or transmitting visual recordings of CSAM/CSEM, the full application of the prohibition is unclear. The bill also does not address the production, procuring, possessing or knowingly obtaining CSAM/CSEM online.<sup>138</sup> Similarly, the Online Safety Act does not contain any provisions criminalizing grooming for the purpose of producing CSAM/CSEM or causing children to view sexual abuse or sexual activities.<sup>139</sup> To provide effective protection of children who are vulnerable to OCSE, these laws need to be overhauled and updated to more accurately reflect the reality of the treats facing children.

### **Sale and trafficking of children for sexual purposes**

Fiji has a number of laws that potentially address the sale and trafficking of children for sexual purposes to varying degrees. In the Immigration Act of 2003, trafficking includes the "recruitment, transportation, transfer, harbouring or receipt of a person for the purposes of exploitation".<sup>140</sup> The Act states that exploitation includes any form of sexual exploitation, which is consistent with the Palermo Protocol.<sup>141</sup> The Immigration Act of 2003 also states that "trafficking in a person who is a child regardless of whether the child's entry into the Fiji Islands or any other state was arranged by unlawful means" amounts to an offence.<sup>142</sup> The Act also sets the penalty for trafficking in children at \$750,000 or 20 years imprisonment.<sup>143</sup> However, the offence of trafficking in children does not consider the purpose of trafficking.<sup>144</sup>

The Employment Relations Promulgation 2007 prohibits the sale and trafficking of children.<sup>145</sup>

However, this provision only recognizes the offence as it relates to child labour and does not reference the sexual purposes of the crime.

The law again encompasses both the sale and trafficking of children within its prohibition in the Crimes Decree 2009, which makes reference to the sexual purpose of the offence.<sup>146</sup> Articles 114 and 117 criminalize the trafficking of children from abroad and domestically through the organization, facilitation of that transportation when the offender either intends that the child will be sexually exploited, or is "reckless as to whether" the child will be sexually exploited following that transportation.<sup>147</sup>

### **Sexual exploitation of children in travel and tourism (SECTT)**

Fiji lacks a legal framework protecting children from SECTT. Legally, Fiji has neither criminalized visiting the country with the intention of sexually exploited a child nor traveling to another country with the intention of sexually exploiting a child. While the laws prohibiting other forms of SEC offer children some measure of protection, without legislation specifically targeting SECTT, children will remain vulnerable to this type of sexual exploitation. It is worth noting, that individual hotels may request child protection and safeguarding training from Save the Children Fiji.

### **Child, early and forced marriages (CEFM)**

Previously, Fijian law permitted a child to marry at age 16 if they are female, while boys had to wait until they reach adulthood, age 18, in order to get married.<sup>148</sup> The law also required parental consent if one of the party to the marriage was under 21 years of age.<sup>149</sup> In July 2009, the Marriage Act (Amendment) Decree 2009 raised the legal marriage age for girl to 18 and repealed the requirement for parental consent in cases

137 *Ibid.*, 3.

138 Lanzarote Convention, Article 20(1).

139 *Ibid.*, Articles 22-23..

140 Parliament of the Republic of Fiji. Immigration Act 2003. Part 5, Article 17(1)(c).

141 *Ibid.*, Palermo Protocol, Article 3(a).

142 *Ibid.*, Part 5, Article 20.

143 *Ibid.*

144 *Ibid.*

145 Interim Government of the Republic of Fiji. (2007, October 2). Employment Relations Promulgation. Chapter 10, Article 91(a).

146 Parliament of the Republic of Fiji. (2009). Crimes Decree 2009. Part 3, Articles 114(1)(c) and 117(1)(c).

147 *Ibid.*

148 Parliament of the Republic of Fiji. (1978). Marriage Act. Part 3, Article 12.

149 *Ibid.*, Part 3, Article 13.

where one or both party is under age 21.<sup>150</sup> The amendment also makes wilfully marrying a person under 18 years of age an offence punishable by a fine of up to five hundred dollars or to imprisonment for a term not exceeding two years.<sup>151</sup> Likewise, inducing or endeavouring to induce a marriage officer or other individual to solemnize a marriage involving a minor or assisting the principal offender in marrying a child carry the same sentence.<sup>152</sup>

In iTaukei villages however, girls who become pregnant before they are 18 years of age frequently live as “common-law wives” with the father of child after the men satisfy their obligations to present a traditional form of apology called *bulubulu*.<sup>153</sup> Once the girl turns 18, they often marry as soon as possible. In recent years, the Heads of villages have been sensitized to awareness and training to prevent the use of *bulubulu* as a justification and reconciliation measure to sexual abuse, leading to the practice no longer being as widely accepted.<sup>154</sup> Continued efforts to enforce this law and the protect girls from CEFM will be necessary to reduce their risk of this form of sexual exploitation.

## Extraterritorial jurisdiction and extradition law

Part 3 of the Crimes Decree 2009 lays out the extent of the jurisdiction of Fiji’s courts.<sup>155</sup> The law states that the provisions of the Crimes Decree, or any other Act or Decree prescribing an offence can extend beyond geographical jurisdiction to be applied to that offence committed by: (1) a citizen of Fiji in any place outside of Fiji; (2) any corporation that is registered in Fiji but is located in any place outside of Fiji; (3) and any resident of Fiji in any place outside of Fiji.<sup>156</sup> If these conditions are met, the Crimes Decree or any other act “may specifically make the extension of geographical jurisdiction conditional upon there being no comparable offence in the foreign jurisdiction”

where the offence was committed.<sup>157</sup> This is a form of complementary (subsidiary) extraterritoriality through which Fiji’s active jurisdiction extends beyond its territory and could be used to punish SEC-related crimes committed by citizens, residents, and corporations. However, the law’s requirement that the crime is not penalised in the other country assumes that the crime would be therefore punished in that country if there is a law prohibiting the offence. This assumption may leave children vulnerable if the laws in the other country where the offence takes place are not strongly enforced.

