

ATTACHMENT

CHILD CARE AND PROTECTION BILL 2024

Part	Section	Details of the section	Response	Recommendation/Suggestion
Part 1 Preliminary	Section 3 Interpretation	<p>“Sexual abuse” means any sexual activity or behaviour with a child—</p> <p>(a) for which the child is unable to give consent;</p> <p>(b) for which the child is not developmentally prepared;</p> <p>(c) by a person in a position of authority and trust;</p> <p>(d) in circumstances where there is a significant disparity in the development function or maturity of the child and the other person involved in the behavior;</p> <p>(e) that is contrary to this Act of any other written law</p>	<p>A child by definition is a minor and below the age of consent. Therefore, any sexual activity or behavior with a child should be considered by statute unlawful and an abuse, regardless of whether the child consents or not and whether the child is developmentally prepared or not, the person is still a child. Consent cannot be derived from the "developmental phase" of the child, as seems to be implied in (b).</p> <p>Section (c) provides a narrow definition of sexual abuse. It implies that it is lawful for any other person who is not in a position of authority or trust to have sexual activity with a child.</p> <p>Concerning section (d), we reiterate that regardless of whether or not the child is mature or advanced in development, the child is still a minor. There shouldn't be any exception to the sexual abuse of a child.</p>	<p>1. Suggest the amendments as follows. Replace the current definition of sexual abuse with the following –</p> <p>“sexual abuse” means any sexual activity or behavior with a child.</p>
		<p>‘hazardous and exploitative labour’ in relation to a child, includes any work that is—</p> <p>(b) hazardous to the child's physical or mental health;</p>	<p>Suggest to include emotional health in the definition provided in subsection (b) as the the hazardous and exploitative labour not only impacts the physical and mental but also the emotional health of the child.</p>	<p>2. Suggest the amendments as follows:</p> <p>‘hazardous and exploitative labour’ in relation to a child, includes any work that is—</p> <p>(b) hazardous to the child's physical, emotional or mental health;</p>

		<p>'neglect' in relation to a child, means failure to provide for the child's basic physical, intellectual, emotional or social needs, including any special needs where the child has a disability;</p>	<p>Suggest to also include neglect of spiritual needs. Children have the right to freedom of religion.</p>	<p>3. Suggest the following amendments to include spiritual needs.</p> <p>'neglect' in relation to a child, means failure to provide for the child's basic physical, intellectual, emotional, spiritual or social needs, including any special needs where the child has a disability;</p>
		<p>'Physical abuse' includes any act of violence or maltreatment that results in a physical wound or injury</p>	<p>Suggest reconsidering the definition of physical abuse. Some physical abuses don't show any signs of physical wounds or injury. For instance, certain states in the US, Arkansas, Minnesota, and the District of Columbia recognize and outlaw forms of physical abuse that do not result in physical injury to the child.</p>	<p>4. Suggest the amendment as follows:</p> <p>'Physical abuse' includes any act of physical violence or maltreatment that may or may not result in a physical wound or injury.</p>
		<p>'Place of safety' means a shelter, health facility, approved children's home or the home of any foster parent or other individual approved by the Director to receive and temporarily care for a child in need of care and protection;</p>	<p>As noted in our cover letter, the HRADC strongly recommends being able to have unannounced inspections of children's homes as an independent human rights monitoring body. The HRADC had cases in the past of public complaints against social welfare.</p> <p>Also there is a grammatical error.</p>	<p>5. Suggest amendments to correct grammatical error by adding the letter 's' to the word individual.</p> <p>'Place of safety' means a shelter, health facility, approved children's home or the home of any foster parent or other individuals approved by the Director to receive and temporarily care for a child in need of care and protection;</p>
	Section 5 (f)(v)	<p>For the purposes of this Act, a child is in need of care and protection if—</p>	<p>Suggest to include or forced labor to the criteria of when a child is in need of care and protection</p>	<p>6. Suggest amending as follows:</p>

