

January

2026

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|--------|--|--|--|--|--|----------|
| | | | | 1 New Year's Day | 2 Committee Break | 3 |
| 4 | 5 Committee Meeting Suva | 6 Committee Meeting Suva | 7 Committee Meeting Suva | 8 Committee Meeting Suva | 9 Committee Meeting Suva | 10 |
| 11 | 12 Committee Meeting Suva | 13 Committee Meeting Suva | 14 Committee Meeting Suva | 15 Committee Meeting Suva | 16 Committee Meeting Suva | 17 |
| 18 | 19 Committee Meeting Suva Open Submission – BCR2 | 20 Committee Meeting Suva Open Submission – BCR2 | 21 Committee Meeting Suva Open Submission – BCR2 | 22 Committee Meeting Suva Open Submission – BCR2 | 23 Committee Meeting Suva Open Submission – BCR2 | 24 |
| 25 | 26 Committee Meeting Parliament, Suva | 27 Committee Meeting Parliament, Suva | 28 Committee Meeting Parliament, Suva | 29 Committee Meeting Parliament, Suva | 30 Committee Meeting Parliament, Suva | 31 |

February

2026

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|--|--|--|---|--|---|---|
| 1 | 2 Naitasiri 1. Nakorovatu Village, Vunidawa 10am 2. Navuso Village 2pm Rest Pac harbour – Yatu Lau Lagoon Resort | 3 Namosi 1. Namosi Provincial Council Hall, Navua 10am 2. Veivatuloa 2pm Rest Pac harbour - Yatu Lau Lagoon Resort | 4 Serua 1. Talenaua (TBC) Village 10am 2. Korovisilou Village 2pm Rest Sigatoka – Ramada Seafront Coral Coast | 5 Navosa 1. Korolevu 10am 2. Keyasi 2.30pm Rest Sigatoka - Ramada Seafront Coral Coast | 6 Nadroga 1. Sigatoka Town Council 10am 2. Cuvu 2.30pm Rest Nadi – Grand Melanesian Resort, Wailoaloa | 7 Nadi 1. Nadi Town Civic Centre 1.30pm 2. Votualevu Methodist Church Hall 4pm Rest Nadi - Grand Melanesian Resort, Wailoaloa |
| Sunday 8 | Monday 9 | Tuesday 10 | Wednesday 11 | Thursday 12 | Friday 13 | Saturday 14 |
| Rest Nadi - Grand Melanesian Resort, Wailoaloa | Lautoka 1. Saweni University of Fiji Hall 10am 2. Lautoka Sugarcane Growers Council Hall 2pm 3. Vitogo Village Rest Nadi - Grand Melanesian Resort, Wailoaloa | Ba 1. Bukuya Village, Magadro 10am 2. Katriya Hall 2pm Rest – Rakiraki – DuaDua Resort | Tavua 1. Nadala Village 10am 2. Tavualevu 5pm Rest – Rakiraki – DuaDua Resort | Ra 1. Draunivi Village Hall 10am 2. Rakiraki Town 2pm Rest – Rakiraki – DuaDua Resort | Ra Rural 1. Mataiwailevu Village 2. Malake Village Rest – Rakiraki – DuaDua Resort | Ra Rural 1. Nayavu / Ra Village Rest – Rakiraki – DuaDua Resort |

March

2026

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---|---|---|---|---|--|--|
| <p>1</p> <p>Depart Savusavu for Taveuni</p> <p>Rest – First Light Inn and Dateline Hotel, Taveuni</p> | <p>2</p> <p>Cakaudrove</p> <p>Taveuni</p> <p>1. Somosomo</p> <p>2. Vuna</p> <p>Rest – First Light Inn and Dateline Hotel, Taveuni</p> | <p>3</p> <p>Cakaudrove</p> <p>1. Nawi Village</p> <p>11am</p> <p>Rest – Savusavu Daku Resort</p> | <p>4</p> <p>Cakaudrove</p> <p>1. Wailevu West (Valeni Village) – 10am.</p> <p>2. Wailevu East (Vativa Village) – 2pm.</p> <p>Rest – Savusavu Daku Resort</p> | <p>5</p> <p>Cakaudrove</p> <p>1. Karoko 10am</p> <p>2. Buca 2pm</p> <p>3. Bagasau 5pm</p> <p>Rest – Savusavu Daku Resort</p> | <p>6</p> <p>Cakaudrove</p> <p>1. Wailevu 10am</p> <p>2. Natewa 2pm</p> <p>3. 2pm</p> <p>Rest – Savusavu Daku Resort</p> | <p>7</p> <p>Cakaudrove</p> <p>Depart Savusavu for Nabouwalu</p> <p>Return to Suva</p> |
| 8 | <p>9</p> <p>Parliament Sitting</p> | <p>10</p> <p>Parliament Sitting</p> | <p>11</p> <p>Parliament Sitting</p> | <p>12</p> <p>Parliament Sitting</p> | <p>13</p> <p>Parliament Sitting</p> | 14 |
| 15 | <p>16</p> <p>Maritime Island</p> <p>Kadavu – normal boat run</p> | <p>17</p> <p>Maritime Island</p> <p>Kadavu – normal boat run</p> | <p>18</p> <p>Maritime Island</p> <p>Gau/Koro</p> | <p>19</p> <p>Maritime Island</p> <p>Gau/Koro</p> | <p>20</p> <p>Maritime Island</p> <p>Gau/Koro</p> | <p>21</p> <p>Return to Suva</p> |
| 22 | <p>23</p> <p>Maritime Island</p> <p>Lakeba, Vanua Balavu, Moala – government shipping</p> | <p>24</p> <p>Maritime Island</p> <p>Lakeba, Vanua Balavu, Moala – government shipping</p> | <p>25</p> <p>Maritime Island</p> <p>Lakeba, Vanua Balavu, Moala – government shipping</p> | <p>26</p> <p>Maritime Island</p> <p>Lakeba, Vanua Balavu, Moala – government shipping</p> | <p>27</p> <p>Maritime Island</p> <p>Lakeba, Vanua Balavu, Moala – government shipping</p> | <p>28</p> <p>Maritime Island</p> <p>Lakeba, Vanua Balavu, Moala – government shipping</p> |
| <p>29</p> <p>Maritime Island</p> <p>Lakeba, Vanua Balavu, Moala – government shipping</p> | <p>30</p> <p>Maritime Island</p> <p>Lakeba, Vanua Balavu, Moala – government shipping</p> | <p>31</p> <p>Maritime Island</p> <p>Lakeba, Vanua Balavu, Moala – government shipping</p> | | | | |

April

2026

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|--------|--------------------|--------------------|--------------------|--------------------|--------|----------|
| | | | 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | Parliament Sitting | Parliament Sitting | Parliament Sitting | Parliament Sitting | | |

EDUCATION BILL 2025
(BILL NO. 34 OF 2025)

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SCHEDULE—OTHER PROVISIONS OF THE FIJI TEACHERS
REGISTRATION BOARD

BILL NO. 34 OF 2025**A BILL**

FOR AN ACT TO GIVE EFFECT TO THE CONSTITUTIONAL RIGHT TO EDUCATION,
~~TO ESTABLISH THE EDUCATION ADVISORY COUNCIL, TO ESTABLISH THE
NATIONAL CURRICULUM AND ASSESSMENT AUTHORITY, TO PROVIDE
FOR THE RECOGNITION AND REGISTRATION OF SCHOOLS, TO PROVIDE
FOR EARLY CHILDHOOD EDUCATION, PRIMARY EDUCATION, SECONDARY
EDUCATION AND TECHNICAL AND VOCATIONAL EDUCATION AND
TRAINING, TO PROVIDE FOR SPECIAL AND INCLUSIVE EDUCATION,
TO ESTABLISH THE FIJI TEACHERS REGISTRATION AUTHORITY AND
CONTINUE THE FIJI TEACHERS REGISTRATION BOARD, TO PROVIDE
FOR THE REGISTRATION OF TEACHERS, TO CONTINUE THE HIGHER
EDUCATION COMMISSION, TO PROVIDE FOR THE REGISTRATION
OF HIGHER EDUCATION INSTITUTIONS, TO PROVIDE FOR HIGHER
EDUCATION,~~ AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY*Short title and commencement*

- 1.—(1) This Act may be cited as the Education Act 2025~~6~~.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

*Interpretation***2.** In this Act, unless the context otherwise requires—

“Act” means this Act and the regulations made under it;

“Appeals Board” means the Teachers’ Appeals Board established under section 1087;

“auditing standards” means—

(a) international auditing standards applicable to supreme audit institutions, subject to such modifications as the Auditor-General considers appropriate and notifies in the Gazette; or

(b) any other relevant standards that the Auditor-General considers appropriate and notifies in the Gazette;

“Auditor-General” means the person appointed as the Auditor-General under section 151(2) of the Constitution or a person appointed to act as the Auditor-General under section 151(3) of the Constitution;

“authorised officer” means a person who is authorised by the Permanent Secretary to perform a function under this Act;

“Authority” means the National Curriculum and Assessment Authority established under section 24;

“Board” means the Fiji Teachers Registration Board established under section 4(1) of the Fiji Teachers Registration Act 2008 and continued under section 843;

“boarding school” means a government school or government-aided school that provides boarding and accommodation to students who are enrolled at the school;

“child” means a person who has not reached the age of 18 years;

“citizen of Fiji” means a person who has acquired citizenship of Fiji in accordance with the Citizenship of Fiji Act 2009;

“Commission” means the Higher Education Commission established under section 5(1) of the Higher Education Act 2008 and continued under section 1287;

“compulsory school age” means an age within the age range prescribed by the Minister for the purpose of compulsory education;

“Consolidated Fund” means the Consolidated Fund continued under section 9 of the Financial Management Act 2004;

“Constitution” means the Constitution of the Republic of Fiji;

“Convention” means the Convention on the Rights of the Child adopted by the United Nations General Assembly by its resolution 44/25 of 20 November 1989;

“Council” means the Education Advisory Council established under section 13;

“Fiji National University” means the Fiji National University established under section 4(1) of the Fiji National University Act 2009;

“foreign student” means a student who is not—

- (a) a citizen of Fiji; and
- (b) the child of a citizen of Fiji;

“FTRA” means the Fiji Teachers Registration Authority established under section 843;

“Government” means the Government of the Republic of Fiji;

“government-aided school” means a school that is—

- (a) not owned by the Government;
- (b) maintained out of public funds; and
- (c) controlled by the Ministry;

“government school” means a school that is—

- (a) owned by the Government;
- (b) maintained out of public funds; and
- (c) controlled by the Ministry;

“head of school” means a teacher registered as a head teacher of a primary school or principal of a secondary school;

“higher education institution” means an educational institution in or operating in Fiji that provides award-conferring post-secondary education or provides educational support services for students of other higher education institutions including overseas institutions, and includes—

- (a) technical and vocational education and training centres;
- (b) information technology centres;
- (c) secretarial schools;
- (d) language schools;
- (e) hospitality training centres;
- (f) educational agencies;
- (g) caregiving training providers;

- (h) performing arts and sports academies;
- (i) religious educational institutions;
- (j) colleges; and
- (k) universities;

“home school” means an arrangement to provide an education to a student at any home or other approved location, not including at a government school, government-aided school or private school;

“local communities” means groups of persons, other than indigenous people, who are lawfully resident in Fiji and who share common social or cultural interest, and includes persons of diverse origin forming part of the non-indigenous population of Fiji;

“manager” means the person who is registered by the Permanent Secretary as the manager of a government-aided school or private school;

“member” means a member of the Authority, Board, Commission or Council, as the case may be, including the chairperson of the Authority, Board, Commission or Council;

“Minister” means the minister responsible for education;

“Ministry” means the ministry responsible for education;

“parent”, in relation to a child, includes a legal guardian of the child;

“Permanent Secretary” means the permanent secretary responsible for education;

“practising teacher” means a registered teacher who is part of the teaching staff of a school;

“practising teacher educator” means a registered teacher who is part of the teaching staff of a college of education or other institution that provides teacher education and training;

“primary school” means a school that provides primary education;

“public education” means education that is provided by the Government;

“recognised school” means a school that has been granted a certificate of recognition under section 54;

“registered school” means a school that has been granted a certificate of registration under section 54;

“registered teacher” means a person—

- (a) who is registered or provisionally registered under Part 12; and
- (b) whose name appears on the Register;

“repealed Acts” means the Acts repealed under section 1764;

“secondary school” means a school that provides secondary education;

“student” means a person who is enrolled at a school and includes—

- (a) a person who is above the age of 18 years; and
- (b) a prospective student;

“supreme audit institution” means an independent and external institution that audits the national public sectors’ financial operations;

“teacher” means a person registered to teach students in a school, including a teacher-trainee;

“teacher-trainee” means a person who is—

- (a) training to become a teacher, including a person with a limited authority to teach under section 1065; and
- (b) is not registered as a teacher;

“University of Fiji” means The University of Fiji established under section 4(1) of the University of Fiji Act 2011; and

“University of the South Pacific” means the University of the South Pacific referred to in clause 1 of the University of the South Pacific Charter.

Meaning of school

3.—(1) In this Act, unless the context otherwise requires, a school is an institution that provides regular instruction to students, whether in person or by electronic means, and includes—

- (a) a type of school under section 38;
- (b) a classification of school under section 39; and
- (c) a school providing a category of education under section 40.

(2) **Despite Notwithstanding** subsection (1), an institution in the following list is not a school—

- (a) an institution that provides instruction which is wholly or mainly of a religious character;
- (b) an institution that provides instruction which is wholly or mainly in relation to extracurricular activities, including hobbies, games or sports; and
- (c) an institution that has been exempted from subsection (1) by the Minister by an order in the Gazette.

Principles

4. This Act is to be construed with the following principles—

- (a) every person has the right to education;

- (b) it is the responsibility of the Government to provide public education;
- (c) it is the responsibility of the State to ensure that every child receives an education of the highest quality;
- (d) the education of a child is primarily the responsibility of the child's parents; and
- (e) the best interests of a child are the primary consideration in every matter concerning the child.

*Objectives***5.** The objectives of this Act are to—

- (a) give effect to the right to education under section 31 of the Constitution;
- (b) establish the Education Advisory Council;
- (c) establish the National Curriculum and Assessment Authority;
- (d) provide for the recognition and registration of government schools, government-aided schools and private schools;
- (e) provide for early childhood education, primary education, secondary education and technical and vocational education and training;
- (f) provide for special and inclusive education;
- (g) establish the Fiji Teachers Registration Authority, continue the Fiji Teachers Registration Board and provide for the registration of teachers;
- (h) continue the Higher Education Commission and provide for the registration of higher education institutions; and
- (i) provide for higher education.

*Act binds the State***6.** This Act binds the State.**PART 2— ACCESS TO EDUCATION***Right to education***7.** A person has the right to—

- (a) early childhood education;
- (b) primary education;
- (c) secondary education; and
- (d) higher education.

Free education

8.—(1) For the purposes of section 31(2)(a) of the Constitution and article 28(1)(a) of the Convention, the State must ensure that primary education is provided free of charge in a government school and government-aided school.

(2) For the purposes of section 31(2)(a) of the Constitution and article 28(1)(b) of the Convention, and where the State has the available resources to provide secondary education free of charge, the State must take reasonable measures to ensure that secondary education is provided free of charge in a government school and government-aided school.

(3) For the purposes of section 31(2)(a) of the Constitution and article 28(1)(c) of the Convention, and where the State has the available resources to provide higher education free of charge, the State must take reasonable measures to ensure that higher education is provided free of charge.

(4) For the purposes of section 31(5) of the Constitution, and where the State claims that it does not have the resources to provide secondary education or higher education free of charge, the State must show that the resources are not available.

(5) For the avoidance of doubt, an education is provided free of charge to a student if the student is not required to pay a tuition fee.

Education for mature students

9.—(1) In this section, “mature student” means a person who is 19 years of age or older.

(2) For the purposes of section 31(2) of the Constitution, if the State has the available resources to provide education for mature students who are unable to complete primary education and secondary education, the Permanent Secretary must take reasonable measures to ensure that the education is made available by—

- (a) establishing or designating a government school to provide education to mature students only;
- (b) supporting the expansion or establishment of a government-aided school to provide education to mature students only; or
- (c) developing or implementing education programmes to provide education to mature students in a government school or government-aided school.

(3) If a programme is developed and implemented under subsection (2)(c), the mature student must be educated separately from the students who are children.

PART 3—COMPULSORY EDUCATION

Compulsory education

10.—(1) In this section—

“regularly attend” means to attend school on each school day as a student, unless there is a reasonable excuse for the student to not attend school; and

“school day” means a day on which a student is required to attend school, and does not include a Saturday, Sunday or public holiday.

(2) A child who is of compulsory school age must—

- (a) be enrolled at a school; and
- (b) regularly attend the school as a student.

- (3) If a child of compulsory school age is not enrolled at a school—
- (a) the Permanent Secretary must take reasonable measures to make reasonable inquiries into the matter; and
 - (b) if the Permanent Secretary is not satisfied with the reason for the non-compliance, the Permanent Secretary must direct either parent, or both parents, of the child to immediately enrol the child at a school.
- (4) If a child of compulsory school age is enrolled at a school and fails to regularly attend the school as a student—
- (a) the Permanent Secretary must take reasonable measures to make reasonable inquiries into the matter; and
 - (b) if the Permanent Secretary is not satisfied with the reason for the non-compliance, must direct either parent, or both parents, of the child to ensure that the child regularly attends the school.
- (5) The Permanent Secretary must apply to a magistrate for a compulsory education order if—
- (a) a directive has been issued to either parent, or both parents, of the child under subsection (3) or (4); and
 - (b) despite the directive, the child—
 - (i) is still not enrolled at a school; or
 - (ii) still fails to regularly attend the school.
- (6) A compulsory education order has the effect of any or all of the following—
- (a) to direct a parent, or both parents, of the child to comply with subsection (2);
 - (b) to direct a parent, or both parents, of the child to take reasonable measures to ensure compliance with subsection (2) within a specified period of time;
 - (c) to direct the Permanent Secretary to monitor compliance with subsection (2); or
 - (d) to direct a parent, or both parents, of the child to attend a counselling session.
- (7) A person who contravenes a compulsory education order commits an offence and is liable on conviction to a fine not exceeding ~~\$2,000~~\$500 or imprisonment for a term not exceeding ~~12~~2 months or both.
- (8) This section does not apply to a child of compulsory school age—
- (a) if a parent of the child presents, within a reasonable time, a prescribed reason to the Permanent Secretary's satisfaction for the child's non-enrolment or absence at the school; or

(b) if the child is exempted under section 11.