The Office of the Director of Public Prosecutions manages extradition requests in accordance with the Extradition Act 2003.<sup>158</sup> While the Act does not explicitly list the offences that would qualify as extradition offences, it does set out general requirements for extradition. Some specific requirements may apply depending on whether the requesting country to a Commonwealth country, a country with which Fiji has a treaty or a comity country. The Act describes generally that an offence constitutes an extradition offence if it meets two requirements: (1) it is offence in the requesting country that carries a sentence of not less than 12 months and up to a maximum sentence of death, imprisonment or other deprivation of liberty; and (2) the conduct that constitutes the offence would constitute an offence in Fiji for which the minimum penalty would entail a term of imprisonment or deprivation of liberty for not less than 12 months and the maximum penalty would be life imprisonment.<sup>159</sup>

In addition to the Extradition Act, the Mutual Assistance Criminal Matters Act of 1997 permits residents from Australia and New Zealand to be prosecuted in their home country for offences committed in Fiji. In Addition, the Act also “facilitates criminal investigations into crimes such as prostitution and trafficking in persons.”<sup>160</sup> The original law allowed the Act to be extended

150 Parliament of the Republic of Fiji. (2009). Marriage Act (Amendment) Decree 2009. Part 2, Articles 3-4.

151 *Ibid.*, Part 2, Article 9(c).

152 *Ibid.*, Part 2, Article 9(b-c).

153 United States Department of State- Bureau of Democracy, Human Rights, and Labor. (2018, April 20). 2017 Country Reports on Human Rights Practices: Fiji.

154 Save the Children Fiji. (March 2019). Personal communication.

155 Parliament of the Republic of Fiji. (2009). Crimes Decree 2009. Part 3.

156 *Ibid.*, Part 3, Article 8(1).

157 *Ibid.*, Part 3, Article 8(2).

158 Office of the Director of Public Prosecutions. (n.d.). Extradition.

159 Parliament of the Republic of Fiji. (2003). Extradition Act 2003. Part 1, Article 3(1).

160 Pacific Regional Rights Resource Team. (2006). *Child Sexual Abuse and Commercial Sexual Exploitation of Children in the Pacific: A Regional Report*. 35. Fiji: UNICEF Pacific.

to any country that “has an arrangement or has entered into a reciprocal agreement on assistance in criminal matters with Fiji.”<sup>161</sup> The Act was strengthened by amendments in 2005, which

allows for the law to be applied in cases where requests are made “whether or not the foreign country” meets those original requirements for previous arrangement, agreement or reciprocity.<sup>162</sup>

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161 Parliament of the Republic of Fiji. (1997). Mutual Assistance in Criminal Matters Act, 1997. Part 1, Article 5.

162 Parliament of the Republic of Fiji. (2005). Mutual Assistance in Criminal Matters (Amendment) Act 2005. Article 4. Office of the Director of Public Prosecutions. (n.d.). Mutual Legal Assistance.

# National Response to SEC

## COORDINATION AND COOPERATION

Fiji's National Coordinating Committee for Children (NCCC), a multi-sectoral committee chaired by the Social Welfare Department within the Ministry of Women, Children and Poverty Alleviation, oversees and monitors the implementation of the CRC.<sup>163</sup> The NCCC also manages the Child Protection Policy and Programme. The Inter-Agency Committee on All Forms of Child Abuse, Neglect, and Abandonment is attached to the NCCC. The Inter-Agency Committee is comprised of members of a number of NGOs, including the Women's Crisis Centre and Pacific Children Project, and the Departments of Health, Social Welfare, Prosecution, Police, and Education.

In the past, the NCCC's effectiveness negatively impacted by a lack of participation of members in meetings and lack of dedicated funds to create or sustain a secretariat for the NCCC.<sup>164</sup> The NCCC has worked to overcome these challenges by continuing to raise public awareness on the importance of child protection. For example, in November 2018 the NCCC organized an event for the Prevention of Child Abuse and Neglect National Celebration.<sup>165</sup> The NCCC has also launched a coalition to promote and increase child

abuse and neglect education that will include NGOs and other development partners, and those partners within the government that are involved in child protection issues.<sup>166</sup>

Outside of the NCCC, much of Fiji's efforts to address SEC have been implemented in the context of its anti-trafficking strategy. In 2017, Fiji acceded to the Palermo Protocol on Trafficking in Persons.<sup>167</sup> In the same year, Fiji also hosted the Pacific Islands Regional Consultation in preparation for the IV Global Conference on the Sustained Eradication of Child Labor, which included activities to end SEC.<sup>168</sup> Additionally, the government has also commenced implementation of its National Action Plan on the Eradication of Child Labor.<sup>169</sup> In 2011, Fiji drafted its National Plan of Action to Eradicate Trafficking in Persons and Child Trafficking. The plan is designed to guide the government's efforts to prevent and combat trafficking of persons with a particular emphasis on raising public awareness and increasing trafficking-related education and anti-trafficking training for government officials. The Immigration Department was charged with chairing the action plan, while Fiji's Police Force's Human Trafficking Unit was meant to serve as the lead coordinator for interagency efforts to investigate and begin charges for trafficking

163 UNICEF. (2003, September 15-19). *Report on the Pacific Regional Workshop on Combating Poverty and Commercial Sexual Exploitation of Children and Youth*. 36. Fiji.