		(f) the child is being or is likely to be harmed due to any of the following— v) hazardous or exploitive labour;		5 (f) (v) For the purposes of this Act, a child is in need of care and protection if— (f) the child is being or is likely to be harmed due to any of the following— (v) hazardous or exploitive labour or forced labor ;
Part 3 Care and Protection of Children	Division 2 – <i>Reporting and referral of a child in need of care and protection</i> Section 17 (2)	If a Mandatory reporter in the course of his or her professional duties, has a reason to believe that a child is in need of care and protection, the mandatory report must immediately report the matter to the Director in writing.	Suggest to have an alternative measure to allow for urgent cases that need to be reported asap to be reported verbally, followed by a written report later. Suggest amending or introducing another clause to allow the Mandatory reporter the option to provide a verbal report should the case be urgent to be followed by the written report.	7. Recommended clause as follows: Where the Mandatory reporter has reason to believe that the child is in an emergency situation and requires urgent care and protection, the Mandatory reporter can immediately report the matter verbally to the Director, which is to be followed up with a written report within the following 3 days, to the Director.
	Section 17(3)	(3) For the purposes of subsection (2), a Mandatory reporter is a person who performs professional duties with respect to a child and includes— (a) a health professional; (b) legal practitioner; (c) police officer; (d) teacher; (e) social worker; (f) educational officer; (g) psychologist; (h) family counsellor; (i) labour inspector; and (j) owner or employee of a daycare centre, child care	Faith-based organizations also play an important role in the community with regard to the welfare and protection of children. At most times, they are one of the first responders to violence in the communities. Therefore, we do include the list of Mandatory workers priests, pastors, or qualified religious workers In addition to faith-based organizations, community leaders also play a crucial role in the protection of children in the community. Everyone in the community must play a role	8. Suggest amending to add the following groups: 3) For the purposes of subsection (2), a Mandatory reporter is a person who performs professional duties with respect to a child and includes— (a) a health professional; (b) legal practitioner; (c) police officer; (d) teacher; (e) social worker; (f) educational officer; (g) psychologist; (h) family counsellor; (i) labour inspector;

		service, hostel or children's home.	in reporting when children's welfare and well-being are being harmed.	and (j) owner or employee of a daycare centre, child care service, hostel or children's home; k) priests, pastors, or qualified religious workers; (l) community leaders
	Section 17(4)	A mandatory reporter who fails to make a report under subsection (2) commits a summary offense and is liable on conviction to a fine of \$5,000	<p>The proposed conviction penalty and fine of \$5,000 appear excessive given that these professionals have other primary obligations to attend to. Also, in cases where a report was not made due to a genuine mistake or error. In this case, such a conviction can be detrimental to a mandatory reporter's career.</p> <p>Consideration should also be given to the constitutional right of these professionals, religious ministers, and community workers on their freedom to choose an occupation and right to engage in work, balanced against the legally imposed work and role of being a Mandatory reporter, and they should therefore be treated with due respect and fairness, and any effort to penalize them should be the last resort.</p> <p>There are examples in Australian laws where states and territories have legislated mandatory reporting but provide no penalty for failure to report. In territories that do provide penalties, the penalty range is a maximum of 200 units, 20 penalty units, and 10 penalty units with South Australia with the highest penalty of 10,000.¹</p>	<p>9. Suggest to reconsider reducing the penalty fine to \$1,000 as follows:</p> <p>A mandatory reporter who fails to make a report under subsection (2) commits a summary offense and is liable on conviction to a fine not exceeding \$1000.</p>

¹ <https://aifs.gov.au/resources/resource-sheets/mandatory-reporting-child-abuse-and-neglect#ACT>

<p>Division 4- <i>Emergency Protection Power</i></p> <p>Section 31</p>	<p>A child welfare officer exercising the authority under this Division may request for the assistance of a police officer</p>	<p>Suggest including community leaders/faith-based organizations in assisting the child welfare officers.</p> <p>Community leaders and faith-based organizations are gatekeepers in the community. They are highly respected and have moral obligations to protect their community especially the most vulnerable</p>	<p>10. Suggest to include faith-based organizations and community leaders to assist the child welfare officer as follows:</p> <p>31 A child welfare officer exercising the authority under this Division may request the assistance of a police officer, faith-based organizations, and community leaders.</p>
<p>Section 33 (2)</p>	<p>(2) An interim care and protection order may include the following the following conditions—</p>	<p>Grammatical error</p>	<p>11. Suggest to delete the word 'the following' which has been repeated;</p> <p>(2) An interim care and protection order may include the following conditions—</p>
<p>Section 42 (2)</p>	<p>(2) An application made under with subsection (1) must be accompanied by a care...</p>	<p>Grammatical error</p>	<p>12. Suggest amending by deleting the word 'with' as follows</p> <p>(2) An application made under subsection (1) must be accompanied by a care...</p>
<p>Section 59</p>	<p>(1) The Director must ensure that a care and protection plan is prepared for each child who is the subject of a care and protection order from the court. (2) A care and protection plan must be— (a) prepared within 3 days after the court issues a care and protection order; (b) monitored and assessed quarterly; and (c) reviewed at least once every 6 months. (3)</p>	<p>The HRADC emphasizes the need for the Director to ensure that monthly visits are carried out to ensure consistent protection of the child.</p>	<p>13. Suggest as a policy matter for the Director to ensure in the care and protection plan those monthly visits are carried out or alternatively monthly visits could be inserted under section 59 after (2) (a) to be the new (2) (b) as follows:</p> <p>2) A care and protection plan must be—</p>