Exemption

11.—(1) A person may apply to the Minister for an exemption from the requirements of section 10.

(2) The application must be made in the prescribed manner and form.

(3) The Minister may, by notice in the Gazette and subject to such terms and conditions as the Minister considers necessary, exempt any child of compulsory school age or class of children of compulsory school age if he or she is satisfied that the application is supported by a prescribed reason.

Reporting

12.—(1) The head of a school, other than a home school, must report any non-compliance with section 10 to the Permanent Secretary.

(2) A parent or any other person providing instruction in a home school must provide regular attendance reports to the Permanent Secretary in the prescribed form and manner.

PART 4—EDUCATION ADVISORY COUNCIL

Establishment of Education Advisory Council

13. This section establishes the Education Advisory Council.

Membership of Council

14.—(1) The Council consists of the following members —

- (a) the Permanent Secretary, as the chairperson;
- (b) the head of the Fiji Head Teachers Association;
- (c) the head of the Fiji Principals Association;
- (d) the head of the School Management Association of Fiji;
- (e) a representative of the Fiji Teachers Union;
- (f) a representative of the Fijian Teachers Association;
- (g) a nominee of the Great Council of Chiefs;
- (gh) 2 representatives of higher education institutions on a rotational basis, provided that at least one representative is always from a private higher education institution;
- (hi) a representative of the technical and vocational education and training institutions;
- (ij) a maximum of 10 representatives comprising at least—
 - (i) one representative each of women’s rights groups, persons with disabilities, parent associations within schools and school student bodies; and

(ii) persons with expertise in mental health, digital literacy, library services and curriculum development; and

(jk) 10 representatives of controlling authorities with proportionate representation from religious and cultural institutions, and communities that operate schools and, as far as practicable, representation across rural, maritime and urban schools.

(2) The Permanent Secretary, the head of the Fiji Head Teachers Association, the head of the Fiji Principals Association and the head of the School Management Association of Fiji are *ex officio* members of the Council.

(3) The Minister appoints the representatives under subsection (1)(e) to (jk) as members of the Council.

(4) The Minister may only appoint a representative of school student bodies under subsection (1)(ij)(i) as a member of the Council if the representative is at least 18 years of age.

Term of office

15.—(1) A member of the Council, other than an *ex officio* member, holds office for a term of 2 years.

(2) A member of the Council, other than an *ex officio* member, is eligible for reappointment if the member retains the status which qualifies him or her for membership.

Vacancy

16.—(1) A member of the Council may resign from his or her office at any time by giving written notice of the resignation to the Minister.

(2) The Minister may remove a member of the Council, other than an *ex officio* member, at any time on the basis of incapacity, non-performance, bankruptcy, neglect of duty or misconduct proved to the satisfaction of the Minister.

(3) Where a vacancy in the membership of the Council exists, the Minister must take all reasonable measures to appoint a representative under section 14(1)(e) to (jk), as the case may be, as a new member of the Council.

(4) The powers of the Council are not affected by any vacancy in its membership.

Remuneration and allowances

17. The Minister determines the remuneration of, and allowances for, the members of the Council.

Functions of Council

18. The Council must perform the following functions—

(a) provide advice and recommendations to the Minister on any education-related matter, including any education-related matter raised and submitted by a member to the Council;

(b) provide strategic guidance on various matters to assist the Minister in making informed and effective decisions;

- (c) assist the Minister with policy and law reforms by ensuring that the reforms consider the interests of the persons or classes of persons that the members represent;
- (d) assist the Minister to address and resolve education-related issues on behalf of the persons or classes of persons that the members represent;
- (e) perform any other function conferred on the Council by any other written law; and
- (f) perform any other prescribed function.

Powers of Council

19.—(1) The Council has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

(2) Without limiting subsection (1), the Council has the power to appoint committees and subcommittees to advise the Council on any matter, and may determine the membership, purpose and procedures of the committees or subcommittees.

Meetings of Council

20.—(1) The Council must meet—

- (a) at least once in every 4 months; and
- (b) at such times and places as the chairperson may determine.

(2) Subject to subsection (3), the chairperson must preside at each meeting of the Council.

(3) The quorum required for a meeting of the Council is two-thirds of the membership of the Council.

(4) Where a question arises at a meeting of the Council, a majority of the votes of the members of the Council present at the meeting determines the question.

(5) At a meeting of the Council, the chairperson and any other member of the Council has a deliberative vote, and where there is a tie in the number of opposing votes, the chairperson has a casting vote.

(6) A written resolution of the Council that is signed or assented to by a majority of the members of the Council, whether through physical or electronic means, is valid and deemed to have been approved at a meeting of the Council.

(7) Subject to this Act, the Council may regulate its own procedures.

(8) A defect or irregularity in, or in connection with, the appointment of a member of the Council, or in the case of an acting appointment, the occasion for acting had not arisen or had ceased, the defect or irregularity does not invalidate an act or decision of the Council.

Annual report of Council

21. Without limiting the right of the Council to report at any time, the Council must, as soon as practicable after the end of each financial year—

- (a) publish an annual report on the performance of the functions of the Council under this Act during the year; and
- (b) submit a copy of the annual report to the Minister, who must table the annual report in Parliament as soon as reasonably practicable.

Protection from liability

22.—(1) No civil or criminal proceedings lie against the Council for any thing the Council does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Council, unless it is shown that the Council did not act in good faith or with reasonable care.

(2) No civil or criminal proceedings lie personally against any member of the Council for any thing the member does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Council, unless it is shown that the member did not act in good faith or with reasonable care.

PART 5—CURRICULUM DEVELOPMENT AND ASSESSMENT

*Division 1—National Curriculum and Assessment Authority**Curriculum to be used in schools*

23.—(1) A registered school and a recognised school must meet the curriculum, assessment and educational standards developed, designed and approved by the Authority.

(2) A private school and a home school must meet a prescribed minimum threshold for the curriculum, assessment and educational standards developed, designed and approved by the Authority.

(3) The Authority must ensure that the curriculum in addition to the standard subjects taught in Fiji also covers the following thematic areas—

- (a) digital literacy and learning, including artificial intelligence;
- (b) civic responsibility, morality and discipline;
- (c) the formal learning of *Vosa Vaka Viti* and **Hindiother languages in Fiji**;
- (d) health and nutrition;
- (e) physical education and sports;
- (f) music and the arts;
- (g) practical life skills;
- (h) climate change and sustainability; and
- (i) the cultures, ~~and~~ customs **and history** of the indigenous people and local communities of Fiji.

Establishment of National Curriculum and Assessment Authority

24. This section establishes the National Curriculum and Assessment Authority.

Membership of Authority

25.—(1) The Authority consists of the following members—

- (a) the Permanent Secretary, as the chairperson;
- (b) the permanent secretary responsible for employment;
- (c) the permanent secretary responsible for multi-ethnic affairs;
- (d) the permanent secretary responsible for sports;
- (ee) the director of the Commission;
- (f) a representative of the Fiji Arts Council;
- (g) a nominee of the Great Council of Chiefs;
- (dh) a qualified and experienced curriculum specialist;
- (ei) a qualified and experienced assessment specialist;
- (fj) 2 representatives of higher education institutions selected on a rotational basis, provided that at least one representative must always be a private university;
- (gk) 2 representatives from teacher training institutions; and
- (hl) a representative of the Fiji Commerce and Employers Federation.

(2) The Permanent Secretary, the permanent secretary responsible for employment and the director of the Commission are *ex officio* members of the Authority.

(3) The Minister appoints the specialists and representatives under subsection (1)(df) to (hl) as members of the Authority.

Term of office

26.—(1) A member of the Authority, other than an *ex officio* member, holds office for a term of 3 years.

(2) A member of the Authority, other than an *ex officio* member, is eligible for reappointment.

Vacancy

27.—(1) A member of the Authority may resign from his or her office at any time by giving written notice of the resignation to the Minister.

(2) The Minister may remove a member of the Authority, other than an *ex officio* member, at any time on the basis of incapacity, non-performance, bankruptcy, neglect of duty or misconduct proved to the satisfaction of the Minister.

(3) Where a vacancy in the member of the Authority exists, the Minister must take all reasonable measures to appoint a specialist or representative under section 25(1)(df) to (hl), as the case may be, as a new member of the Authority.

(4) The powers of the Authority are not affected by any vacancy in its membership.

Remuneration and allowances

28. The Minister determines the remuneration of, and allowances for, the members of the Authority.

Functions of Authority

29. The Authority has the following functions—

- (a) to advise the Minister on matters relating to curriculum, assessment, and educational standards;
- (b) to develop, review, approve and implement the national curriculum frameworks, syllabi, and learning standards for all educational levels prescribed by the Minister;
- (c) to review the curriculum framework at least once every 3 years;
- (d) to design, develop, administer and manage national examinations and other forms of assessment for all educational levels prescribed by the Minister;
- (e) to establish and maintain a system for the certification of educational achievement based on national assessments and examinations;
- (f) to conduct or commission research on best practices in curriculum development, pedagogy, and assessment, both nationally and internationally;
- (g) to provide guidance, resources and support to schools and educators on the effective implementation of the national curriculum and assessment practices;
- (h) to collaborate with relevant stakeholders, including educators, parents, community groups, industry, and higher education institutions, in the performance of its functions;
- (i) to publish and disseminate information related to curriculum, assessment frameworks, and examination results; and
- (j) to perform any other functions as may be conferred on it by this Act or any other written law.

Powers of Authority

30. The Authority has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

Meetings of Authority

31.—(1) The Authority must meet—

- (a) at least once in every 4 months; and
- (b) at such times and places as the chairperson may determine.

(2) Subject to subsection (3), the chairperson must preside at each meeting of the Authority.

(3) The quorum required for a meeting of the Authority is 68.

(4) Where a question arises at a meeting of the Authority, a majority of the votes of the members of the Authority present at the meeting determine the question.

(5) At a meeting of the Authority, the chairperson and any other member of the Authority has a deliberative vote, and where there is a tie in the number of opposing votes, the chairperson has a casting vote.

(6) A written resolution of the Authority that is signed or assented to by a majority of the members of the Authority, whether in person or through electronic means, is valid and deemed to have been approved at a meeting of the Authority.

(7) Subject to this Act, the Authority may regulate its own procedures.

(8) A defect or irregularity in, or in connection with, the appointment of a member of the Authority, or in the case of an acting appointment, the occasion for acting had not arisen or had ceased, the defect or irregularity does not invalidate an act or decision of the Authority.

Annual report of Authority

32. Without limiting the right of the Authority to report at any time, the Authority must, as soon as practicable after the end of each financial year—

- (a) publish an annual report on the performance of the Authority’s functions under this Act during the year; and
- (b) submit a copy of the annual report to the Minister, who must table the annual report in Parliament as soon as reasonably practicable.

Protection from liability

33.—(1) No civil or criminal proceedings lie against the Authority for anything the Authority does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Authority, unless it is shown that the Authority did not act in good faith or with reasonable care.

(2) No civil or criminal proceedings lie personally against any member of the Authority for anything the member does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Authority, unless it is shown that the member did not act in good faith or with reasonable care.

Division 2—Religious Instruction

Religious instruction in schools

34.—(1) In this section, “teacher” includes a person who is employed or engaged by a school whether or not the person provides instruction at the school.

(2) A government-aided school may provide religious instruction as part of the education that it provides, whether or not the school receives financial assistance from the Government for the provision of the instruction.

(3) A teacher or student at any school must not be compelled to act in any manner that is contrary to his or her religion or belief.

(4) A student who is a child must not receive religious instruction unless his or her parent consents to it.

(5) A student who is not a child must not receive religious instruction unless he or she consents to it.

Primary consideration

35. Despite Notwithstanding any other provision in this Act or any other written law, and where the student is a child, the best interests of the student are the primary consideration.

Division 3—Career Education and Guidance

Head of school to ensure career education and guidance are provided

36. The head of a school must take all reasonable measures to ensure that students in a prescribed year and above are provided with appropriate career education and guidance to prepare the students to join the workforce or undertake further education or training.

Commission to provide careers information service

37. The Commission must provide a publicly available careers information service that includes a database of information in respect of occupations and higher education and training.

PART 6—SCHOOLS

Division 1—Types and classifications of schools and categories of education

Types of schools

38. A school may be, according to the mode of ownership or funding of the school, one of the following types—

- (a) government school;
- (b) government-aided school;
- (c) private school; or
- (d) home school.

Classifications of schools

39. A school may be, according to the age range of the students, classified as—

- (a) an early childhood education school;
- (b) a primary school;
- (c) a secondary school;
- (d) a school providing education for mature students.

Categories of education

40.—(1) A school may provide the following categories of education—

- (a) early childhood education;

- (b) primary education;
- (c) secondary education;
- (d) technical and vocational education and training;
- (e) special and inclusive education;
- (f) a home schooling education.

(2) The Minister may, by regulations, amend the categories of education under subsection (1).

Register of Schools

41.—(1) This section establishes the Register of Schools.

(2) The Permanent Secretary must keep and maintain the Register of Schools.

(3) The Register must contain a list of all schools approved, registered or recognised under this Act including all schools that are no longer approved, registered or recognised under this Act or that have closed.

(4) The Register of Schools may be in either or both of the following forms—

- (a) in physical form, kept and maintained at the main office of the Ministry; or
- (b) in electronic form, kept and maintained on the Ministry’s website.

(5) Further particulars of the Register of Schools may be prescribed by regulations.

Division 2—Government Schools

Establishment of government schools

42. The Minister may, with the approval of Cabinet, establish a government school in any locality, provided that due consideration is given to the existing schools in the locality.

Control of government schools

43. The Permanent Secretary has control of all government schools.

Board of Governors

44.—(1) A government school must have a Board of Governors to be appointed by the Minister with such functions and powers as the Minister may prescribe.

(2) The Board of Governors of a government school may regulate its own procedures.

Division 3—Government-Aided Schools

Control of government-aided schools

45. The controlling authority of a government-aided school has control of the government-aided school.

Manager

46.—(1) The controlling authority of a government-aided school must—

- (a) appoint a manager of the school; and
- (b) submit the prescribed details of the proposed manager to the Permanent Secretary for registration.

- (2) The Permanent Secretary may—
- (a) register the proposed manager as the manager of the school; or
 - (b) refuse to register the proposed manager as the manager of the school if he or she—
 - (i) has been convicted of any offence involving dishonesty, fraud, violence or immorality; or
 - (ii) is undischarged bankrupt.

Division 4—Private Schools

Control of private schools

47. The controlling authority of a private school has control of the private school.

Manager

48.—(1) The controlling authority of a private school must—

- (a) appoint a manager of the school; and
- (b) submit the prescribed details of the proposed manager to the Permanent Secretary for registration.

(2) The Permanent Secretary may—

- (a) register the proposed manager as the manager of the school; or
- (b) refuse to register the proposed manager as the manager of the school if he or she—
 - (i) has been convicted of any offence involving dishonesty, fraud, violence or immorality; or
 - (ii) is an undischarged bankrupt.

PART 7—ESTABLISHING AND CLOSING SCHOOLS

Division 1—Establishing Schools

Requirement to be registered or recognised

49. A person must not establish or operate a school unless it is, in accordance with this Act—

- (a) approved by the Permanent Secretary, or by the Minister after an appeal; and
- (b) registered or recognised by the Permanent Secretary, or by the Minister after an appeal.

Establishing government schools

50. The Permanent Secretary may establish a government school and upon establishment the school is taken to be registered under this Act.

Use of the term “school”

51. For the purposes of sections 52 to 57, “school” means a government-aided and private school but does not mean a home school.

Approval to register or recognise a school

52.—(1) The Permanent Secretary may grant approval to register or recognise a school if he or she is satisfied that the school meets the requirements for approval under section 53.

(2) A person that intends to establish and operate a school must first apply to the Permanent Secretary for approval to register or recognise the school.

(3) The application must be in writing and accompanied by the prescribed fee.

(4) The Permanent Secretary may impose conditions together with the approval of an application and the applicant must comply with those conditions.

~~(5) To avoid doubt, even if a school is already registered or recognised under written law, the following changes require a new application for approval—~~

~~(a) changing the nature or form of education that the school provides;~~

~~(b) changing the school’s classification;~~

~~(c) reopening the school after it has been closed for 6 months or more; or~~

~~(d) transferring the school to a new location.~~

Requirements for approval of registration or recognition of schools

53.—(1) The Permanent Secretary may only grant approval if the following requirements are met—

(a) there is a sufficient number of potential students in the proposed area where the school is to be located;

~~(b) there is a sufficient number of teachers and available facilities for the proposed schools;~~

~~(bc) the proposed site of the school is suitable and adequate for the type of school proposed;~~

~~(cd) the proposed school would be in the best interests of education;~~

~~(de) for a government-aided school, establishing the proposed school would be a suitable and reasonable use of public funds;~~

~~(ef) there are not enough adequate schools already available in the proposed area to cater to the type of school proposed; or~~

~~(fg) the proposed manager or a person assisting in the management of the school is not prohibited or not likely to be prohibited from carrying out that role under section 1664.~~

(2) The Permanent Secretary must notify the applicant in writing of—

(a) the decision to approve or refuse the application; and

- (b) in the case of refusal, the applicant's right to appeal the decision under section 61.