164 The National Coordinating Committee on Children. (2012). *Fiji's 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Report on the Convention on the Rights of the Child*. 26.

165 Nasiko, Repeka. (2018, November 16). Celebration to raise awareness on the importance of children's protection. *The Fiji Times*.

166 Swami, Nasik. (2018, November 20). Children deserve care: Dr. Koroivueta. *The Fiji Times*.

167 United Nations Treaty Collection. (2019). *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*.

168 U.S. Department of Labor. (2017). *Child Labor and Forced Labor Reports: Fiji*. ; (2017, November). IV Global Conference on the Sustained Eradication of Child Labour. Buenos Aires, Argentina. 14-16 November 2017: Buenos Aires Declaration on Child Labour, Forced Labour and Youth Employment.

169 U.S. Department of Labor. (2017). *Child Labor and Forced Labor Reports: Fiji*.



cases.<sup>170</sup> Despite the formulation of a promising strategy for action in this area, the plan has not been officially approved. Likewise, the Trafficking Task Force, which is responsible for implementing the National Plan of Action to Eradicate Trafficking in Persons and Child Trafficking, has been inactive since 2012.<sup>171</sup> However, some progress in this area may be forthcoming as the action plan is due to be finalized and approved in 2019.<sup>172</sup>

At the national level, the Fiji Police Force's mandate includes enforcing laws on the trafficking of children for sexual purposes and other forms of SEC.<sup>173</sup> To this end, the Fiji Police Force is tasked with maintaining a Human Trafficking Unit and providing training to other police units focused on addressing all forms of human trafficking.<sup>174</sup> Additionally, the Force is responsible for retaining five officers tasked with enforcing criminal laws related to the worst forms of child labour, which includes SEC.<sup>175</sup> The Fiji Police Force is also mandated to collaborate with the Australian Federal Police to prevent SECTT from being perpetrated by Australian nationals, which comprise the largest group of tourist visiting the island country.<sup>176</sup> The Department of Immigration is responsible for coordinating with the Fiji Police Force to investigate child victims of sexual exploitation, including trafficking for sexual purposes, which are then supposed to be tried in the criminal court system.<sup>177</sup> However, the police anti-trafficking unit lacks dedicated and sufficient resources to conduct effective trafficking investigations and other anti-trafficking activities. Likewise, inadequate interagency collaboration between law enforcement and prosecutors have represented another obstacle to efforts to pursue trafficking cases.<sup>178</sup>

In 2017, the police anti-trafficking unit investigated one case that involved the trafficking of a child for sexual purposes.<sup>179</sup> Despite the mandates of

the Fiji Police Force and other agencies tasked with enforcing national laws addressing the trafficking of children for sexual purposes, the government did not convict any traffickers for the third consecutive year. Neither did it take proactive measures to screen for child victims of trafficking for sexual purposes or to dedicate adequate resources to anti-trafficking efforts, including the implementation of its anti-trafficking national action plan.<sup>180</sup> More training and human resources will be needed to enhance law enforcement's prevention and response to the trafficking of children for sexual purposes in Fiji.

## PREVENTION MEASURES, AWARENESS-RAISING AND EDUCATION

Regarding prevention measures, the U.S. Department of State reported that the Fijian government has not taken any actions to reduce the demand for SEC.<sup>181</sup> However, there have been other ongoing prevention and awareness-raising activities that the government has supported. One major programme has been the "Children are a Gift from God" educational resource package and training facilitation manual, originally produced through the Pacific Children's Project and jointly implemented by UNICEF Pacific and the Australian Government.<sup>182</sup> The resource package has been used in villages across all 14 Fijian provinces, including maritime areas, to foster community dialogue and strength-based approaches to effectively enhance protection of children from abuse, neglect and exploitation.<sup>183</sup> The resource promotes caring for children by tapping into "existing community values regarding what is seen as 'right' and 'wrong' behaviour, influenced by a strong cultural engagement with religious faith."<sup>184</sup> Representative from the Ministry of Women,

170 *Ibid.*

171 *Ibid.*

172 Save the Children Fiji. (2019, February). Personal Communication.

173 U.S. Department of Labor. (2017). *Child Labor and Forced Labor Reports: Fiji*.

174 *Ibid.*

175 *Ibid.*

176 *Ibid.*

177 *Ibid.*

178 U.S. Department of State. (2018). *2018 Trafficking in Persons Report: Fiji*.

179 *Ibid.*

180 *Ibid.*

181 U.S. Department of State. (2018). *2018 Trafficking in Persons Report: Fiji*.

182 UNICEF. (2014). *Tapping into Community Values to Support Child Protection in Fiji. "Children are a Precious Gift from God": Community-Based Facilitation Manual.1.*

183 *Ibid.*, 1-2.

184 *Ibid.*, 2.