		After reviewing the care and protection plan, the Director must prepare— (a) a report about the care and protection plan; and (b) if applicable a revised care and protection plan.		<p>(a) prepared within 3 days after the court issues a care and protection order;</p> <p>(b) undertaken to the extent that is practically possible, monthly visits to the child by the Director or a child welfare officer.</p> <p>14. For further transparency monitoring the HRADC recommends conducting its independent visits.</p>
	Section 60	Any person who fails to comply with a care and protection order commits a summary offence and is liable on conviction to a fine of \$2,000 or imprisonment for a term not exceeding 2 months or both	The penalty is excessive, consider reducing it to a fine not exceeding \$1,000	<p>15. Consider reducing the penalty fine to a maximum of \$1,000 as follows and the prison term from 2 months to 2 years.</p> <p>Any person who fails to comply with a care and protection order commits a summary offence and is liable on conviction to a fine not exceeding \$1000 or imprisonment for a term not exceeding 2 years or both</p>
Part 4 – Children in the Care of the Director	Section 63	(1) A child who is in the care of the Director, may be placed by the Director in the care of— (a) an approved family member who has agreed to assume care of the child; (b) an approved foster parent; or (c) a children's home registered in accordance with section 11. (2) Wherever practicable, a child must be placed in an appropriate family setting and	Emphasizing the importance of monthly visits by the Director should the child be placed outside of her care	<p>16. Suggest for the Director to ensure monthly visits of the child should they be placed outside of her care similar to section 59, and recommending insertion to be the new (d) as follows:</p> <p>(1) A child who is in the care of the Director, may be placed by the Director in the care of— (a)... (b)....or</p>

		a child may be placed in a children's home only as a measure of last resort, where it is not practicable or appropriate to place the child with a family member or approved foster parent. (3) The Director must ensure that a leaving care plan is prepared for each child and that the child's placement is reviewed at least once every 6 months.		(c) a children's home registered in accordance with section 11; and (d) that monthly visits to the child are to be undertaken, to the extent that is practicable by the Director or a child welfare officer.
	Section 66 (4)	(4) Pursuant to subsection (3), if within 28 days after such notice has been given, the children's home has not shown sufficient cause as to why it should not be removed from the Register, the Director may remove the children's home from the Register and transfer the children within that children's home to his or her care.	28 days is too long given the nature of the issue which is dealing with vulnerable children.	17. Suggest reducing the timeframe to 14 working days as follows:
	Section 67 (2)	67.(1) A person must not publish or make public any information or matter that has the effect of identifying a child who is the subject of a proceeding under this Act. (2) A person who contravenes this section commits a summary offence and is liable on conviction to a fine not exceeding— (a) in the case of an individual, \$5,000; or (b) in the case of a body corporate, \$15,000.	It was considered that Fiji is largely an oral culture, where people, in general, enjoy talking and sharing information with one another, hence the talanoa sessions and gathering around the grog bowl, and penalizing people for sharing "confidential information" should be contextualized within this cultural reality.	18. Suggest reducing the penalty to (a) individual not exceeding \$ 2, 000 and (b) body corporate not exceeding \$5,000 as follows: (2) A person who contravenes this section commits a summary offence and is liable on conviction to a fine not exceeding— (a) in the case of an individual, \$2,000; or (b) in the case of a body corporate, \$5,000.
	New section 68	Visits by HRADC	Independent monitoring of the situation of children in closed settings by human rights institutions is particularly important for several	19. Suggest including a new section-section 68