Application for certificate of registration or recognition

54.—(1) If the Permanent Secretary, or the Minister after an appeal, approves the registration or recognition of a school, the Permanent Secretary or Minister, as the case may be, may grant the applicant a certificate of registration or recognition in accordance with this Division.

(2) After receiving the Permanent Secretary's notice of approval under section 53(2), the person seeking to establish the school must apply for a prescribed certificate of registration or recognition.

(3) ~~To avoid~~ For the avoidance of doubt, even if a school is already registered or recognised under written law, the following changes require a new application for registration or recognition after an approval under section 52 has been granted—

- (a) changing the nature or form of education that the school provides;
- (b) changing the school's classification;
- (c) reopening the school after it has been closed for 6 months or more; or
- (d) transferring the school to a new location.

(4) The Permanent Secretary may refuse an application for a certificate of registration or recognition if, in his or her opinion, there has been a breach of—

- (a) any prescribed condition of registration or recognition; or
- (b) any condition imposed by the Permanent Secretary when approving the application under section 52(4).

(5) The Permanent Secretary may, when issuing a certificate of registration or recognition—

- (a) classify the school in a category which restricts the highest form or type of education which may be provided by the school; and
- (b) impose conditions that the Permanent Secretary considers appropriate.

(6) The Permanent Secretary may amend or revoke any condition imposed under subsection (5)(b).

Cancellation of certificate of registration or recognition

55.—(1) The Permanent Secretary may cancel the certificate of registration or recognition of a school if he or she is satisfied that the school has been closed for a period of 6 consecutive months.

(2) The Permanent Secretary may, at any time, cancel the certificate of registration or recognition of a school which has ceased or failed to conform to the conditions prescribed, or imposed by the Permanent Secretary, for the school.

(3) If the Permanent Secretary cancels a certificate of registration he or she may, in accordance with the regulations, issue a certificate of recognition in its place.

Changes to controlling authority

56.—(1) The Permanent Secretary must specify the controlling authority of any registered or recognised school in the certificate of registration or recognition of the school.

(2) The controlling authority of a school must, within 3 months of a change to or of the controlling authority, notify the Permanent Secretary in writing of the change and, as an attachment to the notice, return the certificate for endorsement of the change.

(3) Subsection (2) is deemed to be a prescribed condition of any certificate of registration or recognition.

Power to request return of certificates

57.—(1) The Permanent Secretary may request in writing that a controlling authority or manager of a school return the school's certificate of registration or recognition to him or her so the Permanent Secretary may make an endorsement on the certificate of the exercise of any of the Permanent Secretary's powers under this Part.

(2) The reference to the Permanent Secretary's powers under subsection (1) includes the power to—

- (a) impose, amend or remove conditions; and
- (b) amend or cancel a certificate and, if the Permanent Secretary deems appropriate, replace it with a new certificate of either registration or recognition.

(3) The controlling authority or manager that receives the request under subsection (1) must, within 14 days of receiving the request, return the certificate of registration or recognition.

(4) Subsection (3) is deemed to be a condition of the certificate of registration or recognition.

Approving home schools

58.—(1) The Permanent Secretary may only approve a home school if—

- (a) the proposed site of the school is suitable and adequate for the education of a student;
- (b) the proposed home school will be in the best interests of the student;
- (c) there are not enough adequate schools already available in the proposed area to cater to the type of school proposed;
- (d) the proposed parent or person providing instruction to the student is not prohibited or not likely to be prohibited from carrying out that role under section 1664; and
- (e) the school meets any other prescribed requirements.

(2) A person that intends to set up a home school must apply to the Permanent Secretary for approval.

(3) The application must be in writing and accompanied by the prescribed fee.

(4) The Permanent Secretary may impose conditions together with the approval of an application and the applicant must comply with those conditions.

(5) The Permanent Secretary must notify the applicant in writing of—

- (a) the Permanent Secretary's decision to approve or refuse the application; and
- (b) in the case of refusal, the applicant's right to appeal the decision under section 61.

Division 2—Closing of Schools

Closing government-aided and private schools

59.—(1) The Permanent Secretary may order the manager of a school to close the school if the Permanent Secretary is satisfied that—

- (a) the school is conducted in a manner which is calculated to be detrimental to the physical, mental or moral welfare of its students;
- (b) the education or instruction given to the students is prejudicial to the peace, good order or good government of Fiji;
- (c) the premises of the school do not and cannot at reasonable expense be made to meet the prescribed requirements relating to health and safety;
- (d) the school persistently and materially teaches a curriculum that does not comply with the basic curriculum set by the Authority;
- (e) the school, after a publication has been declared unsuitable for use in schools by the Permanent Secretary, knowingly uses or refers to the publication, or any copy, or extract of it, as part of the instruction provided in the school;
- (f) the school is not registered or recognised under and in accordance with this Part and does not have a valid certificate of registration or recognition;
- (g) any person managing or assisting in the management of the school has been prohibited from serving in that capacity under section 1664; or
- (h) it is not in the best interests of education in relation to the best use of Government funds, or otherwise to keep any school open.

(2) The Permanent Secretary may order the manager of a school to close the school if the controlling authority of the school requests that the school be closed.

(3) A school closed under this section for less than 6 months may be reopened at the discretion of the Permanent Secretary.

Stopping home schools

60.—(1) The Permanent Secretary may order a responsible person to stop the home school if the Permanent Secretary is satisfied that—

- (a) the school is conducted in a manner which is calculated to be detrimental to the physical, mental or moral welfare of its students;
- (b) the education or instruction given to a student is prejudicial to the peace, good order or good government of Fiji;
- (c) the premises of the school do not and cannot at reasonable expense be made to meet the prescribed requirements relating to health and safety;
- (d) the school persistently and materially teaches a curriculum that does not comply with the basic curriculum set by the Authority that applies to the school;
- (e) the school, after a publication has been declared unsuitable for use in schools by the Permanent Secretary, knowingly uses or refers to the publication, or any copy, or extract of it, as part of the instruction provided in the school;
- (f) the school is not approved under and in accordance with this Part; or
- (g) any person providing instruction in the school has been prohibited from serving in that capacity under section 17068.

(2) A home school that is stopped under this section for less than 6 months may recommence at the discretion of the Permanent Secretary.

(3) In this section, “responsible person” means a parent or person that administers or oversees a home-schooling education.

*Division 3—Appeals**Appeals against refusal to approve*

61.—(1) ~~If the Permanent Secretary refuses to approve an application under sections 52 or 58, the applicant may appeal to the Minister in writing. A person aggrieved by—~~

- (a) a refusal by the Permanent Secretary to approve an application under sections 52 or 58; or
- (b) an order to close a school under section 59 or to stop a home school under section 60 may appeal in accordance with subsection (2).

~~(2) The appeal must be—~~

- ~~(a) made within 30 days of the notification under section 54(2); and~~
- ~~(b) accompanied by the prescribed fee.~~

- (2) An appeal under subsection (1) may be made—
- (a) to the Minister in writing; or
 - (b) where the applicant is dissatisfied with the decision of the Minister, appeal to the Education Appeals Tribunal established under section 62.
- ~~(3) The decision of the Minister on the appeal is final.~~
- (3) An appeal to the Minister must be—
- (a) made within 30 days—
 - (i) in the case of a refusal under subsection (1)(a), of the notification under section 54(2); or
 - (ii) in the case of an order under subsection (1)(b), of the order received; and
 - (b) accompanied by the prescribed fee.
- (4) The Minister must determine an appeal within a reasonable time.
- (5) A person aggrieved by the decision of the Minister may, within 30 days of being notified of the decision, appeal to the Education Appeals Tribunal.
- (6) The Permanent Secretary may, at his or her discretion, permit a school that is the subject of an appeal under subsection (1)(b) to remain open pending the determination of the appeal.

Appeals against closing

- ~~62.—(1) The manager of a school closed under section 59 or stopped under section 60 may appeal the order to close or stop to the Minister in writing.~~
- ~~(2) The appeal must be—~~
- ~~(a) made within 30 days of the date the order is received by the manager; and~~
 - ~~(b) accompanied by the prescribed fee.~~
- ~~(3) The Permanent Secretary may, at his or her discretion, permit a school subject to the appeal to remain open pending the determination of the appeal.~~
- ~~(4) The decision of the Minister on the appeal is final.~~

Establishment of Education Appeals Tribunal

- 62.—**(1) This section establishes the Education Appeal Tribunal consisting of —
- (a) a chairperson, who must be a person qualified to be appointed as a Magistrate or is a retired Magistrate; and
 - (b) 2 other members, of whom—
 - (i) one must have experience and expertise in education; and
 - (ii) one may have such other qualifications or experience as the Minister considers appropriate.

(2) The member of the Tribunal are to be appointed by the Minister for a term of 3 years, either on a full-time or part time basis and are eligible for reappointment.

Powers of Education Appeals Tribunal

63.—(1) In determining an appeal, the Education Appeals Tribunal may—

- (a) confirm the original decision;
- (b) amend the original decision;
- (c) substitute another decision for the original decision; or
- (d) set aside the original decision and return the matter to the Minister with any direction it considers appropriate.

(2) The Education Appeals Tribunal must determine an appeal in accordance with the prescribed procedures.

PART 8—SCHOOL REGULATION

Division 1—Health and Safety

Health and safety requirements

634.—(1) A school must comply with—

- (a) the prescribed health and safety requirements; and
- (b) any applicable health and safety requirements set out in any other written law.

(2) Subject to section 645, if it appears to the Permanent Secretary that a school does not comply with subsection (1), he or she may order the manager or the Board of Governors of the school to execute within a reasonable period to be stated in the order, such specified works as are necessary to secure compliance.

(3) Subject to section 645, if the Permanent Secretary is satisfied that an order has not been carried out, he or she may order the manager or the Board of Governors to close the school.

Waiver

645. If, after having regard to the nature of the site of a school, any existing building and other circumstances affecting the school premises, the Permanent Secretary is satisfied that it is unreasonable to require the school to comply with the prescribed health and safety requirements, he or she may waive any of the prescribed requirements.

Division 2—Inspections

Inspection of schools

656.—(1) In this section, “school” includes any part of the school, and any building used in connection with the school, including any workshop, dormitory, kitchen, sanatorium, hostel and ancillary building.

(2) An authorised officer must, at least once in every 12 months and with prior notice, visit a school and conduct an inspection of the school.

(3) **Despite Notwithstanding** subsection (2), an authorised officer may, at any time and without prior notice, visit a school and conduct an inspection of the school.

(4) The authorised officer who conducts an inspection must —

- (a) prepare a report in the prescribed manner and form;
- (b) outline his or her findings from the inspection; and
- (c) submit the report to the Permanent Secretary within the prescribed period.

Medical inspection and treatment

667.—(1) In this section —

“health professional” means a prescribed health professional who is authorised by the Ministry responsible for health and the Ministry to conduct the medical inspection and treatment; and

“medical inspection and treatment” includes dental inspection and treatment.

(2) A student may undergo a medical inspection and treatment by a health professional at the school he or she is enrolled in if a parent of the child consents to the inspection and treatment.

PART 9 — ADMINISTRATION

Division 1 — General

Admission of students

678.—(1) A government school or government-aided school must not admit a student to the school after the first two weeks in the first term of any year has lapsed.

(2) **Despite Notwithstanding** subsection (1), the Permanent Secretary may approve the admission of a student for prescribed reasons.

School hours

689.—(1) The Minister may prescribe the school hours for teachers and students.

(2) The school hours applicable to a government school and a government-aided school prior to the commencement of this Act continue until such time the Minister prescribes different school hours under subsection (1).

Teacher-student ratio

690.—(1) The head of school must not assign or permit a teacher to be in charge of a class that has more than the prescribed number of students.

(2) **Despite Notwithstanding** subsection (1), the Permanent Secretary may authorise the **managerhead of school** of a school to assign or permit a teacher to be in charge of a class that has more than the prescribed number of students if the Permanent Secretary is satisfied that the reason provided is a prescribed reason.

Division 2 — School Zoning

Prohibition on school zoning

70.—(1) **School zoning is prohibited.**

~~(2) Subject to the requirements set out by a government school or government-aided school in relation to enrolment, a parent may enrol his or her child as a student at a school of the parent's own preference.~~

Division 32—Boarding

Criteria for enrolment to be prescribed

71.—(1) A boarding school must enrol a student at the school in accordance with the prescribed criteria for enrolment.

(2) The criteria for enrolment must consider—

- (a) the distance between the student's residence and the boarding school; and
- (b) whether the student resides in a rural, maritime or any other remote area where schools are not easily accessible.

PART 10—STUDENT BEHAVIOUR AND WELL-BEING

Counselling for students

72.—(1) Subject to subsection (3), a school must employ or engage a qualified and trained school counsellor to provide counselling services to students enrolled at the school.

(2) For the purposes of subsection (3), the Ministry must employ or engage a qualified and trained school counsellor to provide counselling services to students.

(3) Where a government school or government-aided school is unable to employ or engage a qualified and trained school counsellor, the school must take all reasonable measures to ensure that students enrolled at the school have access to—

- (a) a qualified and trained school counsellor employed or engaged by the Ministry for counselling services; or
- (b) any other qualified and trained school counsellor.

(4) The requirement under subsection (1) is a deemed condition of registration or recognition of a school.

Prohibition on corporal punishment

~~**73.**—(1) In this section—~~

~~“corporal or physical punishment” means any punishment in which physical force is used and intended to cause some degree of pain or discomfort, whether or not the pain or discomfort is light;~~

~~“cruel, inhumane, degrading or disproportionately severe treatment or punishment” includes any treatment or punishment that belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules a student; and~~

~~“person” includes a teacher and any other person who is employed or engaged by a school.~~

~~(2) Corporal or physical punishment of students is prohibited.~~

~~(3) A person must not—~~

- ~~(a) administer any form of cruel, inhumane, degrading or disproportionately severe treatment or punishment to any student;~~
- ~~(b) cause any form of violence to any student; or~~
- ~~(c) cause any kind of torture, whether physical, mental or emotional, to any student.~~

PART 11—FINANCING AND ACCOUNTABILITY

Division 1—Fees and Levies

Tuition fees

743.—(1) A government school and government-aided school must not charge any fee for the provision of primary education or secondary education to any student enrolled at the school.

(2) Subsection (1) does not apply to a student who is a foreign student.

Boarding fees

754.—(1) A boarding school may charge the prescribed boarding fee, or a fee not more than the prescribed boarding fee, for the provision of boarding and accommodation to any student enrolled at the school.

(2) A boarding school may refuse to enrol or re-enrol a student at the school if the student—

- (a) has not paid the boarding fee to the school at the time the fee is due; or
- (b) is owing the boarding fee to the school.

Levies

765.—(1) Subject to subsections (2) and (3), a government school and government-aided school may charge a levy to the students enrolled at the schools for any of the following purposes—

- (a) the development or improvement of the school's infrastructure;
- (b) the maintenance of the school;
- (c) the purchase of books and other supplies that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (d) the purchase of equipment that is likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (e) the funding of educational excursions and extracurricular activities that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students; and
- (f) any other purpose authorised by the Permanent Secretary.

(2) A government school and government-aided school must apply to the Permanent Secretary in the prescribed manner and form for approval of the amount of levy to be charged.

(3) The Permanent Secretary must ensure that the amount of levy to be charged is—

- (a) reasonable and equitable; and
- (b) not excessive or burdensome to any parent.

(4) This section applies **despite notwithstanding** section 8.

Fees to be paid into Consolidated Fund etc

776. All fees charged and payable to a government school under this Division are to be accounted for and paid into the Consolidated Fund or a fund established by the Minister in the regulations.

Division 2—Fundraising

Fundraising by schools

787.—(1) A government school and government-aided school may organise and conduct a fundraising activity or event to raise monies for any of the following purposes—

- (a) the development or improvement of the school’s infrastructure;
- (b) the maintenance of the school;
- (c) the purchase of books and other supplies that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (d) the purchase of equipment that is likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (e) the funding of educational excursions and extracurricular activities that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students; or
- (f) any other purpose authorised by the Permanent Secretary.

(2) A government school or government-aided school must not force, compel, coerce, intimidate or apply pressure to a teacher, student or parent to participate in, or contribute to, a fundraising activity or event that is organised and conducted by the school.

Division 3—Financial transparency

Responsible financial management

798. A government school and government-aided school must manage and use any public funds provided to the school, including for the education of students, in a responsible and prudent manner.

Financial records

8079.—(1) A government school and government-aided school must keep written financial records that—

- (a) correctly outline and explain the transactions of the school;

- (b) correctly outline and explain the financial position and performance of the school;
 - (c) enable financial statements to be prepared and audited; and
 - (d) enable other reports to be prepared as required by this Act.
- (2) The financial records required under subsection (1)—
- (a) must be kept for at least 7 years after the dates of the transaction to which they relate;
 - (b) must be kept at the school; and
 - (c) may be kept in electronic form if they are readily retrievable and convertible into a physical form.

Financial statements

810.—(1) A government school and government-aided school must ensure that the financial statements for the school for each financial year are prepared.

(2) The financial statements must include all the information that is necessary to ensure that the financial statements give a true and fair view of the financial position and performance of the school.

- (3) Without limiting subsection (2), the financial statements must consist of—
- (a) a balance sheet, profit and loss statement and other financial reports for the financial year as required by and consistent with applicable accounting standards; and
 - (b) notes to the financial statements as required by applicable accounting standards.

*Division 4—Audit and reporting**Audit*

801. A government school and government-aided school must cause the accounts and financial statements of the school to be audited by an auditor authorised by the Auditor-General, in accordance with auditing standards.

Annual report

832. A government school and government-aided school must prepare and submit an annual report to the Permanent Secretary in the prescribed manner and form.

PART 12—TEACHER REGISTRATION*Division 1—The FTRA and Board**Establishment of FTRA and continuation of Board*

843.—(1) This section establishes the Fiji Teacher Registration Authority which comprises the Fiji Teachers Registration Board established under the Fiji Teachers Registration Act 2008.