Children and Poverty Alleviation who conduct the training have found success in encouraging communities to reflect on the ways they grew up have effective the way they have raised their children, particularly regarding physical modes of discipline. Another key area for exploration is “how community attitudes and expectation are changing in terms of the roles of children in a modern society.”<sup>185</sup>

Much of the programme’s success as an outreach tool is due to commitment it has garnered from “champions” within the government, development agencies and communities.<sup>186</sup> For example, a limited number of Social Welfare Officers from the Department of Social Welfare “work tirelessly” to raise awareness about the importance of protecting children in marginalized communities and facilitating the founding of community-based groups who strategize actions to establish more protective environments in their villages.<sup>187</sup> Many of these actions and activities have involved religious institutions in the communities. The programme has been described as giving parents “permission to value their children.”<sup>188</sup> Anecdotally, evidence has indicated growing demand at the community level for increased child protection. Overall, the manual has been a crucial component of efforts to spur further dialogue about the need for increased awareness at the village level.<sup>189</sup> Child protection officers continue to use the manual as a part of the Ministry’s its regular programming and it has been disseminated at the community level as well.<sup>190</sup>

In order to continue to enhance the resource package’s success, additional manpower and capacity will be required.<sup>191</sup> Secondly, sustained and systematic evaluation of these training activities and their impact will be necessary in order to maximize its effectiveness.<sup>192</sup> Finally, future iterations of the manual should work to continue expanding its reach by making it more

accessible to individuals with “little or no training or experience in child protection issues.”<sup>193</sup>

A smaller scale and more indirect programme that has reduced children’s vulnerability to sexual exploitation is the Care and Protection Allowance. In 2015, the Ministry for Women, Children and Poverty Alleviation and UNICEF launched the “Child Sensitive Social Protection in Fiji: Assessment of the Care and Protection Allowance” report.<sup>194</sup> The report evaluated the effectiveness of Fiji’s Care and Protection Allowances, which targets impoverished and vulnerable children with its monthly food voucher programme and cash transfer schemes. Reaching 5,000 children across Fiji, the programme is specifically designed for children from single-parent households, prisoner-dependent families, and foster families living in poverty.<sup>195</sup>

Though the monthly food voucher programme, children receive at least the minimum level of necessary nutrition. The cash transfers help families meet their children’s other basic needs, including clothing, transportation, health care, and education.<sup>196</sup> Overall, the assessment concluded that the Care and Protection Allowance, in line with international experiences with cash transfer, the cash was used appropriately and significantly improved the lives of the programme’s beneficiaries. While the programme is not explicitly intended to prevent sexual exploitation, by keeping children from becoming “worse off and some even destitute”, it has help reduce children’s vulnerability.<sup>197</sup>

The International Labor Organization Tackling Child Labor through Education (TACKLE) Project is a European Union-funded project intended to enhance coordination, enforcement and monitoring mechanisms to build the capacity for implementation policies and programmes related to child labour including awareness raising

185 *Ibid.*

186 *Ibid.*

187 *Ibid.*

188 *Ibid.*

189 *Ibid.*

190 Save the Children Fiji. (2019, February). Personal Communication.

191 UNICEF. (2014). *Tapping into Community Values to Support Child Protection in Fiji. “Children are a Precious Gift from God”: Community-Based Facilitation Manual*.4.

192 *Ibid.*, 4.

193 *Ibid.*

194 Government of Fiji. (2015, March 8). Ministry and UNICEF Launch “Child Sensitive Social Protection Report”.

195 UNICEF. (2015). *Child-Sensitive Social Protection in Fiji: Assessment of the Care and Protection Allowance*.7.

196 Government of Fiji. (2015, March 8). Ministry and UNICEF Launch “Child Sensitive Social Protection Report”.

197 UNICEF. (2015). *Child-Sensitive Social Protection in Fiji: Assessment of the Care and Protection Allowance*.9.

activities and research.<sup>198</sup> The first phase of TACKLE in Fiji was implemented from March 2008 until August 2013. Specific aims of the project included improving and strengthening Fiji's child labour and education legal frameworks; strengthening institutional ability to improve capacity to develop and implement child labour strategies; design and implement targeted actions to combat child labour and develop effective demonstration models; and enhance knowledge base on child labour and education through improved advocacy and dissemination of good practices.<sup>199</sup>

The second phase of the TACKLE project began in March 2015 and was implemented until March 2017. The objectives of this second phase were to enhance partnerships, coordination, enforcement and monitoring mechanisms responding the child labour; to build capacity to implement policies and programmes for formal and non-formal education and promote school retention; and to improve the knowledge base on combating child labour, especially its worst forms, through researching, action, awareness, and knowledge-sharing.<sup>200</sup> While much of the project's activities relate broadly to child labour, the project explicitly acknowledges that many of the children exposed to exploitative labour become vulnerable to the worst forms of child labour, including sexual exploitation.<sup>201</sup>

Regarding SECTT, the Fiji Hotel and Tourism Association's (FHTA) Code of Practices & Ethics that members agree to includes language obligating members to "discourage and whenever possible prevent sexual tourism or exploitation of human beings in any form, especially of children and the mentally or physically challenged persons."<sup>202</sup> According to the FHTA's website, the accommodation providers of the association's membership represent nearly 80% of Fiji's total room inventory.<sup>203</sup> While membership to the FHTA is voluntary, members have agreed "to accept and by bound" by the Code has a condition of their

membership. Violation of the Code and failure to remedy the violation can result in expulsion from the association, suspension of membership, or other disciplinary action against the offending member.<sup>204</sup> How effective the Code has been as prevention measure against SEC, and to extent preventing SEC remains a priority is not clear from available information.