			<p>reasons, but particularly because although all children are vulnerable to rights violations, children in closed settings face additional risks:</p> <ul style="list-style-type: none"> • Children in closed settings are more vulnerable to rights violations. • Children in closed settings often remain out of sight • Children in closed settings have limited access to a remedy when their rights are violated • In closed settings, children's capacity to communicate about possible violations may be more limited • Children in closed settings often suffer from social exclusion and discrimination, exacerbating vulnerabilities <p>Therefore, the HRADC suggests incorporating an additional clause to recognize the role of the HRADC in carrying out its independent inspections of children's homes which include allowing announced and unannounced visits, conversations with children, and conversations with staff of the Ministry including the Child Welfare Department and the children's homes officers/employees etc.</p>	<p>68 Visits by the Human Rights and Anti-Discrimination Commission</p> <ol style="list-style-type: none"> 1. Officers of the HRADC shall have the right to carry out announced or unannounced visits to any children's homes to visit children for an inquiry, investigation or inspection as provided under the HRADC Act 2009. 2. The Director must facilitate the visits of the HRADC. 3. A person who- <ol style="list-style-type: none"> (a) Without reasonable excuse, willfully obstructs, hinders, or resists the Commission, a commissioner, or an employee of the Commission in the performance of their functions; or (b) Furnishes information or makes a statement to the Commission, a commissioner, or an employee of the Commission knowing that it is false or misleading commits an offence and is liable on conviction to a fine of \$5,000 and to imprisonment for 12 months
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CHILD JUSTICE BILL 2024

Part	Section	Details	Response	Recommendation/Suggestion
Part 1 Preliminary	Section 2 Interpretation	<p>“child in conflict with the law” means a child above the age of 14 years, who is alleged to have committed, accused of, charged with, or found guilty of, committing a criminal offence;</p>	<p>There is a contradiction between the minimum age of criminal liability and the age of children not to be criminally liable for an offence.</p> <p>For e.g section 5 (1) provides that the Act applies to a child who is charged or alleged to have committed the offence...was above the age of 14</p> <p>Further section 5 (3), it provides that a child who is under the age of 14 years at the time of committing the offence must not be held criminally responsible for the offence</p> <p>What this means is there is the uncertainty about the age of 14.</p>	<p>1. Suggest the amendment as follows. Amend the ‘child in conflict with the law’ definition to read as follows</p> <p>“child in conflict with the law” means a child <i>at the age of 14 years and above and below 18 years</i>, who is alleged to have committed, accused of, charged with, or found guilty of, committing a criminal offence;</p> <p>2. Recommending as follows:</p> <p>5- (1) This Act applies in respect of any child... who, at the time of the alleged offence, was <i>14 years or</i> above the age of 14 years.</p>
	Section 6 (3) (a)	(a) the person's the birth certificate	Grammatical error	<p>3. Suggest the following amendment. Remove the second ‘the’:</p> <p>(a) the person’s birth certificate</p>
	Section 11 (3) (b)	(b) the qualification held by any person providing services to children in	Suggest including past relevant experiences	<p>4. Amend as follows</p> <p>(a) <i>past relevant experiences</i> and qualifications held by any person providing services to children in</p>

Section 11 (6) (7) (8) (9)		Suggest considering having an internal committee of at least 3 members to assist the Director in determining registration applications or removal of agencies from the Register. It allows for a more robust system.	5. Suggest establishing a committee of 3 to assist the Director in determining registration applications and removal of agency from the Registry
Section 11 (7)	If the Director rejects an application for registration, the Director must, within 90 days of his or her decision, advise the applicant in writing of the reasons for the decision	90 days is too long of a period just to relay to the agency the Director's decision.	6. Suggest amending the timeframe to 7 working days as follows: 11 (7) If the Director rejects an application for registration, the Director must, within 7 working days of his or her decision, advise the applicant in writing of the reasons for the decision
Section 11 (9)	Where the Director wishes to remove the name of an agency or organization, from the Register for any reason referred to in subsection (8), the Director must give written notice to that agency or organization ...	Wishing refers to a state of mind that is considering the possibilities or probabilities of doing something yet to be realized. Decision is firm, matter is to be realized or done.	7. Suggest the following amendments: (9) Where the Director has decided to remove the name of an agency or organization, from the Register for any reason referred to in subsection (8), the Director must give written notice within 7 working days to that agency or organization ...
Section 11 (10) (a) & (b)	A person who contravenes this section commits a summary offence and is liable on conviction to – (a) In the case of a an individual, a fine not exceeding \$10,000 or a term of imprisonment not exceeding 2 years or both	The penalties for the individual and body corporate may be too excessive considering the severity of the offence which is failure to register. These professionals are not paid for such work, which depending on the case, may consume a lot of their time which may affect their other professional obligations,	8. Suggest amending as follows: 11 (10)A person who contravenes this section commits a summary offence and is liable on conviction to – (c) In the case of a an individual, a fine not exceeding \$2,000