(2) The FTRA—

- (a) is a body corporate with perpetual succession;
- (b) must have a common seal;
- (c) may acquire, hold and dispose of real property; and
- (d) may sue and be sued in its corporate name.

(3) The common seal of the FTRA is to be kept as the Board directs and must not be used except as authorised by the Board.

Membership of Board

854.—(1) The members of the Board comprise a chairperson and 8 other members appointed by the Minister.

(2) The members must be persons who, in the opinion of the Minister, have adequate qualifications, skills, expertise and knowledge to contribute to the functions of the Board under this Act, and in particular for the development of the teaching profession, education standards, and general administration and financial management of the Board.

(3) The Minister has the power to co-opt other persons as members to facilitate the work of the Board, subject to terms and conditions the Minister determines.

(4) A member may be appointed for a term of up to 3 years and is eligible for reappointment.

(5) The Board has the power to elect one of its members as its deputy chairperson, to perform the functions and powers of the chairperson when the chairperson is absent or unable to perform the functions and powers.

(6) The Schedule sets out other provisions relating to the Board.

Functions of Board

865. The functions of the Board are—

- (a) to be responsible to the Minister for the registration of persons qualified to be registered as teachers under this Act;
- (b) to keep teacher registration in Fiji under continuous review and to make reports and recommendations to the Minister concerning this function;
- (c) to oversee, undertake and implement the disciplinary measures outlined in Division 4 of this Part;
- (d) to confer and collaborate with employing authorities, teacher education institutions, the teaching profession, teacher organisations and the general community in relation to standards of courses of teacher education acceptable for the purpose of teacher registration and to advise the Minister accordingly;
- (e) to undertake relevant review and research projects for the purpose of this Act, as requested in writing by the Minister;

- (f) to promote the teaching profession;
- (g) to develop, formulate and improve professional teaching standards attuned to the needs of students and of a professional work force;
- (h) to develop, formulate and maintain a code of professional ethics for the teaching profession; and
- (i) to make recommendations to the Minister with respect to special projects not inconsistent with its other functions, including funding required to undertake such projects.

Powers of Board

876.—(1) In addition to the powers conferred upon it under this Act or any other written law, the Board has the following powers—

- (a) to collect prescribed fees for the purpose of this Act;
- (b) to investigate complaints and institute disciplinary action under this Part;
- (c) to produce materials in the performance of its functions; and
- (d) to exercise other powers conferred upon it under this Act or any other written law.

(2) For material produced by it, the Board may—

- (a) charge for advertising in the material;
- (b) sell the material; or
- (c) enter into an agreement with any person to sell the material.

Delegation of powers

887.—(1) The Board may delegate, in writing, its powers, functions or duties under this Act to any member of the Board or to an employee of the FTRA either generally or, as specified in the delegation, for a period, purpose or area within Fiji and may revoke or vary the delegation.

(2) ~~To avoid~~**For the avoidance of** doubt, the Board may continue to exercise any power and carry out any function and duty delegated under this section.

Committees

898. The Board may establish the following committees consisting of its members and other persons it considers appropriate to assist it to perform its functions—

- (a) Teacher Registration Committee;
- (b) Teacher Education Committee;
- (c) Code of Professional Ethics Committee;
- (d) Professional Teaching Standards Committee;
- (e) Finance and Management Committee;

- (f) Disciplinary Committee; and
- (g) any other committee, it considers necessary for the purposes of this Act.

Directions

9089.—(1) The Minister may give the Board or a person exercising a delegated authority of the Board a written policy direction in relation to its powers and functions if the Minister is satisfied that it is necessary to do so in the public interest.

- (2) The Board or person must comply with the directions given under subsection (1).

Employment of staff

910.—(1) The Board may appoint employees for the efficient performance of its functions and terminate or suspend the employment of an employee in accordance with the Employment Relations Act 2007.

(2) The qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit.

(3) The Ministry must provide sufficient public officers as required for the administration of the Board.

Chief Executive Officer

921.—(1) The Board may appoint a Chief Executive Officer on the terms and conditions as the Board may determine and at a salary approved by the Board.

- (2) The Chief Executive Officer—

- (a) is responsible to the Board for the proper administration and management of the operations and affairs of the FTRA in accordance with the policies or policy instructions of the Board and this Act; and
- (b) must perform a function delegated by the Board.

(3) ~~To avoid~~For the avoidance of doubt, section 940 applies to the Chief Executive Officer.

Division 2—Registration of Teachers

Must register to teach

932.—(1) A person must not teach at a school in Fiji unless the person is a holder of a valid certificate of registration under section 998 or authorisation under section 1065 permitting the person to teach or practice teaching at a school in Fiji.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction—

- (a) for a first offence, to a fine not exceeding \$5,000; and
- (b) for a second or subsequent offence, to a fine not exceeding \$20,000.

Power to register

943.—(1) The Board may grant the registration of a person as a teacher under this Act.

(2) The Board may also—

- (a) refuse to grant, renew or vary registration;
- (b) suspend or cancel registration; or
- (c) impose, vary, suspend or remove conditions of registration.

Application for registration

954.—(1) A person qualified to be registered as a teacher may, in the prescribed form and accompanied by the prescribed fee, apply to the Board for registration.

(2) The Board may require a person to provide any further information it considers necessary to consider the application.

Criteria for registration

965.—(1) The Board must not register a person as a teacher unless it is satisfied that—

- (a) the person—
 - (i) has successfully completed an approved course and qualification relating to teacher education and training from a recognised institution, and at least one year of full-time teaching to the satisfaction of the Board;
 - (ii) has contributed to educational practice and has the qualification and experience that, in the opinion of the Board, are sufficient to warrant registration; or
 - (iii) has complied with any requirements of the Board during any period of provisional registration;
- (b) the person is of good character; and
- (c) the person is fit to be a teacher (which may include requiring the person to be certified by a registered medical practitioner as medically fit to be a teacher).

(2) In determining whether an applicant is of good character, the Board must consider any—

- (a) conviction of, or charge made against, the applicant; and
- (b) behaviour of the applicant that—
 - (i) does not satisfy a standard of behaviour generally expected of a teacher;
 - (ii) is otherwise disgraceful or improper;
 - (iii) shows that the applicant is unfit to be a teacher; or
 - (iv) it considers relevant even if the matter happened in another country.

(3) If the Board takes into account any matter under subsection (2), the Board must give the applicant an opportunity to respond, in writing or orally, to such matter.

(4) The applicant may appear before the Board with or without a representative.

Notice of Board's decision

976.—(1) The Board must, within 14 days after the date of its decision on an application, notify the applicant in writing about its decision, including the reasons for refusal if the application is refused.

(2) The notice given under subsection (1) must also state the right of appeal and the period of appeal under section 1+09.

(3) For an approval for provisional registration, the notice must also state—

- (a) the additional qualification or experience required for full registration; and
- (b) the time within which the applicant must obtain or complete the stated additional qualification or experience.

Registration fee

987.—(1) A person who is registered, or whose registration is renewed (including provisional registration and limited authority), must pay an annual prescribed registration fee for each year, excluding the first year, for which the registration is granted or renewed.

(2) The fee is to be paid on or before 31 December in each year during the period of the registration, and if the fee is not paid the registration lapses.

(3) A person must pay the prescribed late penalty fee if their registration lapses under subsection (2).

(4) **DespiteNotwithstanding** subsections (1) and (2), the Board may determine a biennial or triennial fee payment plan that is specific to the type of registration.

Certificate of registration

998.—(1) If an application for registration (including renewals of or provisional registration) is granted by the Board, the Board must issue a certificate of registration in the prescribed form.

(2) If a certificate of registration is lost or destroyed, the Board **may** must, on payment of the prescribed fee, issue a replacement certificate.

Duration of registration

10099.—(1) The period of registration is up to 3 years starting on the date the registration is granted and ending on 31 December in the year that the registration expires.

(2) The Minister may make regulations to prescribe the term for each category of registration.

Renewal of registration

1010.—(1) A person whose registration expires, or lapses under section 987(2), may apply to the Board for renewal of registration.

(2) The application must be in the approved form and accompanied by the prescribed fee.

(3) The application must also be accompanied by satisfactory evidence of—

(a) ongoing competence; and

(b) professional development undertaken in the 12 months before the date of the application.

(4) The Board must not renew the registration of a person unless it is satisfied—

(a) that the person continues to be of good character; and

(b) with the evidence referred to in subsection (3).

(5) The Board may renew the registration for a period not exceeding 3 years, subject to this Act and regulations made under it and payment of the prescribed registration fees.

Restoration of registration

1021.—(1) A person whose registration was cancelled or suspended or has expired may, in the prescribed form and accompanied by the prescribed fee, apply to the Board for restoration of such registration.

(2) Section 965 applies to an application under this section.

Provisional registration

1032.—(1) The Board may, subject to conditions it deems appropriate, grant a provisional registration to a person who has applied for full or provisional registration if the Board is satisfied that the person—

(a) has not complied with the qualifications and experience required for full registration but has the qualifications and experience the Board determines, as necessary for the requirement for provisional registration or is able to obtain the qualifications and experience required for full registration; and

(b) is of good character.

(2) A person may, in the prescribed form and accompanied by the prescribed fee, apply to the Board for provisional registration.

(3) The period of provisional registration is one year and may be renewed twice for a period of one year for each renewal.

(4) A person seeking renewal under this section must apply to the Board in the approved form and be accompanied by the prescribed fee.

(5) The application must also be accompanied by satisfactory evidence of—

(a) ongoing competence; and

(b) professional development undertaken in the 12 months before the date of the application.

(6) The Board must not renew the registration of a person unless it is satisfied—

- (a) that the person continues to be of good character; and
- (b) with the evidence referred to in subsection (5).

Reports from employers on provisional registrants

1043.—(1) The Board may require a person who has been granted a provisional registration to submit a report in an approved form from the person’s employer with respect to—

- (a) the manner in which the person has performed teaching duties; and
- (b) any recommendations as to the person’s suitability for full registration.

(2) A recommendation for full registration of a person granted provisional registration may only be made by the employer of the person after the person has completed one year of teaching.

Cancellation of provisional registration

1054. The Board may cancel the provisional registration of a person—

- (a) if the person fails to comply with a condition of the registration; or
- (b) for any other good reason the Board determines.

Limited authority to teach

1065.—(1) A person must not be allowed to practise teaching as a teacher trainee at a school, unless the person has a written authorisation under this section to undertake practical teaching at a school.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$2,000.

(3) The Board has the power to grant limited authority to a person, in the prescribed form and subject to conditions the Board deems appropriate, to teach at a school in a specified subject if the Board is satisfied that the person is of good character and—

- (a) does not meet the requirements for full registration or provisional registration but has the appropriate skill or experience that is not attained by a registered teacher;
- (b) is a teacher trainee recommended by a recognised teacher education college or by the Permanent Secretary; or
- (c) meets the special registration requirements.

(4) A person meets the special registration requirements if the person—

- (a) provides instruction in religion or culture on behalf of a recognised faith or cultural institution; and
- (b) possesses specialised knowledge or skills in religion or culture as verified and recommended by the recognised faith or cultural institution.

(5) Except for a person registered under subsection (3)(c), the period of limited authority is up to 2 years as determined by the Board and may be extended for a further period for up to 2 years.

(6) Registration under subsection (3)(c) is not limited to a period and is valid until or unless surrendered, suspended or cancelled.

Cancellation of limited authority

1076. The Board has the power to cancel or suspend the limited authority issued to a person if—

- (a) the person is convicted of an offence in Fiji or in another country; or
- (b) the Board considers it appropriate to do so.

Division 3—Appeals

Continuation of Appeals Board

1087. This section continues the Teachers' Appeals Board established under the Fiji Teachers Registration Act 2008 consisting of the following members appointed by the Minister—

- (a) a legal practitioner who has at least 7 years of legal practice, as the chairperson; and
- (b) 2 other members.

Powers of Appeals Board

1098.—(1) The power of the Appeals Board is to hear and determine an appeal under this Act.

(2) The Appeals Board has the power to confirm or vary the decision of the Registration Board or to quash the decision and make a new decision.

(3) In determining an appeal, the Appeals Board may take into consideration any evidence or statement relating to the character, academic and general suitability of the appellant.

Right of appeal

1109.—(1) A person who is aggrieved by a decision of the Board given under Division 2 or 4 has the right to appeal to the Appeals Board.

(2) An appeal must be lodged with the Appeals Board within 30 days from the date of the notice given under section 976.

Appeals to High Court on question of law

1110. A person who is aggrieved by the decision of the Appeals Board may appeal the decision to the High Court on a question of law.

Rules of Appeals Board

1121. The Minister may make rules regulating the procedures for appeals.

Secretary to Appeals Board

1132. The Permanent Secretary has the power to designate a senior staff of the Ministry to be the secretary to the Appeals Board.

*Division 4—Teacher Discipline and Inquiries**Disciplinary action on conviction*

1143.—(1) If a registered teacher is convicted of an offence in Fiji, the Commissioner of Police or the Director of Public Prosecutions must cause to be sent to the Board a written notice stating the name of the registered teacher, the nature of the offence and the penalty imposed by the court.

(2) A registered teacher who is convicted of an offence in another country must, within 28 days after conviction notify the Board, in writing, of—

- (a) that conviction; and
- (b) the circumstances in which the offence was committed.

(3) When the Board receives a notice under subsection (1) or (2), the Board may—

- (a) caution the teacher; or
- (b) if it is of the opinion that the circumstances of the offence render the teacher unfit to teach—
 - (i) suspend the teacher’s registration for any period, and subject to any conditions, it considers appropriate; or
 - (ii) cancel the teacher’s registration.

(4) The Board, on suspending the registration of a teacher under subsection (3)(b)(i), may substitute provisional registration for any period, and subject to any conditions, the Board considers appropriate.

Complaints

1154.—(1) A person (“the complainant”) has the right to complain, by notice in writing to the Board, about the professional conduct of a registered teacher (“the respondent”).

(2) The Board may dismiss a complaint if it is frivolous or vexatious and must notify the complainant of the dismissal.

(3) The Board must send a copy of the complaint to the—

- (a) respondent; and
- (b) employer of the respondent, if the employer contact details are stated in the complaint.

Inquiries

1165.—(1) The Board has the power to hold an inquiry on—

- (a) a matter relating to the registration of a person under this Act; and
- (b) any complaint made under section 1154.

(2) For the purposes of subsection (1), the Board may appoint a committee of inquiry to hold the inquiry and make recommendations to the Board.

(3) The Board may also hold an inquiry in respect of a registered teacher if it reasonably believes that—

- (a) the person is incompetent in teaching and has been dismissed from employment or has resigned in circumstances that, in the opinion of the person's employer, call into question the person's competency to teach;
- (b) the person's registration to teach in another country has been cancelled or suspended;
- (c) the person's employment in another country to teach has been terminated because the person's employer was reasonably satisfied the person was not competent or fit to teach;
- (d) the person was registered on the basis of false or misleading information;
- (e) the person is no longer of good character; or
- (f) the person is convicted of an offence in Fiji or another country.

(4) The Board may hold an inquiry in respect of a person only if reasonably satisfied that it is in the public interest to do so.

Committee of inquiry

1176.—(1) The Board may appoint a committee of inquiry consisting of—

- (a) 2 persons who are members of the Board; and
- (b) 3 other persons 2 of whom are registered teachers.

(2) A committee of inquiry must hold an inquiry subject to this Act and in accordance with any directions of the Board.

Conduct of inquiry

1187.—(1) If the Board determines that an inquiry is to be held in respect of a person who is or was a registered teacher, the Board must serve the person with a notice of the proposed inquiry stating the following—

- (a) the nature and details of any matter of the proposed inquiry;
- (b) the date on which and the time and place at which it is to be held;
- (c) whether the inquiry is to be held by the Board or a committee of inquiry;
- (d) the full names of the members of the committee of inquiry;
- (e) that the person may submit to the Board within 14 days of service of the notice; and
- (f) a statement in writing—
 - (i) admitting to, or refuting, the substance of any matter to be inquired into; or
 - (ii) notifying the Board of the intention to appear in person.

(2) A person may be represented by any other person at an inquiry.

Committee to report to Board

1198. When an inquiry is completed, the committee must prepare and submit to the Board a report including its findings and recommendations.

Decision of Board on inquiry

12019. When making any decision in relation to the inquiry, the Board must take into account any findings and recommendations of the committee of inquiry, and may make any of the following decisions as a result of an inquiry—

- (a) caution the person;
- (b) suspend the registration for any period, subject to conditions;
- (c) cancel the registration; or
- (d) dismiss the complaint or matter being inquired into.

Division 5—Miscellaneous

Register of teachers

1210.—(1) The Board must establish, keep and maintain a register of persons who are registered under this Act, containing the following information—

- (a) the full name and address of the registered person;
- (b) the type of registration (full or provisional);
- (c) particulars of the qualifications and experience by which the person is registered;
- (d) the date of making of the entry; and
- (e) any other prescribed particulars.

(2) The register must be kept at the Board’s office and other office it determines, and the register may be open for inspection during office hours by any person on payment of the prescribed fee.

(3) The Board must—

- (a) when a person is registered as a teacher, enter in the register the details set out in subsection (1) about that person;
- (b) when the registration of a person has been suspended or cancelled or has expired, make necessary notations on the register; and
- (c) enter other matters on the register, as it considers appropriate.

Removal of name from register

1221. The Board may remove the name of a person from the register if—

- (a) the person has died;
- (b) the person requests that his or her name be removed from the register if the person is no longer employed as a teacher;

- (c) the registration is cancelled under section 943, 1054, 1076 or 12019;
- (d) the person has not applied for renewal of registration under section 1040;
or
- (e) the person has not paid the relevant prescribed annual registration fee by the due date.

Duties of employers

1232. Where a duty is imposed under this Act on an employer, the duty may be performed on behalf of the employer—

- (a) for any kindergarten, by the director or head of the kindergarten;
- (b) for any primary school, the head teacher or the manager or head of the school management; or
- (c) for any secondary school, the principal, manager or head of the school management.