## CHILD PROTECTION, ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

The Fiji Access to Justice Project, commenced in 2016 and scheduled to run until 2020, has worked to increase access to justice for "impoverished and vulnerable groups," by enabling them to access their rights and legal services through essential justice institutions, while simultaneously "strengthening those key justice institutions to undertake improved service delivery."<sup>205</sup> These reforms include ensuring that victims' cases against perpetrators are "effectively prosecuted" and that "court cases [proceed] at the proper pace".<sup>206</sup> The EU-funded project initiated an Access to Justice Assessment of Fiji with support from The Hague Institute for Innovation of Law in March 2018. The purpose of the assessment is to collect data and conduct analysis across the justice sector to provide the basis for an "evidence-based approach to justice reform."<sup>207</sup> Another key component of the assessment entails giving a voice to the most vulnerable groups in Fijian society, which includes women and persons with disabilities, by assessing their perceptions on access to justice. This process will include a participatory gender analysis, which will help inform the formulation of more gender-sensitive services. The project is meant to support Goal 16 and Goal 5 of the SDGs, which promote peaceful and inclusive societies and gender equality and

198 U.S. Department of Labor. (2017). *Child Labor and Forced Labor Reports: Fiji*.

199 International Labor Organization. (2018). TACKLE Fiji: Tackling Child Labor through Education in Fiji.

200 International Labor Organization. (2018). TACKLE Fiji: Tackling Child Labor through Education in Fiji Phase 2.

201 Tawake, Varanisese. (2017, June 12). World Day Against Child Labour 2017- "In conflicts and disasters, protect children from child labor".; International Labor Organization. (2018). TACKLE Fiji: Tackling Child Labor through Education in Fiji Phase 2.

202 Fiji Hotel and Tourism Association. (2013, September 27). FHTA Code of Practices & Ethics.

203 *Ibid.*

204 *Ibid.*

205 UNDP Pacific Office in Fiji. (2018, March 6). Launch of the Fiji Access to Justice Assessment.

206 UNDP Pacific Office in Fiji. (2018, March 1). Bakhodir Burkhanov: Access to Justice Assessment Launch in Fiji.

207 UNDP Pacific Office in Fiji. (2018, March 6). Launch of the Fiji Access to Justice Assessment.

empowerment of all women and girls.<sup>208</sup> Through the project, magistrates have received trainings on establishing and promoting child-friendly justice services and processes to support child victims.<sup>209</sup>

Fiji's social programmes to address the unique needs of child victims of trafficking and other forms of SEC are largely established in Suva and primarily target girls.<sup>210</sup> Given this concentration of support services in the urban capital city, there is significant need to expand and enhance services for children in remote areas and for boys. There is also a considerable need to increase victim identification and protection efforts. In both 2016 and 2017, only one Fijian child was identified as a victim of trafficking for sexual purposes.<sup>211</sup> In 2017, the government provided mental health treatment for the child victim, which had been identified by members of civil society.<sup>212</sup> Some of the challenges the unit has identified in identifying and locating perpetrators included issues related to jurisdiction, information sharing, and capacity and capability.<sup>213</sup>

In addition to trafficking-focused units, the Fiji Police Force also includes a Cyber Crime Investigations Unit. The Cyber Crime Investigations Unit works with partners at the national, international and regional levels, including INTERPOL, the South Pacific Computer Society, the Australian Federal Police, New Zealand Police, the Fijian Ministry of Public Security.<sup>214</sup> Since its first case of OCSE in 1995, the unit has investigated child sexual exploitation materials.<sup>215</sup> The unit also conducts outreach activities with schools, church groups and community programmes.<sup>216</sup> The Fiji Police Force's Sexual Offences Unit also has a mandate to investigate sexual offences against children, including sexual exploitation, however increased investment is needed for this mandate to be carried out more effectively.<sup>217</sup>

In 2015, the Ministry of Women, Children, and Poverty Alleviation established the National Child Helpline as a part of its national child protection system. The Helpline, operated by professional counsellors from the Medical Services Pacific, offers referrals to children in need of counselling, advice, and referrals for other support services, or who want to report cases of child neglect and abuse. Through outreach projects conducted throughout the year in rural areas, mobile teams facilitate sessions in schools, communities and special needs institutions demonstrating how children can use the Child Helpline.<sup>218</sup> The Ministry of Women, Children and Poverty Alleviation estimated that the Child Helpline received around 1,700 genuine calls in 2016-17; however, how many of these calls were related specifically to SEC remains unknown.<sup>219</sup>

## National complaint mechanisms

The Ministry of Social Welfare, Women and Poverty Alleviation has the authority to receive complaints regarding sexual exploitation of children. Additionally, Fiji has explicitly legislated the mandatory obligation for professionals to report when a child is being harmed or vulnerable to harm. The Child Welfare Decree 2010 established the obligation of healthcare professionals, and other professionals, to mandatorily report cases when they "[become] aware or reasonably suspects...that a child has been or is being, or is likely to be harmed".<sup>220</sup> In 2012, the Ministry established a National Child Register in response to mandatory reporting, in order to identify trends and gaps in child protection and develop strategies to address them.<sup>221</sup>

While the CRC cannot be directly enforced in Fijian Courts and is not explicitly incorporated into national law, it has been referenced and applied

208 Sustainable Development Goal 16.2: End abuse, exploitation, trafficking and all forms of violence against torture of children.; Goal 5.2: Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.; UNDP Pacific Office in Fiji. (2018, March 6). Launch of the Fiji Access to Justice Assessment.