		(b) In the case of a body corporate, a fine not exceeding \$15,000	<p>and also they may face risks to their own safety and health.</p> <p>Also penalizing body corporate that are NGO who are noncommercial organizations and therefore don't have the money to pay for such fines.</p> <p>There are examples in Australian laws where states and territories have legislated mandatory reporting but provide no penalty for failure to report. In territories that do provide penalties, the penalty range is a maximum 200 units, 20 penalty units, 10 penalty units with South Australia with the highest penalty of 10,000.²</p>	<p>(d) In the case of a body corporate, a fine not exceeding \$5,000</p> <p>Another option to consider is, that efforts be made to instill a practice of reporting abuse by a system of reward, instead of penalizing perhaps encourage reporting by providing incentives.</p>
Part 3- Diversion	Section 12 (c)	encourage a child in conflict with the law to acknowledge and repair the harm caused to are victim and the community;	Grammatical error.	<p>9. Suggest amending section 12 (c) as follows</p> <p>“encourage a child in conflict with the law to acknowledge and repair the harm caused to the victim and the community</p>
	Section 12 (f)	encourage the parents, family and traditional or community leaders of a child in conflict with the lawbe directly involved in holding the child accountable and providing opportunities for the child to correct his or her offending behavior.	Grammatical error.	<p>10. Amend section 12 (f) as follows</p> <p>encourage the parents, family and traditional or community leaders of a child in conflict with the law to be directly involved in holding the child accountable and providing opportunities for the child to correct his or her offending behavior.</p>

² <https://aifs.gov.au/resources/resource-sheets/mandatory-reporting-child-abuse-and-neglect#ACT>

Section 13 (1) (b)	(1) A child in conflict with the law may be diverted by- (b) in the case of an indictable offence, other than murder and attempted murder, a public prosecutor	Suggest to also include child justice officer	11. Suggest amending section 13 (1) (b) as follows: b) in the case of an indictable offence, other than murder and attempted murder, a public prosecutor in consultation with a child justice officer
Section 13 (2) (a)	A child may be considered for diversion if- (a) The child, being of sound mind, voluntarily acknowledges responsibility of the offence;	There is provision for diversion plans for children with sound minds. There are, however, no measures to cater to children in conflict with the law with development delays, neurodevelopment disorders, or disabilities. According to the CRC standard, children with development delays or neurodevelopment disorders or disabilities (e.g autism spectrum disorders, fetal alcohol spectrum disorders, or acquired brain injuries) should not be in the child justice system at all even if they reached the minimum age of criminal responsibility. If they are not automatically excluded from the child justice system then such children should be individually assessed. Even this process is not provided for in the Bill. What measures are in place should a child in conflict with the law have a disability especially those with development delays. Should they be referred to a special care facility etc?	12. Suggest including a provision that expressly provides for children lacking criminal responsibilities for reasons related to development delays or neurodevelopment disorders or disabilities to not be subjected to the child juvenile system or individually assessed to determine whether or not they should be in the child juvenile system, diversion or in the interest of justice and public safety they should be placed in a special care facility 13. If there is a need for referral, then we suggest that there should also be a process of referrals should they need to be referred to a mental health institution etc