Annual returns

1243. The employer or a person so authorised by the employer must, on or before June each year, provide the Board with a return in the prescribed form of all persons teaching at the school as at 1 May that year.

Annual report and audit report

1254.—(1) The Board is to submit an annual report to the Minister by 30 March the following year on its activities for the last financial year and the Minister must table the annual report in Parliament as soon as reasonably practicable.

- (2) A copy of the certified audit statement is to be attached to the annual report.
- (3) The Board is to—
 - (a) keep proper accounts and records in relation to all its operations including fees collected;
 - (b) ensure all payments made by it are correctly made and properly authorised; and
 - (c) ensure that adequate control is maintained over—
 - (i) any assets in its custody; and
 - (ii) the incurring of liabilities.
- (4) The accounts and financial records of the Board are subject to the Financial Management Act 2004, and the Audit Act 1969.
- (5) The Board, on or before 31 August in each year, must—
 - (a) prepare financial statements with respect to the preceding financial year in the form, and containing the information, determined by the Auditor-General; and
 - (b) provide the Auditor-General with the financial statements.

PART 13—HIGHER EDUCATION

Division 1—Preliminary

Application

1265. This Part applies to all higher education institutions.

Interpretation

1276. In this Part, unless the context otherwise requires—

“accreditation”, in relation to a programme of study that leads to a higher education award, means the recognition that the standard of the programme of study and the way of delivering it, are appropriate to the award;

“degree awarding institute of technology” means an educational institution providing post-secondary education which specialises in technical education and training and awards qualifications up to degree level;

“higher education award” means the following qualifications—

- (a) a degree or higher degree;
- (b) a postgraduate diploma;
- (c) a postgraduate certificate;
- (d) a certificate, diploma, advanced diploma, associate degree if the programme of study relating to the diploma or certificate or associate degree is classified as higher education in the Higher Education Register; or
- (e) any other award, if the programme of study relating to the award is generally understood to be higher education;

“operating”, means conducting any form of activity in any medium to promote or in support of fee-paying or non-fee-paying higher education and training that is sourced externally, or within Fiji or both;

“other higher education institutions” means higher education institutions that are neither universities nor degree awarding institutes of technology;

“overseas institution” means an overseas higher educational institution that—

- (a) is established and operates primarily in another country; and
- (b) offers a programme of study leading to an award recognised as a higher education award by the entity responsible for recognising higher education awards in that country;

“registration” means registration of an institution by provision of a certificate of registration under section 1443, and includes renewal of registration; and

“Tribunal” means the Higher Education Appeals Tribunal established under section 15049.

*Division 2—Higher Education Commission**Continuation of Higher Education Commission*

1287.—(1) The Higher Education Commission established under section 5(1) of the Higher Education Act 2008 continues in existence under this Act.

(2) The Commission is a body corporate with perpetual succession and a common seal.

(3) The Commission may—

- (a) enter into contracts;
- (b) sue and be sued;
- (c) acquire and dispose of real and personal property; and
- (d) perform any other act that a body corporate may by law perform.

(4) The use of the common seal of the Commission must be authenticated by the signature of—

- (a) the chairperson; and
- (b) a member authorised by the Commission to do so.

(5) All documents, other than those required by any written law to be under the common seal, prepared by, and all decisions of, the Commission may be signified under the hand of the chairperson, or any member or officer authorised by the Commission to act in that behalf.

(6) All cheques and other negotiable instruments, and all receipts for money paid to the Commission, must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Commission may determine, provided that at least 2 persons are to be authorised to sign the cheques and other negotiable instruments.

Membership of Commission

1298.—(1) The Commission consists of the chairperson and 5 other members.

(2) The Minister appoints the members of the Commission and determines the terms and conditions of the appointment.

(3) When appointing the members of the Commission, the Minister must consider persons who possess—

- (a) independence and integrity;
- (b) a balanced combination of postgraduate qualification and experience;
- (c) knowledge and experience of higher education academic affairs;
- (d) knowledge and experience in governance and management of higher education institutions;
- (e) knowledge and experience in the design, development and delivery of higher education courses; and

- (f) research and publication experience in any academic field.
- (4) Subject to this Act, the Commission may regulate its own procedures.

Functions of Commission

13029. The functions of the Commission are to—

- (a) register and regulate higher education institutions in accordance with this Part;
- (b) foster and safeguard the national interest, the interests of students and parents, and also of local higher education providers;
- (c) establish national standards for different qualifications;
- (d) oversee the review process of higher education institutions;
- (e) provide assurances that the programmes developed by the higher education institutions meet national standards;
- (f) promote the development of Fiji as a knowledge society;
- (g) allocate government funds marked for higher education annually to higher education institutions according to a transparent and well-publicised criteria for allocation;
- (h) foster cooperation among higher education institutions and linkages between higher education institutions and industry;
- (i) maintain a database of higher education information;
- (j) develop or cause to be developed an academic broadband facility for use by higher education institutions; and
- (k) make recommendations to the Minister with respect to issues consistent with its functions, including special projects.

Powers of Commission

1310. The Commission has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

Committees to assist Commission

1321. The Commission may establish committees consisting of its members and other persons employed or engaged by the Commission as it considers appropriate, to assist the Commission in the performance of its functions.

Review Committee

1332.—(1) The Commission must establish a Review Committee consisting of 4 members appointed by the Commission, who are not members of the Commission and committees established under section 1321.

(2) The Review Committee must conduct a review of the operation of existing and new higher education institutions according to the criteria and guidelines set out by the Commission.

(3) The annual reports of higher education institutions must be submitted to the Review Committee for consideration in the review process.

(4) In exceptional cases, the Review Committee may undertake a special audit of a higher education institution as directed by the Commission.

Directions

1343.—(1) The Minister may give the Commission written policy directions in relation to the powers and functions of the Commission if the Minister is satisfied that it is necessary to do so in the public interest.

(2) The Commission must comply with the Minister's directions given under subsection (1).

Register of higher education institutions

1354. The Commission must keep and maintain a register of higher education institutions that are established under this Act.

Appointment of Director and other staff

1365.—(1) The Commission must, with the approval of the Minister, appoint a director on the terms and conditions as the Commission may determine.

(2) The director is responsible to the Commission for the proper administration and management of the functions and affairs of the Commission in accordance with any policy laid down by the Commission.

(3) If the director is temporarily unavailable or incapacitated by reason of illness or for any other reason temporarily unable to perform his or her duties, the Commission may appoint another person to act in the place of the director during the period of absence or disability.

(4) The Commission may appoint such other officers, employees, consultants, agents or other personnel as it considers appropriate for the effective performance of its functions.

Division 3—Establishment and Registration of Higher Education Institutions

Restriction on operation

1376.—(1) A person must not establish or operate a university or degree awarding institute of technology unless the institution is established and registered under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$250,000 or imprisonment for a term not exceeding 12 years in the case of a director of the body corporate or both.

(3) Any person who operates a higher education institution, that is neither a university nor a degree awarding institute of technology, in contravention of subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$20,000 or imprisonment for a term not exceeding 5 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years in the case of a director of the body corporate or both.

Restriction on name

1387.—(1) A person must not use the term “Fiji”, “National” and “State” in the naming of a higher education institution unless its use is approved by the Minister.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$20,000 or imprisonment for a term not exceeding 5 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years in the case of a director of the body corporate or both.

Restriction on use of title “university”

1398.—(1) A person must not—

- (a) use the title “university” in naming an educational institution unless the institution is a higher education institution approved as a university by the Commission;
- (b) use the title “university” in a business or corporation name unless approved by the Commission or unless the business is that of an approved university;
- (c) operate or purport to operate an establishment as a university or part of a university unless approved by the Commission;
- (d) operate or purport to operate as a university or part of a university from Fiji, through the Internet or any other telecommunications device unless approved by the Commission; or
- (e) advertise as a university, offer a course as a university, or issue an award as a university unless approved by the Commission.

(2) The Commission may grant approval to a person under subsection (1) with or without conditions.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 years or both; or

- (b) in the case of a body corporate, a fine not exceeding \$250,000 or imprisonment for a term not exceeding 12 years in the case of a director of the body corporate or both.

Application for registration

14039.—(1) An application for registration as a higher education institution must be made in writing to the Commission and accompanied by the prescribed fee.

(2) The Minister must prescribe the process for assessing applications for registration as a higher education institution.

Consideration of application for registration by Commission

1410.—(1) When assessing an application for registration as a higher education institution, the Commission must consider the following—

- (a) an indication, on the basis of written material and discussion with the higher education institution, that the institution will comply with the relevant guidelines;
- (b) an assessment of senior or high-level executives, including administrative and academic staff;
- (c) an inspection of existing facilities, plans of facilities and delivery modes for programmes the institution proposes to offer to ensure that the national standards are met;
- (d) an evaluation of the financial capacity of the institution to deliver its proposed programmes and to sustain the programmes appropriately; and
- (e) willingness of the institution or person to participate in periodic review processes, including national quality assurance processes.

(2) When considering an application, the Commission may consider other information not contained in the application provided that the information is brought to the notice of the applicant.

Approval for registration

1421.—(1) The Commission may approve the registration of a university or a degree awarding institute of technology that satisfies the requirements of section 1410 or conforms to the prescribed schedule of criteria.

(2) If the Commission approves an application for registration with conditions, the Commission must, as soon as practicable, notify the applicant of the conditions of the approval and the reasons for imposing the conditions.

(3) An applicant who is granted conditional approval may, in writing, make representations to the Commission concerning the conditions, within 3 months after receiving notification from the Commission.

(4) The Commission must, as soon as practicable, notify an applicant of the outcome of its representation.

Enactment of a university Act

1432.—(1) If the Commission grants approval for registration as a university, the Commission must cause a Bill for an Act to establish that university to be submitted to the Minister who is to table it in Parliament for enactment.

(2) The Commission may, while the enactment of an Act under subsection (1) is pending, allow a university to begin operations as soon as it is notified of the Commission's approval for registration and related fees have been paid.

Certificate of registration

1443.—(1) The Commission must issue a certificate of registration to a higher education institution that has been granted an approval for, or renewal of, registration.

(2) If a certificate of registration is lost or destroyed, the Commission **may** **must**, upon receipt of the prescribed fee, issue a replacement certificate.

Duration of registration

1454. A registration remains in force for a period of 5 years.

Registration fee

1465. The Minister may prescribe the fees relating to the registration of higher education institutions.

Revocation of registration

1476.—(1) The Commission may—

- (a) after receiving a report from the Review Committee, invite and consider submissions from a higher education institution or person; and
- (b) revoke or suspend the registration or impose any condition on the registration of a higher education institution.

(2) A person may appeal against the decision of the Commission made under subsection (1) to the Tribunal.

Application for accreditation

1487.—(1) An application for accreditation as a higher education institution must be made in writing to the Commission and accompanied by the prescribed fee.

(2) The Minister must prescribe the process for assessing applications for accreditation of courses and programmes in universities or degree awarding institutes of technology.

Authorisation to confer higher education award

1498.—(1) A higher education institution must not confer a higher education award unless the institution is registered by the Commission under this Part.

(2) An award must not be recognised as a higher education award unless the institution conferring the award is a registered higher education institution under this Part.

(3) A higher education award, other than an honorary award, must not be conferred on a person unless the person has successfully completed a programme of study relating to the award.

(4) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$20,000 or imprisonment for a term not exceeding 5 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years in the case of a director of the body corporate or both.

Division 4—Appeals

Higher Education Appeals Tribunal

15049.—(1) This section establishes the Higher Education Appeals Tribunal consisting of—

- (a) the chairperson, who must be a person qualified to be appointed as a Judge or is a retired Judge; and
- (b) two other members who are of **high standing in the community and have considerable expertise and experience in higher education.**

(2) The members of the Tribunal are to be appointed by the Minister for a term of 3 years, either on a full-time or part-time basis and are eligible for reappointment.

Review of decisions

1510.—(1) Subject to subsection (2), a higher education institution that is aggrieved by a decision of the Commission and has exhausted the means prescribed under this Act for review by the Commission of its decision, may apply to the Tribunal for a review of the decision.

(2) The Tribunal has jurisdiction to review only the Commission’s decisions relating to—

- (a) a refusal of an institution’s application for registration, or for accreditation of a programme or course of study;
- (b) the imposing of conditions on an institution’s registration, or accreditation of a programme or course of study; and
- (c) the suspension or cancellation of an institution’s registration, or accreditation of a programme or course of study.

Determination of appeals

1521.—(1) In determining an appeal, the Tribunal may—

- (a) confirm the original decision;
- (b) amend the original decision;
- (c) substitute another decision for the original decision; or
- (d) set aside the original decision and return the matter to the Commission with any direction it considers appropriate.

(2) The Tribunal must determine an appeal in accordance with the prescribed procedures.

Division 5—Finance

Financial year

1532. The financial year of the Commission is from 1 August to 31 July of each year.

Annual estimates

1543.—(1) The Commission must, in each financial year, prepare or cause to be prepared and must adopt annual estimates of income and expenditure of the Commission for the ensuing financial year.

(2) The Commission may adopt supplementary estimates at any of its meetings.

(3) The Commission must submit a copy of all annual and supplementary estimates to the Minister.

Funds of Commission

1544.—(1) The funds of the Commission consist of—

- (a) moneys received by the Commission by way of grants or subsidies;
- (b) gifts, donations and contributions to the Commission;
- (c) fees, charges, rents, interests, dividends and other income accruing to the Commission;
- (d) moneys recovered or collected by the Commission or any of the Commission’s officers or employees (including sums collected for the composition of offences) under this Act or any other written law administered by the Commission; and
- (e) other moneys lawfully received by the Commission for the purposes of the Commission.

(2) The funds of the Commission are subject to the financial management and procedures of the Ministry responsible for finance.

(3) The members of the Commission, Tribunal and Review Committee are to receive allowances in accordance with the conditions determined by the Minister.

Grants

1565.—(1) For the purpose of enabling the Commission to carry out its functions under this Act, the Minister must allocate annual grants to the Commission of such sums as the Minister may determine out of moneys to be provided by Parliament.

(2) The Commission must account annually to the Government through the Minister all revenues it collects under section 1554.

(3) The accounts of the Commission must be audited by the Auditor-General.

*Division 6—Reporting**Annual reports of higher education institutions*

1576.—(1) A higher education institution must, on or before 30 June each year, provide the Commission with an annual report for the period from 1 January to 31 December of the previous year, containing the matters relating to annual reports set out by the Commission, including, where required, audited financial reports.

(2) The annual report of a higher education institution must be available for public examination, free of charge, at locations where the institution operates.

Annual report for Parliament

1587. At the end of each financial year, the Commission must submit an annual report, which must include an audited financial report, to the Minister on or before 30 April the following year and the Minister must cause a copy of the report to be tabled in Parliament as soon as reasonably practicable.

*Division 7—Miscellaneous**Power of Commission to access*

1598.—(1) The Commission may require a higher education institution to provide such information relating to any aspect of the institution’s operation, as may be required.

(2) In gathering the requisite information under subsection (1), the Commission may utilise such means as it considers necessary to acquire the information.

Winding up of institutions

1609.—(1) A higher education institution intending to wind up its operations must inform the Commission in writing at least 12 months before the intended date of closure.

(2) For the purposes of subsection (1), an institution must ensure that the future of the education and training of its students is not affected.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$250,000 or imprisonment for a term not exceeding 12 years in the case of a director of the body corporate or both.

PART 14—GENERAL POWERS

Ministerial directions

1610.—(1) The Minister may give directions, not inconsistent with the provisions of this Act, as to the exercise of any of the Permanent Secretary’s powers and functions under the provisions of this Act.

(2) The Permanent Secretary must—

- (a) as soon as practicable, notify the Minister of the exercise of the Permanent Secretary’s powers under this Act; and

- (b) comply with a direction given under this section.

Minister not bound by advice etc

~~1621.—Where the Minister is empowered or obliged to act with the advice of the Council, he or she must consult the Council but is not bound by its advice or recommendations.~~

Permanent Secretary may relocate students

1631. ~~Despite~~**Notwithstanding** any other provision in this Act or any other written law, the Permanent Secretary may relocate a student from the school that he or she is enrolled in, to any other school if the Permanent Secretary is satisfied that—

- (a) the student has severe disciplinary issues at the school;
- (b) the relocation of the student is for the student’s health or safety;
- (c) the prescribed teacher-student ratio at the school cannot be maintained;
- (d) the state of the school or any of its educational facilities is such that it warrants the relocation of the student; or
- (e) a prescribed reason warrants the relocation of the student.

PART 15—OFFENCES AND PENALTIES

Division 1—Offences in relation to schools

Offence in relation to operating schools

1642. A person who establishes a school without approval under Part 7 and operates, manages or assists in the management of a school that is not registered or recognised and does not have a valid certificate of registration or recognition under Part 7, commits an offence and is liable on conviction to a fine not exceeding \$5,000 and in default of payment to imprisonment for a period not exceeding 6 months and to a further fine not exceeding \$20 for each day on which the offence continues after conviction.

Offence in relation to unsuitable publication

1653.—(1) A person who manages or assists in the management of a school that to his or her knowledge uses an unsuitable publication or periodical publication or any copy of, or extract from, the publication, as part of the instruction, commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

(2) In this section, “unsuitable publication” means a publication that is not appropriate for student educational purposes as prescribed.

Offence to manage a school without being registered as a manager etc

1664.—(1) A person who is not registered as a manager of a school or approved to open or operate a home school, and manages or assists in the management or operation of the school, commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

(2) A person who is prohibited from being a manager of a school and continues to manage or assist in the management of a school, commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

Offence to mislead type of school etc

1675. A manager of a school who, with intent to mislead, wilfully publishes any written matter or wilfully causes any matter to be broadcast suggesting that the school is of a type or classification other than that in which it is registered in accordance with this Act commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

Offence to keep open or reopen a closed school etc

1686. A person who keeps open or reopens a school ordered to be closed under this Act or manages or assists in the management of the school, other than in accordance with this Act commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

Offence to insult or abuse teacher etc

1697.—(1) A person who insults or harasses a teacher commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.