209 Save the Children Fiji. (2019, February). Personnel Communication.

210 U.S. Department of Labor. (2017). *Child Labor and Forced Labor Reports: Fiji*.

211 U.S. Department of State. (2018). *2018 Trafficking in Persons Report: Fiji*.

212 *Ibid.*

213 Neiko, Serupepeli. (2015.). Law Enforcement Perspective. Powerpoint. International Telecommunication Union.

214 *Ibid.*

215 *Ibid.*

216 *Ibid.*

217 Bolanavanua, Selita. (2018, July 21). Victims of crimes getting younger, Police say. Fiji Sun.

218 Child Helpline International. (2018). *International Child Helpline Day 2018: Fiji*.

219 Ministry of Women, Children and Poverty Alleviation. (2018). *Annual Report for the Period 1<sup>st</sup> August 2016 to 31<sup>st</sup> July 2017*. 22.

220 Parliament of the Republic of Fiji. (2010). Child Welfare Decree 2010. Article 2(4).

221 The Government of Fiji. (2012, February 29). National Child Register to Address Shortfalls.



in Fiji's High Court.<sup>222</sup> The Court of Appeals has determined that the CRC may be used as guidance but did not dictate whether courts can directly apply the CRC in its decisions. Courts in Fiji have cited the CRC in regards to sexual offences.<sup>223</sup> Some provisions, such as the principle of the best interests of the child, have been implemented into the Family Law Act 2003, the Domestic Violence Decree 2009 and the Juveniles Act.<sup>224</sup> The Human Rights and Anti-Discrimination Commission has the authority to receive and investigate human rights and constitutional rights violation-related complaints as well as to make applications to the court.

Outside of the formal justice system, *bulubulu*, “a village-based form of reconciliation or judgement” that has been a prominent feature within iTaukei communities, continues hinder to children's ability to access child-sensitive justice procedures.<sup>225</sup> The term *bulubulu* refers to “the burial of a wrong through an offering to the family or village that has been offended as compensation and to improve relationships between offending and offended groups, whether families or villages.”<sup>226</sup> This practice has been heavily criticized and condemned, particularly in cases of child sexual exploitation, for prioritizing the importance of maintaining harmony within the village, primarily through male relationships, rather than the needs or concerns of the victim. Rather than supporting victims, *bulubulu* often “prevents them from accessing the services of the law.”<sup>227</sup> In an effort to make communities safer for children, some churches have also focused on “strengthening the integrity of the ‘*bulubulu*’.”<sup>228</sup> How successful these efforts have been in ensuring that the practice prioritizes the welfare of child victims remains unclear.

## Child-sensitive justice

Established in 2009, the Child Protection Division is responsible for conducting “criminal proceedings against sexual and other serious offences committed against children or matters where children are the primary witnesses.”<sup>229</sup> The 2009 Child Protection Guidelines instructs the Child Protection Division on how to take steps to build rapport with child victims and how to proceed with witness protection applications regarding “name suppression, closed court mentions and hearings, and screen applications.”<sup>230</sup> Child Protection Division's main role is to foster a “child-friendly environment” to ease the process through which child victims engage with prosecutors by familiarizing them and their families with the criminal justice system and relevant processes.<sup>231</sup>

For both criminal and civil trials, the Juveniles Act has established a number of rules and procedures for children who are in conflict with the law and child victims. Regarding child victims, in cases where children present evidence of a human rights violation against them, Section 9 of the Act permits the courtroom to be emptied while a child provides evidence.<sup>232</sup> If the court has been advised by a medical practitioner than attending court to give evidence will present a “serious danger to the child's life or health”, the court can admit the testimony by deposition.<sup>233</sup> Whether participating as a party or as a witness, the Juveniles Act prohibits the disclosure of the identity of any juvenile.<sup>234</sup> Children may deemed to be “in need of care, protection or control” if their offender is a member of their household and subsequently assigned a welfare officer who may take them into care.<sup>235</sup>

222 Child Rights International Network and White & Case LLP. (2015). *Access to Justice for Children: FIJI*.1.

223 *Qiladrau v. State* [2000] FHC 248.

224 Parliament of the Republic of Fiji. (2003). Family law Act 2003. Part 6, Division 10. ; Parliament of the Republic of Fiji. (2009). Domestic Violence Decree 2009. Part 3, Articles 28,31.; Parliament of the Republic of Fiji. (1997.). Juveniles Act. Part 3, Articles 9, 12, 14.

225 UNICEF. (2015, May). *Report on the Pacific Conference on Ending Violence Against Children*.16.

226 Ed. Biersack, Aletta, Jolly, Margaret, Macintyre, Martha. (2016). Gender Violence & Human Rights: Seeking Justice in Fiji, Papua New Guinea & Vanuatu. Newland, Lynda. *Villages, Violence and Atonement in Fiji*. 55. Australian National University Press.

227 Ed. Biersack, Aletta, Jolly, Margaret, Macintyre, Martha. (2016). Gender Violence & Human Rights: Seeking Justice in Fiji, Papua New Guinea & Vanuatu. Newland, Lynda. *Villages, Violence and Atonement in Fiji*. 61. Australian National University Press.