	Section 13 (2) (d)	The person exercising discretion under this Act to divert a matter is satisfied that it is in the interests of Justice that the matter be resolved through diversion	It should always be first and foremost in the interest of the child to divert the matter to resolve through diversion	14. Suggest adding the following: 13 (2) (d) The person exercising discretion under this Act to divert a matter is satisfied that it is in the interests of child Justice that the matter be resolved through diversion
	Section 13 (5)	An acknowledgment of responsibility made under subsection (2)(a) may not be used for the purposes of any criminal proceedings against a child, including the criminal proceedings for which diversion has been contemplated.	In addition to the final closure of the case, the case should not be viewed as a criminal conviction or result in criminal records. We reiterate that the purpose of diversion is to avoid stigmatization and criminal records of children Also, should a child turn 18 before completing a diversion program, that child should be permitted to complete the program and not be sent to centers for adults Section 13 (5) and section 16 (1), it must also be expressed that acknowledgment and completion of a diversion plan should not be viewed as a criminal conviction of result in the child's criminal record.	15. Recommending the inclusion of a child turning 18 on the diversion plan as follows: If a child turns 18 while on the diversion plan, he or she must be allowed to complete the plan and not sent to centers for adults and upon completion, no further action must be taken against the person.
	Section 16 (1)	If a diversion plan is completed, no further action must be taken against the child in respect of the offence to which the diversion plan relates and any criminal charge laid must be withdrawn		
	Section 14 (4) (b)	A diversion plan must not include any condition that- (b) involves punishment that is more onerous than the child would have received through the formal criminal justice system		16. Suggest adding severe as follows: A diversion plan must not include any condition that- (b) involves punishment that is more onerous or severe than the child would have received through the formal criminal justice system

Part 4 – Children and the Police	Section 19 (2)	The police officer must give any information or explanation required to be given under this action in a manner and in a language that is appropriate to the age and level of understanding of the child	Suggest to include at the end of the section, including children with disabilities. This will ensure police officers are also mindful of making available necessary arrangements for children with disabilities whether it will be sign language, braille etc	17. Suggest adding including children with disabilities at the end of the section. ' 19 (2) The police officer must give any information or explanation required to be given under this action in a manner and in a language that is appropriate to the age and level of understanding of the child, including children with disabilities
	Section 19 (3)	In carrying out an arrest of a child, a police officer must not use physical force or means of restraint unless- (a) The child resists the arrest or seeks to evade arrest; or (b) The use of force or restraint is necessary to prevent the child from causing harm to himself or herself or others	The CRC standard provides that restrain or force can be used only when (a) The child poses an imminent threat of injury to himself or herself or to others; and (b) only when all other means of control have been exhausted. When recruiting, police officers must be trained on how to handle children and the force to use and other means that can be used as alternative restraints	18. Section 19 (3)- add subsection 19 (3) (c) only when all other means of control have been exhausted
	Section 25 (2) (c) and (3)			19. Suggest for Section 25 (2) (c) and (3) to also reflect that reasonable force can be used provided that only when all other means of control have been exhausted
	Section 21 (3)	A police officer may request the assistance of a child justice officer in identifying ...		20. Suggest to include welfare officer as follows: (2) A police officer may request the assistance of a child justice officer or welfare office in identifying ... 21. Suggest to use this consistently throughout the Bill

	Section 24 (1)	(1) Prior to questioning a child in conflict with the law, a police officer must explain to the child, in a manner and in language that is appropriate to the age and level of understanding of the child that		<p>22. Suggest to include 'children with disabilities'</p> <p>1) Prior to questioning a child in conflict with the law, a police officer must explain to the child, in a manner and in a language that is appropriate to the age and level of understanding of the child including children with disabilities</p>
	27 (3) (b)	<p>(3) A child must be released in accordance with subsection (2) unless—</p> <p>... (b) it is necessary for the child's own protection for him or her to be in custody.</p>	<p>Appropriate and proper facilities must be provided to detain children in custody. The Commission has dealt with cases where children were in police custody in kitchen and board rooms because of the lack of facilities to cater specifically for children.</p> <p>Currently, the police custody cells are not child-friendly.</p> <p>The child should never be alone when in custody, someone with the appropriate qualifications should be supervising the child.</p> <p>It is encouraged that Police infrastructure to have cameras for reason of safety and security for the child. Interviews of children should be camera-recorded.</p>	23. Suggest having proper facilities in place to specifically detain in custody children in conflict with the law.
	Section 28	Where a child cannot be released in accordance with section 27, the child must, in lieu of detention in police custody, be placed in a remand home under section 59, if such place is available within a reasonable distance	<p>If a remand home is not available' what happens then to the child, where will they be placed?</p> <p>Currently, Fiji does not have remand homes for children in conflict with the law. The juveniles are currently being detained in</p>	24. Recommend to establish proper facilities and review and strengthen current mechanisms and systems