(2) A person who assaults a teacher or a student commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.

(3) A person who maliciously disturbs any school programme in the presence or hearing of the students assembled in the school or in the school premises commits an offence and is liable to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.

*Division 2—Offences in relation to teacher registration**Unregistered persons not to be employed*

17068.—(1) A person who employs a person not being registered or authorised under this Act to teach at a school as a teacher commits an offence and is liable on conviction to—

- (a) for a first offence, a fine not exceeding \$50,000; and
- (b) for a second or subsequent offence, a fine not exceeding \$150,000.

(2) A person not being a registered teacher who enters a school to supervise or assess the work of a practising teacher or of a trainee teacher without being authorised to do so by the Board commits an offence and is liable on conviction to—

- (a) for a first offence, a fine not exceeding \$20,000; or
- (b) for a second or subsequent offence, a fine not exceeding \$50,000.

Duty of registered teacher whose registration is cancelled

17169.—(1) A registered teacher must give written notice to the Board about any of the following events within 14 days after the occurrence of the event—

- (a) if the teacher was registered in another country, the cancellation or suspension (however described) of the person's registration in that other country as a teacher; or

- (b) if the teacher was employed in another country that does not register teachers, the termination of the teacher's employment as a teacher in the other country because the teacher's employer was reasonably satisfied the teacher was not competent or fit to be employed as a teacher in that other country.

(2) A teacher who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for first offence, a fine not exceeding \$5,000; or
- (b) for second or subsequent offence, a fine not exceeding \$20,000.

Notification on sexual allegations

1720.—(1) If there is a sexual allegation involving a student and a teacher and the employing authority has undertaken measures that resulted in the dismissal or resignation of the teacher, the employing authority must, within 7 days of making such decision or receiving the resignation, notify the Board of the matters set out in subsection (2).

(2) The notice must include the following—

- (a) the name of the employing authority;
- (b) if the name of the authority is different to the name of the school, the name of the school;
- (c) the name of the relevant teacher;
- (d) the date the employing authority gave notice to the relevant teacher of the dismissal or the employing authority was given notice of the resignation, and the date of effect of the dismissal or resignation;
- (e) the sexual allegation, particulars of the sexual allegation and any other relevant information; and
- (f) the reasons given by the employing authority for the dismissal or by the relevant teacher for resigning.

(3) The employer that fails to comply with the notice requirements under this section commits an offence and is liable on conviction—

- (a) for a first offence, to a fine not exceeding \$1,000; or
- (b) for a second or subsequent offence, to a fine not exceeding \$5,000.

False or misleading information or document

1731. A person who gives the Board or a committee of inquiry any information that the person knows is false or misleading in a material particular or any document containing information the person knows is false, incomplete or misleading in a material particular, commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years.

PART 16—MISCELLANEOUS

Review of Act

1742. This Act must be reviewed every 5 years from the commencement date.

Regulations

1753.—(1) The Minister may, following consultation with the Council, make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act, including—

- (a) prescribing procedures, requirements, and other matters, not inconsistent with this Act;
- (b) requiring any applications, requests, or notices under this Act to be made or given in a prescribed manner;
- (c) providing for the procedure to be followed in connection with any application, request, or notice under this Act;
- (d) regulating the making of applications, requests, or notices under this Act;
- (e) prescribing fees and penalties to be paid, or the means by which those fees and penalties may be calculated or ascertained, for any matter under this Act or the regulations;
- (f) prescribing penalties exceeding a fine of \$400 or imprisonment for a term exceeding 6 months or both;
- (g) prescribing the teacher-student ratio;
- (h) prescribing procedures, requirements and other matters related to compulsory education;
- (i) prescribing procedures, requirements and other matters related to early education;
- (j) prescribing procedures, requirements and other matters related to primary education;
- (k) prescribing procedures, requirements and other matters related to secondary education;
- (l) prescribing procedures, requirements and other matters related to higher education;
- (m) prescribing procedures, requirements and other matters related to technical and vocational education and training;
- (n) prescribing procedures, requirements and other matters related to special and inclusive education;
- (o) prescribing procedures, requirements and other matters related to education for mature students;

- (p) prescribing procedures, requirements and other matters related to boarding, including the enrolment criteria for boarding and fees;
- (q) prescribing the procedures, requirements and other matters related to home schools;
- (r) prescribing procedures, requirements and other matters related to sports and other extracurricular activities;
- (s) prescribing procedures, requirements and other matters related to children in conflict with the law;
- (t) prescribing procedures, requirements and other matters related to on-the-spot inspections;
- (u) prescribing health and safety requirements;
- (v) prescribing procedures, requirements and other matters related to inspections of schools, and medical inspections and treatments;
- (w) prescribing procedures, requirements and other matters related to counselling;
- (x) prescribing procedures, requirements and other matters related to digital and financial literacy;
- (y) prescribing reasons that are required or permitted by this Act; and
- (z) regulating artificial intelligence in relation to education.

(2) The power to make regulations under subsection (1) to prescribe the manner in which a thing is done includes the power to—

- (a) prescribe when, where and how the thing is to be done;
- (b) prescribe the form that is to be used in connection with doing the thing;
- (c) prescribe the information to be provided or other evidence or documents to be provided in connection with the thing;
- (d) prescribe requirements with which information, evidence, or documents that are provided in connection with the thing are to comply;
- (e) prescribe the electronic or other delivery method that is to be used in connection with the thing;
- (f) provide for the Permanent Secretary to determine any of the matters in paragraphs (a) to (e); and
- (g) prescribe that fees are to be paid in connection with doing the thing.

(3) In relation to Part 12, the Minister may, following consultation with the Board, make regulations to regulate—

- (a) procedures and requirements for application for registration, provisional registration and limited authority;

- (b) forms for the purpose of this Act;
- (c) fees, charges and other costs for the purpose of this Act;
- (d) other procedures and rules relating to the conduct of inquiry or investigation;
- (e) inspection or entry in the register; and
- (f) other services provided by the Board,

and to prescribe penalties not exceeding \$2,000 or to imprisonment not exceeding 2 years, for offences created under such regulations.

Repeal

1764.—(1) The following Acts are repealed—

- (a) the Education Act 1966;
- (b) the Fiji Teachers Registration Act 2008; and
- (c) the Higher Education Act 2008.

(2) All subsidiary legislation made under the repealed Acts are revoked.

Transitional and savings

1775.—(1) This section applies ~~despite~~**notwithstanding** the repeal of the Education Act 1966, the Fiji Teachers Registration Act 2008 and the Higher Education Act 2008.

(2) A person who, immediately prior to the commencement of this Act, is a member of the Education Forum continues in office until the members of the Council are appointed under this Act.

(3) A government school that exists immediately prior to the commencement of this Act continues as a government school until the Permanent Secretary closes the school under this Act.

(4) A school, other than a government school, that is recognised or registered under the Education Act 1966 continues to be recognised or registered until the Permanent Secretary, under this Act—

- (a) cancels the school's certificate of recognition or registration; or
- (b) closes the school.

(5) A Board of Governors for a government school that exists immediately prior to the commencement of this Act continues as the Board of Governors for the government school until such time the term of the Board of Governors expires, or until such time the appointment of the members of the Board of Governors expires or is revoked, whichever is earlier.

(6) Any curriculum, assessment and educational standards and frameworks approved for use, and used, in schools immediately prior to the commencement of this Act continues to be used in schools until such time new curriculum, assessment and educational standards and frameworks are developed for use by the Authority.

(7) A higher education institution that is registered under the Higher Education Act 2008 continues to be registered until such time the certification of registration expires or is revoked or suspended under this Act.

(8) An accreditation or authorisation that is issued to a higher education institution under the Higher Education Act 2008 continues to be valid under, and is subject to, this Act.

(9) A teacher who is registered under the Fiji Teachers Registration Act 2008 immediately prior to the commencement of this Act continues to be registered until such time his or her registration expires or is revoked.

(10) A person who, immediately prior to the commencement of this Act, is a member, officer, employee, agent or any other personnel of the Board or the Commission continues in office, employment or engagement on the terms on which he or she was appointed as a member, officer, employee, consultant or any other personnel.

(11) The school hours for teachers and students that exist immediately prior to the commencement of this Act continue until the school hours are prescribed under this Act.

SCHEDULE
(Section 854(6))

OTHER PROVISIONS OF THE FIJI TEACHERS REGISTRATION BOARD

Interpretation

1. In this Schedule, “member” means a member of the Board.

Conditions of appointment

2.—(1) A member is entitled to be paid any allowances the Minister determines.

(2) A member holds office on other terms and conditions specified in the letter of appointment.

Holding other office

3. The holder of an office who is required under any Act to devote the whole time to the duties of that office is not disqualified from—

- (a) holding that office in conjunction with the office of a member; or
- (b) accepting any allowances payable to a member.

Resignation

4. A member may resign by signed notice given to the Minister.

Removal of member

5. The Minister may remove a member from office—

- (a) if the member is convicted of a serious offence under this Act or any other written law;
- (b) if the member is convicted in another country of an offence which, if committed in Fiji, would be a serious offence;
- (c) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors;
- (d) if the Minister considers that the member is unable to perform adequately or competently the functions of the member’s office;
- (e) if the member has been absent for 3 consecutive meetings of the Board without the permission of the Board; or
- (f) for any other just cause or excuse.

Filling of vacancies

6.—(1) A member vacates office if the member—

- (a) dies;
- (b) resigns; or
- (c) is removed from office under clause 5.

(2) If the office of a member becomes vacant, the Minister may appoint to the vacant office for the remainder of that member's term of office a person who is nominated by the same body or association as that member.

Convening of meetings

7. The chairperson must convene meetings of the Board, which must be convened at least once every 4 months.

Presiding at meetings

8.—(1) The chairperson of the Board presides at all meetings of the Board at which he or she is present.

(2) If the chairperson of the Board is not present at a meeting of the Board, the deputy chairperson is to preside.

Quorum and voting at meetings

9.—(1) A quorum at any duly convened meeting of the Board is 51% of the current members.

(2) At a meeting of the Board—

(a) the member presiding does not have an ordinary vote but only has a deliberative vote; and

(b) a question is decided—

(i) by a majority of votes of the members present and voting; or

(ii) in the negative if there is an equality of votes of the members present and voting.

November 2025

EDUCATION BILL 2025

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Education Act 1966 (**‘Act’**) is the foundational law for pre-tertiary education in Fiji and since its promulgation in 1966, the Act has only been amended seven times.
- 1.2 Given that the Act had not undergone a comprehensive review since its inception, it became imperative that such integral legislation be reviewed and reformed to update it to modern standards and best practices, and to also address the since developed and ever developing issues and concerns within the education system.
- 1.3 The Minister for Education, Honourable Aseri Radrodro, appointed a review committee to facilitate the review project, in March 2025. The work of the committee was also supported by the Fiji Law Reform Commission, with funding assistance from the Global Partnership for Education and the United Nations International Children’s Emergency Fund (UNICEF).
- 1.4 The Education Bill 2025 (**‘Bill’**) seeks to repeal and replace the Education Act 1966. It also seeks to repeal the Higher Education Act 2008 and the Fiji Teachers Registration Act 2008 to bring higher education and teacher registration matters under a single education umbrella legislation.

2.0 PARTS

- 2.1 Part 1 of the Bill covers preliminary matters, including the short title and commencement date, which allows the Act to be cited as the Education Act 2025 and specifies when it comes into force.
- 2.2 Part 1 also includes an interpretation section, which defines key terms used throughout the Bill. These definitions are crucial for understanding the provisions and ensuring consistency in its application. For example, the Bill defines terms such as “auditing standards”, “Authority”, “Board”, “child”, “Council”, “Minister”, “Permanent Secretary” and many others.

- 2.3 Additionally, Part 1 outlines principles and objectives that guide its implementation. These principles emphasise the right to education, the role of parents in their children's education, the State's responsibility to ensure quality education for all children, and the provision of public education. The objectives of the Bill include giving effect to the right to education, establishing an advisory council, an independent curriculum development and assessment body, and registration processes for schools and teachers, as well as providing for early childhood, primary, secondary, technical and vocational, and higher education.
- 2.4 Furthermore, Part 1 specifies that the new legislation will bind the State, meaning that the government is obligated to comply with its provisions.
- 2.5 Part 2 of the Bill outlines the right to education, stating that every person has the right to early childhood education, primary education, secondary education, and higher education. It also emphasises the provision of free education, where primary education must be provided free of charge in government and government-aided schools, and secondary and higher education should be provided free of charge if resources are available. Additionally, Part 2 provides for education for mature students, defining them as individuals of or over the age of 19 years. It outlines measures that should be taken to provide education for mature students, including establishing separate government schools, supporting government-aided schools, or implementing education programmes specifically for mature students, ensuring they are educated separately from children.
- 2.6 Part 3 of the Bill covers compulsory education. Compulsory education requires children within a prescribed age range to be enrolled in a school and attend school regularly. The Permanent Secretary is responsible for ensuring compliance and may issue directives to parents (including legal guardians) if a child is not enrolled or attending school. Failure to comply may result in a compulsory education order, with penalties for non-compliance. Exemptions may be granted by the Minister for valid reasons. School heads are required to report any non-compliance to the Permanent Secretary.
- 2.7 Part 4 of the Bill establishes the Education Advisory Council (**'Council'**). The Council is established with various members including representatives from education trade unions and associations, higher education institutions, women's rights groups, student bodies and other relevant groups. The Council advises the Minister on education-related matters, provides strategic guidance, and assists with policy and law reforms. The Council has the power to appoint committees, hold meetings, and must publish an annual report. Members of the Council are protected from liability if they act in good faith and with reasonable care.

- 2.8 Part 5 of the Bill outlines the establishment of the National Curriculum and Assessment Authority (**‘Authority’**), including its membership, functions, powers, and meetings. The Authority is responsible for advising the Minister on curriculum, assessment, and educational standards, developing national curriculum frameworks, conducting research, and collaborating with stakeholders. The Authority must publish an annual report on its performance, and members are protected from liability unless acting in bad faith. It also addresses the provision of religious instruction in schools and the importance of career education and guidance for students. Religious instruction in schools is allowed with consent, and career education and guidance must be provided to students to prepare them for the workforce or further education. The Higher Education Commission (**‘Commission’**) must provide a careers information service.
- 2.9 Part 6 of the Bill outlines the different types of schools, including government schools, government-aided schools, private schools and home schools. It also discusses the categories of education that schools may provide, such as early childhood education, primary education, secondary education, and technical and vocational education and training. The establishment, control, and governance of government schools, government-aided schools, and private schools are also detailed, including the appointment of managers and the registration process for managers.
- 2.10 Part 7 of the Bill outlines the requirements for establishing and closing schools in Fiji. It includes the process for registering or recognising schools, the approval process, conditions for approval, appeals against refusal, application for certificates of registration or recognition, cancellation of certificates, changes to controlling authority, and the register of schools. It also covers offences related to operating schools, the closing of schools, appeals against closure, health and safety requirements, waivers, inspections of schools, and medical inspection and treatment for students.
- 2.11 Part 8 of the Bill provides for the regulation of schools, including health and safety requirements, school inspections and medical inspections.
- 2.12 Part 9 of the Bill provides for the administration of schools in relation to admission of students, school hours, teacher-student ratio, school zoning, and criteria for enrolment in boarding schools. It specifies that schools cannot admit students after the first two weeks of the first term, the Minister may prescribe school hours, teacher-student ratio must not exceed a prescribed number, school zoning is prohibited, and the criteria for enrolment in boarding schools must consider factors such as distance and accessibility.
- 2.13 Part 10 of the Bill addresses student behaviour and provides for well-being in schools. It states that schools must provide counselling services to students through qualified and trained school counsellors, with the Ministry also employing

such counsellors. If a school cannot provide a counsellor, they must ensure students have access to counselling services. The Part also prohibits corporal punishment and any form of cruel, inhumane, degrading, or disproportionately severe treatment or punishment of students by anyone employed or engaged by the school.

- 2.14 Part 11 of the Bill outlines the framework regarding fees, levies, fundraising, financial transparency, audit, and reporting for government schools and government-aided schools. It specifies that tuition fees cannot be charged for primary and secondary education, but boarding fees and levies for specific purposes are allowed. Schools can also conduct fundraising activities for approved purposes. Financial management, record-keeping, and reporting requirements are outlined, including the need for financial statements to be prepared and audited annually. The accounts and financial statements of the schools must be audited by an authorised auditor, and an annual report must be submitted to the Permanent Secretary.
- 2.15 Part 12 of the Bill outlines the establishment and functions of the Fiji Teachers Registration Authority (**'FTRA'**). The Bill seeks to establish the FTRA as a body corporate with various powers, including the ability to collect fees, investigate complaints, and produce materials for its functions. The Fiji Teachers Registration Board (**'Board'**) is responsible for registering qualified teachers, overseeing disciplinary measures, collaborating with relevant stakeholders, and developing professional teaching standards and ethics. The Board may delegate its powers, establish committees, and appoint a Chief Executive Officer. The Part also covers the registration of teachers, criteria for registration, renewal, restoration, and cancellation of registration, as well as disciplinary actions, inquiries, appeals, and offences and penalties related to teacher registration and conduct. Additionally, it addresses the establishment of a register of teachers, duties of employers, and reporting requirements of the Board.
- 2.16 Part 13 of the Bill outlines the regulations and requirements for higher education institutions in Fiji. It covers the establishment, registration, and accreditation of universities and other higher education institutions, as well as the functions and powers of the Commission. It also includes provisions for appeals, financial management, reporting, and winding up of institutions. The Commission has the authority to regulate and oversee higher education institutions to ensure they meet national standards and provide quality education.
- 2.17 Part 14 of the Bill sets out the general powers of the Minister and the Permanent Secretary. This Part allows the Minister to give directions to the Permanent Secretary on how to exercise their powers and functions under the Act. The Minister is not bound by the advice of the Council but must consult with them. The Permanent Secretary has the authority to relocate students to another school under certain conditions such as disciplinary issues, health or safety concerns, teacher-student ratios, school conditions, or other prescribed reasons.