228 UNICEF. (2015, May). *Report on the Pacific Conference on Ending Violence Against Children*.16.

229 CRIN. (2014). Fiji: Children's Rights References in the Universal Periodic Review.; Office of the Director of Public Prosecutions. (2015). Child Protection Division (CPD).

230 Office of the Director of Public Prosecutions. (2015). Child Protection Division (CPD).; Director of Public Prosecutions. (2009). Child Protection Guidelines. Articles 1—8.

231 Director of Public Prosecutions. (2009). Child Protection Guidelines. Articles 30-31.; CRIN. (2014). Fiji: Children's Rights References in the Universal Periodic Review.

232 Parliament of the Republic of Fiji. (1997.). Juveniles Act. Part 3, Article 9; Child Rights International Network and White & Case LLP. (2015). *Access to Justice for Children: FIJI*.10.

233 Parliament of the Republic of Fiji. (1997.). Juveniles Act. Part 3, Article 14(1).

234 *Ibid.*, Part 3 Article 12.

235 *Ibid.*, Part 9 Articles 40(d-f),41(2).



## Access to recovery and reintegration

The Departments of Social Welfare and Public Prosecutions operates nine homes where it is able to provide social services for child victims of trafficking for sexual purposes.<sup>236</sup> These children's homes are available for victims younger than 21 years.<sup>237</sup> Contrary to the guidelines set out in Fiji's national anti-trafficking action plan, the government has not established a formal mechanism to refer trafficking victims to services or designate an agency to coordinate victim services.<sup>238</sup> As described in prior sections, NGOs play a major role in filling in this gap in referrals and services in this area.

Homes of Hope (HoH) works to reintegrate girls who are victims of sexual violence, including sexual exploitation, into communities and families. HoH receives girls referred to them through the Fiji Department of Social Welfare, through networked stakeholders, or by word of mouth.<sup>239</sup> While HoH targets girls between ages 13-24, the majority of girls they support are between ages 15-17. Supporting up to 45 girls, young mothers, and their children, HoH offers a range of support services including residential dormitories, trauma informed counseling, legal assistance, and medical care. HoH works to empower girls with skills they need to achieve financial independence, such as practical technical and vocational skills such as computer skills, sewing, cooking, baking, and gardening, livestock maintenance. The Social Service Team manages cases, working with each girl to determine their training interests and set goals for the future. As soon as girls decide to join HoH's campus, the Social Service Team begins to establish and foster a relationship with the girl's family and community.<sup>240</sup>

Using community empowerment toolkits, HoH works with communities to "build a safety net to protect girls in their settles and villages."<sup>241</sup> The toolkits facilitate dialogue and action on issues including "risk indicators of sexual exploitation, best practices of informed parents, prevention

of sexual abuse to children, good principles of parents, and prevention of gender-based violence."<sup>242</sup> Working with selected "hotspot communities," HoH also partners with government officers, traditional leaders and faith groups to establish build understanding and increase communities' capacity to support child victims.<sup>243</sup>

FWCC also provides free and confidential counseling services to victims and survivors of sexual violence, including exploitation, including a 24-hour phone counselling service.<sup>244</sup> Additionally, FWCC offers legal advice and accompaniment or referrals to court, police stations, hospitals, and other agencies. While most FWCC clients are adult, the centre does regularly also support children directly as clients or as dependents of clients. Filling in the gaps for counseling services in areas of Fiji where FWCC's services are not regularly and immediately available, they have a Mobile Counselling Clinic. The Mobile Counselling Clinic bases itself in various local health centre for several days at a time, aiming increase the availability of their services in rural areas and outlying islands.<sup>245</sup> Empower Pacific, another NGO based in Fiji, has a Memorandum of Understanding with the Department of Social Welfare to respond to child protection referrals. Through this memorandum of understanding, Empower Pacific has made its counseling, case management, case conference and following up services accessible for children and families that the Department of Social Welfare has referred.<sup>246</sup>

## Access to compensation

Although the international community recognizes remedies for rights violations as a key aspect of the "promotion, protection and realization" of children's rights, child victims of sexual exploitation across the world continue to face persistent barriers to accessing compensation.<sup>247</sup> No information was available to confirm if a child victim of sexual exploitation has ever received any form of compensation in Fiji.

236 Save the Children Fiji. (March 2019). Personal communication.

237 U.S. Department of State. (2018). *2018 Trafficking in Persons Report: Fiji*.

238 *Ibid.*

239 Homes of Hope. (2018). Residential Campus.

240 *Ibid.*

241 Homes of Hope. (2018). Community Outreach.

242 *Ibid.*

243 *Ibid.*

244 Fiji Women's Crisis Center. (2018). Counselling and Support.

245 *Ibid.*

246 Empower Pacific. (n.d.). Child Protection Counseling and Case Management.

247 ECPAT International. (2017). Barriers to Compensation for Child Victims of Sexual Exploitation: A Discussion Paper Based on a Comparative Legal Study of Selected Countries.6.

## Child, Victims and Survivor Participation

To some extent, the government, NGOs and churches promote youth participation in advocacy and awareness activities and policy-making. However, some of these efforts to include children have not specifically focused on SEC. For example, the National Youth Council of Fiji, which has existed since the 1970's, has undergone a recent revitalization as it works to further youth development in Fiji by promoting youth voices in policymaking and implementation.<sup>248</sup> However, while the National Youth Council engages in advocacy and awareness activities on issues that participants identify as priorities, the council has not selected SEC as an area of significant focus which may be an opportunity for future action.