			Samabula but only for Juveniles below 18 and only for boys. Where does the girl child go? Our concern is this provision may not be enforced properly because no proper infrastructure is in place for this purpose.	
	Section 29 (2)	The Commissioner of Police must make arrangements, as far as practicable, that any child, while in police or while being conveyed	Grammatical error	25. Suggest adding the following: 29 (2) The Commissioner of Police must make arrangements, as far as practicable, that any child, while in police custody or while being conveyed...
Part 5- Pre Trial release and remand of children in conflict with the law	Section 30 (5)	The court must release a child without sureties and without deposit of money or other security, unless the court is satisfied it would be not be appropriate in all the circumstances to do so.	Grammatical error	26. Suggest deleting the word ' be ' right after the word'...satisfied it would..' as follows: 30 (5) The court must release a child without sureties and without deposit of money or other security, unless the court is satisfied it would be not be appropriate in all the circumstances to do so.
	Section 32 (b)	A child in remand must be kept separate from children found guilty of an offence, except when participating in supervised programmes or activities.	Grammatical error	27. Suggest adding the following: A child in remand must be kept separate from children found guilty of an offence, except when he or she is participating in supervised programmes or activities.

	Section 34 (2)	The Chief Magistrate may designate as Child Justice Magistrates, such Magistrates as in his or her opinion,...		28. Suggest the following amendments 34 (2) The Chief Magistrate may appoint and designate as Child Justice Magistrates, such Magistrates as in his or her opinion,...
	Section 36 (1)	Notwithstanding any other written law, any criminal charge brought against a child in conflict with the law must, subject to subsection (2) and section 37, be laid in and disposed of by a Child Justice Court	Unsure as to the term ' be laid and deposited of by a Child Justice Court' whether it is the correct term to used.	29. Suggest to reconsider whether it is ' brought before and deposited of by a Child Justice Court' is relevant
Pat 7 – Methods of dealing with children	Section 54	(1) Where a permanent care order issued in accordance with section 50(1)(d) placing a child in the permanent care of the Director or other designated person— (a) the Director or other designated person must have custody and guardianship of the child to the exclusion of all other persons; and (b) the order must not affect the child's rights with respect to succession to property or other inheritance. (2) Where a permanent care order has been granted to the Director, the Director— (a) must make appropriate arrangements for the care of the child; and (b) may consent to the child's adoption.	Adoption is a concerning matter. Proper processes should be in place to ensure the sustainability of the safety of the child in the newly adopted family. For example, there should be some measures in place to allow the Director to check up now and then on the child. This could avoid the risks of children being subjected to violence and inhumane treatment.	30. Suggest having proper consultations with all relevant stakeholders on processes and measures in place for adoption purposes.

	Section 47 (2) (e)	(e) a court may not impose a more serious order unless it is satisfied that a lesser or alternative order will not meet the purposes under in subsection (1)	Grammatical error	<p>31. Suggest deleting the word 'in' after the word 'under and before subsection. See the following amendment</p> <p>47 (2) (e) a court may not impose a more serious order unless it is satisfied that a lesser or alternative order will not meet the purposes under subsection (1)</p>
	Section 55 (3)	Where a child serving a custodial order is in a rehabilitation centre when he or she attains the age of 18 years, the must be brought before the court for a direction as to	Grammatical error	<p>32. Suggest deleting the word 'the' after the years and before the word must and replace it with 'he or she'. See the following:</p> <p>55 (3) Where a child serving a custodial order is in a rehabilitation centre when he or she attains the age of 18 years, he or she must be brought before the court for a direction as to</p>
Part 9 – Records and Privacy	Section 66 (2)	Any finding of guilt made in respect a child under this Act must not be used in...	Grammatical error	<p>33. Suggest adding the word 'of' after the word respect and before the letter a. See the following</p> <p>66 (2) Any finding of guilt made in respect of a child under this Act must not be used in...</p>
Part 10 – Miscellaneous	Section 68 (f)	The Minister may make regulations to prescribe matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for	There appear to be some disparities between the penalties already prescribed in the Bill and the proposed penalties to be prescribed in the Regulations by the Minister.	34. Suggest to reconsider for consistency

		<p>carrying out or giving effect to this Act and generally for achieving the purposes of this Act including—</p> <p>(f) prescribing penalties for any offence in any regulations to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding 2 years or both.</p>	<p>For example, refer to sections 11 (10); section 63 (3); section 65 (2) where penalties range from a fine not exceeding \$5,000 to \$15,000</p>	
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