2.18 Part 15 of the Bill outlines the various offences and penalties—

- (a) offence in relation to establishment or opening of schools: It is an offence to establish or maintain a school without the necessary approval, registration, or recognition under the Act. Using unsuitable publications in instruction is also prohibited. The penalty for these offences is a fine not exceeding \$2,000 or imprisonment for up to one year, or both;
- (b) offence to manage a school without being registered as a manager or approved to operate a home school: It is an offence to manage or assist in the management of a school or to operate a home school without being registered as a manager or approved by the Permanent Secretary. The penalty for this offence is a fine not exceeding \$2,000 or imprisonment for up to one year, or both. Continuing to do so when prohibited from doing so also incurs the same penalty;
- (c) offence to mislead type of school etc. It is an offence for a school manager to wilfully mislead by publishing or broadcasting information suggesting the school is of a different type or classification than registered. The penalty for this offence is a fine not exceeding \$2,000 or imprisonment for up to one year, or both;
- (d) offence to keep open or reopen a closed school: It is an offence to keep open or reopen a school that has been ordered to be closed under the Act. Managing or assisting in the management of such a school in violation of the Act is also an offence. The penalty for these offences is a fine not exceeding \$2,000 or imprisonment for up to one year, or both; and
- (e) offence to insult or abuse teacher etc. Insulting or harassing a teacher, assaulting a teacher or student, or maliciously disturbing a school program in the presence of students are all offences under the Act. The penalty for these offences is a fine not exceeding \$5,000 or imprisonment for up to one year, or both.

2.19 Part 16 covers miscellaneous provisions. It outlines the regulations-making powers conferred on the Minister. It also includes provisions for the mandatory review of the Act every 5 years, the repeal of the Act, the Higher Education Act 2008 and the Fiji Teachers Registration Act 2008, as well as necessary transitional and savings arrangements.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Act comes under the responsibility of the Minister responsible for education.

S. D. TURAGA
Acting Attorney-General

Submission to the Parliamentary Standing Committee on Justice, Law and Human Rights

Recommendations on the Education Bill 2025

From the Fiji Council of Social Services (FCOSS)

Introduction

The Fiji Council of Social Services (FCOSS), as the national platform for civil society organisations in Fiji, welcomes the opportunity to provide a comprehensive submission on the Education Bill 2025. Our connection to education is foundational and deeply rooted in community action spanning over six decades.

FCOSS was established in 1957 as a charitable trust by a group of dedicated teachers and retired educators who saw the need to ensure better education facilities in rural schools. From these humble grassroots origins, FCOSS has evolved into a multicultural, intergenerational national civil society platform with over 75 community-based organisations and 5 national NGOs as members, present in every administrative division of Fiji. Our flagship Microfinance Unit is Fiji's longest-running microfinance institute, serving over 800 clients across Fiji's main island, Viti Levu. As one of only two NGOs that are members of the National Disaster Management Council, FCOSS has been instrumental in supporting national humanitarian responses to disasters and, more recently, the COVID-19 pandemic.

For decades, FCOSS has been a vital partner in strengthening education infrastructure and supporting school communities. Through our grant mechanisms, we have worked directly with school committees to fund the construction of classroom blocks, ablution facilities, computer laboratories, footpaths, and classroom refurbishments. These investments have directly enhanced the learning environment for countless children across Fiji, particularly in rural and remote areas. This hands-on experience in community-led development gives us unique insight into both the challenges and opportunities that exist in our education system.

Our submission is informed by a thorough review of the Education Bill 2025, the accompanying public submissions summary, our extensive experience working with communities across Fiji, our research on children in disasters and humanitarian settings, and our commitment to ensuring alignment with Fiji's evolving legal framework for child protection and disaster management. We believe that a just and inclusive education system is the cornerstone of a thriving society, and we are committed to working collaboratively with the government to ensure that this Bill achieves its full potential.

Part 1: Areas of Alignment

The Education Bill 2025 demonstrates significant alignment with international best practices, Fiji's constitutional commitments, and emerging national legislation. We commend the following provisions that reflect progressive and inclusive approaches to education.

Commitment to Free and Compulsory Education

The Bill's commitment to providing free and compulsory education, as articulated in **Clause 7 (Right to education)** and **Clause 8 (Free education)**, represents a significant step towards ensuring that all children in Fiji have the opportunity to learn. These provisions align with international commitments under the United Nations Convention on the Rights of the Child and reflect the government's commitment to educational equity.

Prohibition of Corporal Punishment

We strongly commend **Clause 73 (Prohibition on corporal punishment)**, which aligns with international standards and Fiji's commitment to child protection. This provision is a welcome development that reflects the principles established in the Child Care and Protection Act 2024 and the Child Justice Act 2024, which emphasize rehabilitation and restorative approaches rather than punitive measures.

Recognition of Inclusive Education

The recognition of "special/inclusive" education in **Clause 40 (Categories of education)** demonstrates the government's commitment to ensuring that all children, regardless of their abilities, have access to quality education. This aligns with international standards for inclusive education and reflects the principles of the Convention on the Rights of Persons with Disabilities.

Community Engagement and Governance

The establishment of an Education Advisory Council in **Clause 13** and provisions for the Board of Governors in **Clause 44** demonstrate the government's commitment to community engagement and participatory governance. These provisions recognize that education is a shared responsibility and that the involvement of parents, communities, and civil society is essential to the success of the education system.

Counselling and Student Well-being

Clause 72 (Counselling for students) and the broader framework for student behaviour and well-being in **Part 10** reflect the government's recognition that education extends beyond academic learning and must address the holistic development and well-being of students.

Health and Safety Requirements

Clause 63 (Health and safety requirements) provides a foundational framework for ensuring safe school environments, which is essential for effective learning and the protection of children.

Part 2: Key Deviations from Global Alignment and Local Laws

While the Education Bill 2025 contains many positive provisions, there are several areas where the Bill does not fully align with international best practices, Fiji's constitutional commitments, or recent national legislation. These deviations represent missed opportunities to strengthen the Bill and ensure comprehensive protection and support for all children.

Gaps in Child Protection and Safeguarding

The Bill lacks comprehensive provisions for integrating schools into Fiji's national child protection system, as established by the Child Care and Protection Act 2024. Specifically, the Bill does not mandate that all school personnel be designated as mandatory reporters of suspected child abuse and neglect, nor does it establish clear protocols for inter-agency coordination with the Ministry of Women, Children, and Social Protection. This represents a significant gap, as schools are critical frontline institutions for identifying and responding to child protection concerns.

The United Nations Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women both emphasize the responsibility of educational institutions to protect children from abuse and exploitation. The Bill's lack of specific mandatory reporting provisions falls short of these international standards.

Insufficient Provisions for Vulnerable and Marginalized Populations

While the Bill commits to free and compulsory education, it does not adequately address the hidden costs of education, such as transportation, school supplies, and uniforms, which represent significant barriers for vulnerable families. Additionally, the Bill lacks specific provisions to address the educational disparities faced by children in rural, maritime, and remote communities, including investments in school infrastructure, teacher housing, and distance learning technologies.

The definition of "vulnerable and marginalized groups" in the Bill is not fully aligned with the comprehensive definitions provided in the Child Care and Protection Act 2024, which identifies specific categories of at-risk children who require targeted support.

Limited Framework for Education in Emergencies and Disaster Resilience

The Bill lacks specific provisions for education in emergencies, disaster preparedness, and the dual function of schools as both educational institutions and evacuation centers. While **Clause 63 (Health and safety requirements)** provides a general framework for safety, it does not adequately address the unique challenges posed by natural disasters. This gap is particularly concerning given Fiji's exposure to cyclones, floods, and other natural disasters that can disrupt education for extended periods.

Our research on Children in Disasters and Humanitarian Settings in Fiji (2021) documents the severe impact of natural disasters on children's education. During Cyclone Winston in 2016, an estimated 120,000 students were left without education when at least 240 schools were damaged or destroyed. Schools were forced to serve as evacuation centres for people who had lost their homes. During the COVID-19 pandemic in 2020, schools were closed for over two months, and when Tropical Cyclone Harold struck shortly after, 123 schools were damaged with equipment and teaching materials rendered unusable. Our monitoring of the TC Harold response in rural Kadavu found significant discrepancies in relief distribution, with some schools not receiving training on how to set up temporary learning spaces. Students continued to face difficulties attending school because classrooms, walkways, and roads had not been

repaired despite the looming cyclone season. Some students had to walk for long hours or travel by boat to reach their schools due to damaged roads.

The Bill does not address the reality that schools serve as multipurpose facilities during disasters. While schools as evacuation centres have been necessary in the past, the United Nations Convention on the Rights of the Child (Article 4 and Article 28) compels the government to consider alternative evacuation sites such as communal halls or churches to minimize disruptions to the delivery of quality education. The Bill must establish a framework that enables schools to serve dual functions without compromising educational continuity.

The National Disaster Management Act 2024 formally establishes the Ministry of Education as the lead of the Education Cluster and outlines the sector's responsibilities for coordinating education in emergencies. The Education Bill does not include provisions that formalize this role or establish the necessary coordination mechanisms.

The United Nations Sustainable Development Goals (SDG 4) emphasize the importance of ensuring inclusive and equitable quality education, which includes ensuring that education systems are resilient to shocks, including natural disasters. The Sendai Framework for Disaster Risk Reduction also emphasizes the importance of disaster risk reduction education and the use of schools as safe spaces.

Inadequate Provisions for Inclusive Education

While the Bill recognizes "special/inclusive" education, it does not mandate the development of Individualized Education Plans (IEPs) for students with disabilities, nor does it establish specific requirements for teacher training in inclusive education practices or for ensuring physical accessibility of schools. These gaps limit the Bill's effectiveness in ensuring that children with disabilities are fully included in mainstream education.

The Convention on the Rights of Persons with Disabilities emphasizes the importance of inclusive education and the need for individualized support and accommodations for students with disabilities. The Bill's lack of specific provisions for IEPs and teacher training falls short of these international standards.

Limited Support for Community-Led Development

The Bill does not include mechanisms for direct support to school committees for infrastructure and development projects. This represents a missed opportunity to leverage community initiative and to build on successful models, such as that pioneered by FCOSS, which has demonstrated the effectiveness of community-led development in improving school infrastructure and educational outcomes. Over six decades, FCOSS has shown that when school communities are empowered with resources and support, they can identify and address their own needs, leading to sustainable improvements in educational infrastructure and outcomes.

Insufficient Provisions for Parental and Community Support

While the Bill emphasizes parental responsibility for ensuring children's attendance and engagement in education, it provides limited provisions for targeted support to parents and

families who face particular challenges in supporting their children's education. Parents cannot be expected to support their children's education if they themselves lack basic literacy skills or are struggling with poverty and other social challenges.

Our research on children affected by disasters shows that during emergencies, many families face severe economic hardship. During the COVID-19 pandemic, hunger was a significant issue for students from lower socio-economic backgrounds, particularly those in informal settlements and those whose parents had lost jobs or businesses. Our collaboration with Save the Children Fiji to roll out the Fiji National Philanthropic Trust Cash Assistance Program (FinCaP) identified over 10,000 potential beneficiaries, of which 7,719 reported having children. Of the 20,303 children identified, the majority of families seeking assistance were unemployed (8,164), self-employed (750), employed in the informal sector (1,365), or formally employed but with reduced earnings (486). Additionally, 3,029 potential beneficiaries reported being part of single-parent families, with 2,322 being single mothers. These families require targeted support, not just responsibility-placing, to enable their children to access and succeed in education.

Part 3: FCOSS's Mandate and Experience

The Fiji Council of Social Services is uniquely positioned to contribute to the development and implementation of the Education Bill 2025, given our foundational history in education, our decades of direct experience in supporting school communities and community-led development, and our extensive work with vulnerable populations, particularly during emergencies.

FCOSS's Mission and Mandate

FCOSS is the national platform for civil society organisations in Fiji. Our mission is to eliminate disadvantage and poverty, support vulnerable and marginalized communities, and promote social justice and equity. Education is a cornerstone of this mission, as it is the most powerful tool for breaking cycles of poverty and creating opportunities for all individuals to reach their full potential.

Historical Roots in Education

FCOSS was established in 1957 by a group of dedicated teachers and retired educators who sought to make a tangible difference in their rural communities. This foundational connection to education has remained central to our work for over six decades. From our origins in the Western division, we have grown to become a national platform with members present in every administrative division of Fiji. Our historical commitment to community-led educational development continues to guide our work today.

Direct Experience in School Development and Community-Led Development

Through our grant mechanisms, FCOSS has worked directly with school committees to fund the construction of classroom blocks, ablution facilities, computer laboratories, footpaths, and classroom refurbishments. These investments have directly enhanced the learning environment for countless children across Fiji, particularly in rural and remote areas. Our experience

demonstrates that when school communities are empowered and supported, they can identify and address their own needs, leading to sustainable improvements in educational infrastructure and outcomes.

Understanding of Vulnerable and Marginalized Communities

Our extensive work with vulnerable and marginalized communities across Fiji has given us deep insight into the multifaceted barriers that prevent children from accessing and succeeding in education. We understand the challenges faced by families living in poverty, children with disabilities, children in rural and remote communities, and other at-risk populations. We also understand the importance of targeted support, not just responsibility-placing, in enabling families to support their children's education.

Commitment to Inclusive and Equitable Education

FCOSS is committed to ensuring that all children, regardless of their background or circumstances, have access to quality education and the opportunity to reach their full potential. We believe that education is a fundamental right and that the education system must be designed to serve all children, particularly those who are most vulnerable and marginalized.

Experience in Disaster-Affected Communities and Education in Emergencies

FCOSS has extensive experience working with communities affected by natural disasters and humanitarian crises. As one of only two NGOs that are members of the National Disaster Management Council, we have been instrumental in supporting national humanitarian responses. We understand the disruption that disasters can cause to education and the importance of ensuring that education continues during and after crises. We also recognize the critical role that schools can play as community gathering spaces and evacuation centers during disasters, while acknowledging the need to minimize disruptions to educational continuity.

Our research on Children in Disasters and Humanitarian Settings in Fiji has documented the experiences of children and families affected by Cyclone Winston (2016), the COVID-19 pandemic (2020), and subsequent tropical cyclones (TC Harold, TC Yasa, TC Ana). This research has informed our understanding of the challenges that children face in accessing education during emergencies and the importance of proactive, resilient approaches to education in emergencies rather than reactive crisis management.

Part 4: FCOSS Recommendations

Based on our analysis of the Education Bill 2025, our review of Fiji's evolving legal framework, our research on children in disasters and humanitarian settings, and our extensive experience in supporting school communities and vulnerable populations, we present the following comprehensive recommendations to strengthen the Bill and ensure that it serves all Fijian children, particularly those who are most vulnerable and marginalized.

Recommendation 1: Strengthen Equitable Access for Vulnerable and Marginalized Populations

The Bill should include more comprehensive provisions to ensure that free and compulsory education is truly accessible to all children, particularly those from vulnerable and marginalized backgrounds. We recommend the following:

Define and Target Vulnerable Groups: Amend **Clause 2 (Interpretation)** to include a more comprehensive definition of "vulnerable and marginalized groups" that aligns with the Child Care and Protection Act 2024. This definition should explicitly include children from low-income households, children with disabilities, children in rural and remote communities, children in care, children affected by disasters, and other at-risk populations.

Address Hidden Costs: Conduct a comprehensive assessment of the hidden costs of education and develop strategies to mitigate their impact on vulnerable families. This could include the provision of free or subsidized school supplies and uniforms. Consider establishing a targeted support fund for vulnerable families to cover these costs.

Strengthen Support for Remote Communities: Amend **Clause 71 (Criteria for enrolment to be prescribed)** to include more specific provisions to address the educational disparities faced by children in rural, maritime, and remote communities. This should include targeted investments in school infrastructure, teacher housing, distance learning technologies, and transportation support.

Recommendation 2: Integrate Child Protection into the Education System

The Bill should be amended to ensure that schools are fully integrated into Fiji's national child protection system, as established by the Child Care and Protection Act 2024. We recommend the following:

Establish the Best Interests of the Child as a Guiding Principle: Propose a new clause in **Part 1 (Preliminary)** that explicitly states that all interpretations and applications of the Act must be guided by the "best interests of the child" as the paramount consideration, consistent with the Child Care and Protection Act 2024.

Mandate Mandatory Reporting: Propose an amendment to **Clause 72 (Counselling for students)** or a new clause in **Part 10 (Student Behaviour and Well-being)** to mandate that all school personnel are designated as mandatory reporters of suspected child abuse and neglect. Establish clear protocols for reporting to and coordinating with the Ministry of Women, Children, and Social Protection.

Harmonize Definitions: Amend **Clause 2 (Interpretation)** to ensure that the definition of a "child" and other key terms are consistent across the Education Bill and the Child Care and Protection Act 2024.

Promote Restorative Justice: Amend **Part 10 (Student Behaviour and Well-being)** to promote restorative justice practices as an alternative to punitive discipline, in alignment with

the Child Justice Act 2024. This should include provisions for peer mediation, restorative conferences, and community involvement in addressing student behavior issues.

Recommendation 3: Promote Inclusive Education for Children with Disabilities

The Bill should include more comprehensive provisions to ensure that children with disabilities are fully included in mainstream education. We recommend the following:

Mandate Individualized Education Plans (IEPs): Propose an amendment to **Part 6, Division 1 (Types and classifications of schools and categories of education)** to mandate the development of Individualized Education Plans (IEPs) for all students with disabilities. These plans should be developed in consultation with parents, teachers, and other relevant professionals and should outline the specific supports and accommodations that each student needs to succeed.

Strengthen Teacher Training: Amend **Part 12 (Teacher Registration)** to include specific requirements for ongoing training and professional development of teachers in inclusive education practices. This should be a requirement for teacher registration and renewal.