In 2017, Kids Link Fiji (KLF), a child-led group that Save the Children Fiji facilitates, specifically campaigned on sexual violence against children, expressing "their disappointment in neglectful adults, parents and community members for not taking care of children when they are most vulnerable."<sup>249</sup> That same year, the NCCC held a Children's Symposium in Suva, during which KLF presented the Children's Manifesto on the Rights of a Child.<sup>250</sup> One of the major areas children addressed their concern included the need to "feel safe physically, sexually and mentally".<sup>251</sup> In 2018, KLF planned to continue their efforts to campaign on violence against children, the prevention of

cruelty and neglect, in addition to other major child's rights issues.<sup>252</sup>

While it does not clearly outline explicit actions that will be taken in regards to SEC, the National Youth Policy does reference vulnerable youth. The 2011 National Youth Policy state that the Department of Youth and Sports will "support initiatives and mandates of key stakeholders and youth development partners that partake in effectively addressing the needs of Vulnerable Youths."<sup>253</sup> These include empowerment training and capacity building, networking, advocacy, advise, referrals and counseling sessions."<sup>254</sup> The most recent iteration of the National Youth Policy underwent review in the summer of 2018. The Ministry of Youth and Sports conducted a three-day workshop was held for youth to discuss many of the challenges facing them that the revised policy will seek to address.<sup>255</sup> Additionally, the Ministry of Youth and Sports held public consultations on the Revised National Youth Policy 2018-2020 during the summer. Thirty youth, out of a total of 60 participants, attended the first public consultation.<sup>256</sup> The National Youth Policy has been reviewed by the Parliament Standing Committee on Social Affairs and will be endorsed after their comments are addressed.<sup>257</sup>

248 Government of Fiji. (2016, January 24). National Youth Council of Fiji Applauded.

249 Fiji Broadcasting Corporation. (2017, November 30). Violence against Children Needs to Stop: Low-McKenzie. Fiji Broadcasting Corporation.

250 Bolanavanua, Selita. (2016, November 10). Children draft manifesto. Fiji Sun.

251 *Ibid.*

252 Kuma, Vishaal. (2018, January 20). Plans for Kids Link. Fiji Times.

253 Ministry of Education, National Heritage, Culture & Arts and Youth & Sports. (2011). National Youth Policy. 5.

254 *Ibid.*

255 Tuilevuka, Nacanieli. (2018, June 13). Review for National Youth Policy. Fiji Sun.

256 Nacei, Luke. (2018, July 31). Consultation on the Revised National Youth Policy. The Fiji Times.

257 Save the Children Fiji. (2019, February). Personal Communication.

# Recommendations for Action

## International and regional legislation, commitments and coordination to ending SEC

- Ratify the Optional Protocol to the Convention of the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;
- Promote and develop an effective regional human rights mechanism with children's rights and sexual exploitation of children as agenda priorities.

## National response to SEC's manifestations

- Implement the National Plan of Action to Eradicate Trafficking in Persons and Child Trafficking as well as mechanisms to monitor and evaluate its implementation;
- Provide guidelines and training to law enforcement to increase their knowledge and skills to better identify child victims of trafficking for sexual purposes and other forms of sexual exploitation.

## Access to justice and right to remedies for child victims of sexual exploitation

- Ensure that the Access to Justice Project includes an investigation of child victim's access to justice and the development of strategies on how to improve their access and on how to implement necessary changes;

- Develop and implement measures to guarantee that all child victims have access to adequate procedures to seek compensation for damages from those legally responsible;
- Promote strategies to address the shortcomings of the *bulubulu* practice and raise awareness on how the practice further victimizes child victims of sexual exploitation.

## Child, Victim and Survivor Participation

- Promote the inclusion of child protection and sexual exploitation of children as a priority area for dialogue, advocacy and programming in key youth groups such as KLF and the National Youth Council of Fiji;
- Ensure that and that child victims have meaningful input in the revision process of the next National Youth Policy.

## Research needs and agenda

- Broad research should be conducted on specific trends within Fiji that have not yet been extensively addressed such as sexual exploitation of children in travel and tourism, online child sexual exploitation and trafficking of children for sexual purposes.
- The impact of masculinity and gender norms on children's vulnerability to sexual exploitation should be further researched. Particular attention should be given to research that will facilitate the development of strategies to work with men and boys to mitigate the forms of violence that increase children's vulnerability to sexual exploitation.

## Acronyms

<b>CEFM</b>	Child, early and forced marriage
<b>CRC</b>	Convention on the Rights of the Child
<b>CSAM/CSEM</b>	Child sexual abuse/exploitation material
<b>FHTA</b>	Fiji Hotel and Tourism Association
<b>FWCC</b>	Fiji Women's Crisis Center
<b>HoH</b>	Homes of Hope
<b>ILO</b>	International Labour Organization
<b>KLF</b>	Kids Link Fiji
<b>NCCC</b>	National Coordinating Committee for Children
<b>NGO</b>	Non-Governmental Organization
<b>OCSE</b>	Online child sexual exploitation
<b>OPSC</b>	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
<b>RRRT</b>	Pacific Regional Rights Resource Team
<b>SDGs</b>	Sustainable Development Goals
<b>SEC</b>	Sexual exploitation of children
<b>SECTT</b>	Sexual exploitation of children in travel and tourism
<b>SIDS</b>	Small Island Developing States
<b>UN</b>	United Nations



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