Ensure Accessibility: Strengthen **Clause 63 (Health and safety requirements)** to mandate that all schools are physically accessible to students with disabilities and that they have access to necessary assistive technologies and learning resources.

Recommendation 4: Foster Genuine Community Engagement and Partnership

The Bill should include provisions to foster genuine partnership and collaboration between schools, parents, communities, and civil society. We recommend the following:

Expand Education Advisory Council Representation: Amend **Clause 14 (Membership of Council)** to expand the composition of the Education Advisory Council to include representatives from a wider range of civil society organizations, including those representing women, youth, persons with disabilities, and other marginalized groups. Ensure that the Council includes representatives from rural and remote communities.

Establish School-Based Management Committees: Propose an amendment to **Part 8 (School Regulation)** or a new clause to establish provisions for the establishment of school-based management committees for all school types that include representatives from parents, teachers, students, and the local community. These committees should have meaningful input into school policies and practices.

Support Civil Society Partnerships: Propose an amendment to **Part 9 (Administration)** to include provisions that encourage and support partnerships between schools and civil society organizations. These partnerships can provide valuable resources and expertise to schools and can help to bridge the gap between the school and the community.

Recommendation 5: Establish a Comprehensive Framework for Disaster Resilience and Education in Emergencies

The Bill should include specific provisions for education in emergencies, disaster preparedness, and the dual function of schools as both educational institutions and evacuation centers. This recommendation is grounded in FCOSS's research on children in disasters and humanitarian settings and our experience supporting communities affected by Cyclone Winston, the COVID-19 pandemic, and subsequent tropical cyclones. We recommend the following:

Mandate Education Continuity Plans: Propose a new clause in **Part 8 (School Regulation)** requiring all schools to develop and maintain comprehensive Education Continuity Plans. These plans should outline clear procedures for continuing education during and after disasters, including provisions for distance learning, temporary learning spaces, and psychosocial support for students and teachers. The plans should address the specific vulnerabilities identified in our research, including ensuring that relief supplies match school needs, providing training on emergency procedures, and establishing clear communication protocols with parents and communities.

Establish Multipurpose School Infrastructure Standards: Propose an amendment to **Clause 53 (Requirements for approval)** or a new clause to establish standards for the design and construction of schools that can safely serve as evacuation centers without compromising their primary function as educational institutions. This should include standards for disaster-resilient infrastructure and the provision of essential services. The standards should ensure that when schools serve as evacuation centers, educational activities can continue in designated spaces and that schools are equipped with adequate water, sanitation, and hygiene (WASH) facilities to serve both educational and emergency functions.

Formalize the Education Cluster: Propose a new clause in **Part 9 (Administration)** that formally recognizes the Ministry of Education's role as the lead of the Education Cluster under the National Disaster Management Act 2024. This clause should outline the Ministry's responsibilities for coordinating education in emergencies, including needs assessments, response planning, and resource mobilization. The clause should establish clear coordination mechanisms with other government agencies, civil society organizations, and humanitarian partners to ensure that relief assistance is effectively targeted and that schools' needs are accurately identified and met.

Integrate Disaster Risk Reduction into the Curriculum: Propose an amendment to **Clause 23 (Curriculum to be used in schools)** to mandate the integration of disaster risk reduction and climate change adaptation education into the national curriculum at all levels. This education should equip students with the knowledge, skills, and attitudes necessary to understand and respond to disaster risks and climate change impacts. This aligns with the Sendai Framework for Disaster Risk Reduction and the United Nations Sustainable Development Goals.

Establish Alternative Evacuation Facilities: Propose a new clause in **Part 9 (Administration)** or in coordination with the National Disaster Management Act 2024 to establish a framework for identifying and preparing alternative evacuation facilities (such as communal halls, churches, or other community spaces) to minimize disruptions to educational

continuity when disasters occur. This will ensure that schools can continue to serve their primary educational function while still supporting community resilience during emergencies.

Recommendation 6: Empower School Committees and Support Community-Led Development

The Bill should include mechanisms for direct support to school committees for infrastructure and development projects. We recommend the following:

Establish Grant Mechanisms for School Committees: Propose a new provision in **Part 11 (Financing and Accountability)** to establish a grant mechanism that allows school committees to apply for funding for small-scale infrastructure projects and other school improvement initiatives. This mechanism should be designed to empower communities to take a leading role in their own development and should build on successful models such as that pioneered by FCOSS. The mechanism should include provisions for capacity building, technical support, and financial management training to ensure effective and accountable use of funds.

Support Capacity Building for School Committees: Propose an amendment to **Part 9 (Administration)** or a new clause to include provisions for the capacity building of school committees in areas such as project management, financial management, community mobilization, and procurement. This will ensure that they have the skills and knowledge they need to effectively manage school improvement projects and to maintain accountability and transparency in the use of funds.

Encourage Partnerships with Civil Society: Propose an amendment to **Part 9 (Administration)** to encourage and support partnerships between school committees and civil society organizations. These partnerships can provide valuable technical assistance and support to school committees and can help to leverage additional resources for school improvement. FCOSS and other civil society organizations have demonstrated the effectiveness of such partnerships over decades of work in communities across Fiji.

Recommendation 7: Provide Targeted Support to Parents and Families

The Bill should include provisions for targeted support to parents and families who face particular challenges in supporting their children's education. This recommendation is informed by our research showing that many families, particularly those affected by disasters and economic hardship, require targeted support to enable their children to access and succeed in education. We recommend the following:

Develop Targeted Support Programs: Propose a new clause in **Part 9 (Administration)** to include provisions for the development of targeted support programs for parents and families. This could include parenting education programs, family literacy programs, support groups for parents of children with special needs, and financial assistance programs for families living in poverty. These programs should specifically address the needs of vulnerable families, including those affected by disasters, single-parent households, families with members living with disabilities, and families in informal settlements.

Strengthen Home-School Partnerships: Propose an amendment to **Part 8 (School Regulation)** or a new clause to encourage and support the development of strong home-school partnerships. This should include requirements for regular communication between teachers and parents about children's progress and learning needs, as well as opportunities for parents to be actively involved in their children's learning.

Establish Community Learning Centers: Propose a new clause in **Part 9 (Administration)** to include provisions for the establishment of community learning centers that provide a range of educational and support services to children, youth, and adults. These centers can play a vital role in promoting lifelong learning and strengthening community cohesion, particularly in rural and remote areas. Such centers could also serve as hubs for emergency response coordination during disasters, providing safe spaces for children and families while supporting educational continuity.

Conclusion

The Fiji Council of Social Services believes that the Education Bill 2025 presents a unique and timely opportunity to create a more just, equitable, and inclusive education system in Fiji. The Bill contains many positive provisions that reflect international best practices and Fiji's commitment to educational equity and child protection. However, there are several areas where the Bill can be strengthened to ensure comprehensive alignment with Fiji's evolving legal framework, international standards, and the needs of vulnerable and marginalized populations.

Our decades of experience working directly with school committees and communities have shown us that when schools and communities are empowered and supported, they can achieve remarkable things. Our research on children in disasters and humanitarian settings has demonstrated the critical importance of proactive, resilient approaches to education in emergencies and the need for targeted support to vulnerable families. This Bill has the potential to enshrine that empowerment in law and to create a framework for sustainable, community-led educational development that is resilient to shocks and serves all Fijian children.

By implementing the recommendations outlined in this submission, the Bill will be strengthened to ensure that it serves all Fijian children, particularly those who are most vulnerable and marginalized. We urge the Parliamentary Standing Committee to carefully consider our recommendations, which are grounded in both evidence and extensive practical experience spanning over six decades of work in communities across Fiji.

We are committed to working collaboratively with the government, the Ministry of Education, and other stakeholders to ensure that this Bill meets the needs of all Fijian children and contributes to the creation of a more just and equitable society. The Fiji Council of Social Services stands ready to partner with the government to make this vision a reality and to continue our historic role as a bridge between communities and the education system.

END//

FIJI EDUCATION COMMISSION

Submission to the Parliamentary Standing Committee on Social Affairs *Analysis and Insights on the Draft Education Bill No. 34 of 2025*

19th March 2026

The Fiji Education Commission was appointed by the Honourable Minister for Education on 1 July 2025 for a twelve-month term to conduct an independent examination of Fiji's education system, covering ECED centres, primary and secondary schools, special and inclusive schools, teacher training institutions, and TVET institutions. School visits covering around 90 schools have been completed across the Central and Western Divisions, engaging directly with more than 2,000 stakeholders. We also consulted with the Ministry of Education, statutory bodies - Fiji Teachers Registration Authority (FTRA), Tertiary Students Loan Services (TSLs), Higher Education Commission of Fiji (HECF), Substance Abuse Advisory Council (SAAC), professional associations, teacher unions, civil society and faith-based organisations, and development partners.

Documents Reviewed for This Submission

1. Cabinet's **Terms of Reference for the Review of the Fiji Education Act 1966**, as mandated to the Education Act Review Commission.
2. The Education Act Review Commission's **Policy Issues Paper: Review of the Fiji Education Act 1966** — consolidating 119 stakeholder concerns from nationwide consultations across all four divisions.
3. The **2023 Denarau Declaration** — Fiji's 10-Year National Education Policy Framework (2024–2033), developed through the Fiji National Education Summit.
4. **Draft Education Bill No. 34 of 2025**, as tabled in Parliament and referred to the Parliamentary Standing Committee on Social Affairs.
5. The **Constitution of the Republic of Fiji (2013)**, in particular Section 31 (Right to Education) and related provisions of the Bill of Rights.

This Submission

This submission identifies **44** findings, **9** areas where the Bill could be strengthened to better align with the Constitution of Fiji, and **12** observations of concern. Where a finding engages a constitutional right, the relevant provision of the Constitution is noted. Detailed legal drafting is respectfully left to the Office of the Solicitor-General. Findings are ordered by Bill clause number for ease of reference during deliberation.

The Commission has undertaken a thorough analysis of the Draft Education Bill and offers these observations in a constructive spirit. Our purpose is to assist the Committee in strengthening the legislation so that it serves the children, teachers, and communities of Fiji well for the years ahead.

FINDINGS & RECOMMENDATIONS

Draft Education Bill No. 34 of 2025

Ordered by Bill clause number. 45 findings.

Source references and constitutional provisions shown in italics beneath each gap.

| No. Bill Reference | The Issue | What We Recommend |
|---|--|--|
| <p>1 Clause 2 (Interpretation)</p> | <p>Compulsory School Age Has No Statutory Floor or Ceiling Clause 2 defines "compulsory school age" as whatever the Minister prescribes by Gazette notice. There is no minimum starting age and no minimum leaving age in the Bill itself. A future Minister could lower the leaving age without any Parliamentary debate. <i>Source: Policy Issues Paper, Issue 108; Cabinet TOR.</i> Constitution: Constitution s.31(1)(a)–(c), s.31(2)(a) (right to education; progressive free education).</p> | <p>Set a protected age floor in the Bill: 1. Set a minimum starting age of 5 years (to include ECED entry) and a minimum leaving age of perhaps not lower than 17 years. 2. Allow the Minister to raise the leaving age through regulations, but not reduce it below the statutory floor. 3. Require any change to the compulsory age range to be tabled in Parliament, with at least 12 months before taking effect.</p> |
| <p>2 Clause 2 (Interpretation)</p> | <p>"Private School" Not Defined The Bill uses "private school" throughout but does not define it in Clause 2 (Interpretation). "Home school" is defined but "private school" is not. This creates legal ambiguity for registration, regulation, and financial transparency obligations. <i>Source: Policy Issues Paper, Issue 40.</i></p> | <p>Insert a definition of "private school" in Clause 2: 1. Define "private school" to distinguish it clearly from government, government-aided, and home schools. 2. This is necessary for the proper application of Part 6 (school types), Part 7 (registration), and Part 11 (financing and accountability).</p> |
| <p>3 Clause 4(b) vs Clause 4(c)</p> | <p>"Government" vs "State" Used Inconsistently Clause 4(b) says it is "the responsibility of the Government" to provide public education. Clause 4(c) says it is "the responsibility of the State" to ensure quality education. These are different legal concepts. "Government" changes with elections; "State" is the permanent constitutional entity. Using both without defining the distinction creates ambiguity about whether the obligation survives a change of government. <i>Source: Constitutional alignment review.</i> Constitution: Constitution s.1(f) (good governance, separation of powers); s.2(2) (laws inconsistent with Constitution are invalid).</p> | <p>Clarify and standardise usage: 1. Review the use of "Government" and "State" throughout the Bill and ensure consistent usage aligned with the Constitution of Fiji. 2. Where the intention is a permanent obligation, use "State." Where the intention refers to the elected government of the day, use "Government." 3. Consider adding definitions in Clause 2 if both terms are retained.</p> |
| <p>4 Clauses 4–5 (Principles & Objectives)</p> | <p>No Reference to International Education Commitments The Cabinet TOR required alignment with "UN Sustainable Development Goals and UNESCO frameworks" (TOR 2.2(c)). The Bill makes no mention of SDG 4, UNESCO standards, or the Pacific Regional Education Framework (PacREF). There is no statutory obligation to consider Fiji's international education commitments when making education policy decisions. <i>Source: Cabinet TOR 2.2(c); Denarau Declaration, Thematic Areas 1–7.</i> Constitution: Constitution s.7(1)(b) (may consider international law).</p> | <p>Add a guiding principle referencing international obligations: 1. Insert a new paragraph in Clause 4 (Principles) requiring that the implementation of this Act "have regard to Fiji's international obligations relating to education, including the United Nations Sustainable Development Goals, UNESCO frameworks, and Pacific Regional Education Framework (PacREF)." 2. This does not legally bind Fiji to follow every international recommendation, but it requires the government to consider these commitments when making education policy decisions.</p> |

| No. Bill Reference | The Issue | What We Recommend |
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| <p>5 Clause 5 (Objectives)</p> | <p>Education Policy Can Ignore Evidence and Research</p> <p>The Denarau Declaration (Thematic 7) sets a clear goal of "decisions based on data and evidence." The Cabinet TOR required "impact assessment" of reforms (TOR 2.2(i)). The Bill has no requirement that education policy be informed by research, data, or evidence.</p> <p><i>Source: Denarau Declaration, Thematic Area 7; Cabinet TOR 2.2(i).</i></p> | <p>Add an evidence-based policy objective:</p> <ol style="list-style-type: none"> 1. Add a new objective in Clause 5 stating that education policy, planning, and decision-making should be informed by research, data, and evaluation of outcomes. 2. Insert a provision in Part 14 requiring the Ministry of Education to maintain education data systems and to have regard to available evidence when developing significant policy reforms. |
| <p>6 Clauses 7–8 (Right to & Free Education)</p> | <p>Early Childhood Education and Development (ECED) Is a Right but Not Funded</p> <p>Clause 7(a) recognises the right to early childhood education. However, Clause 8 guarantees free education only for primary (8(1)), secondary (8(2)), and higher education (8(3)). ECED is omitted from Clause 8. The Bill recognises a right without a corresponding funding mechanism.</p> <p><i>Note: The term "Early Childhood Education and Development" (ECED) aligns with current international standards (UNESCO/UNICEF) and should replace "early childhood education" throughout the Bill.</i></p> <p><i>Source: Policy Issues Paper, Issues 7–9; Denarau Declaration, Thematic Area 3.</i></p> <p>Constitution: Constitution s.31(1)(a) (right to early childhood education); s.31(2)(a) (progressive free early childhood education — the Constitution is stronger than the Bill on this point).</p> | <p>Adopt ECED terminology and funding:</p> <ol style="list-style-type: none"> 1. Replace "early childhood education" with "Early Childhood Education and Development" (ECED) throughout the Bill. 2. Insert a new Clause 8(4): "The Government shall provide free early childhood education and development to all children, with particular attention to rural, maritime, and disadvantaged communities." 3. This mirrors the approach already used for secondary and higher education in Clauses 8(2)–(3). |
| <p>7 Clause 9 (Mature Students)</p> | <p>No Legal Framework for Out-of-School Children or Alternative Education</p> <p>The Bill defines "school" narrowly (Clause 3) to cover only formal schools. Programmes serving out-of-school children of primary age, teen mothers, working youth, and persons with disabilities have no legal recognition, cannot receive government funding, and cannot issue recognised certificates. These populations remain outside the formal education system.</p> <p><i>Source: Policy Issues Paper, Issue 11; Denarau Declaration, Thematic Area 5.</i></p> <p>Constitution: Constitution s.31(2)(b) (education for persons unable to complete primary and secondary education).</p> | <p>Create a legal framework for alternative education:</p> <ol style="list-style-type: none"> 1. Insert new provisions to formally recognise alternative education providers that offer programmes for children and young people unable to access conventional schools. 2. These should include second-chance education, community learning centres, workplace-based learning, distance learning, and cooperation with accredited higher education institutions for the purpose of certification. 3. Recognised providers should be eligible for government funding, subject to meeting quality standards and reporting requirements. |
| <p>8 Clause 10 (Compulsory Education)</p> | <p>Students Cannot Combine School and TVET Training</p> <p>Clause 10 requires students of compulsory school age to attend school full-time. There is no legal way for a student to attend school part-time and undertake an approved apprenticeship or work-integrated learning part-time. In practice, students may need to choose between academic school and practical training.</p> <p><i>Source: Denarau Declaration, Thematic Area 5, Strategy O.</i></p> | <p>Allow dual enrolment for approved apprenticeships:</p> <ol style="list-style-type: none"> 1. Amend Clause 10 to provide that attendance at an approved apprenticeship or work-integrated learning programme, combined with continued schooling, satisfies compulsory education requirements. 2. The programme must be approved by the Permanent Secretary, include prescribed educational components, and lead to a recognised qualification. |

| No. Bill Reference | The Issue | What We Recommend |
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| <p>9 Clauses 10–12 (Compulsory Education)</p> | <p>No System to Track Dropouts or Help Students Return</p> <p>Part 3 only punishes non-attendance (prosecution of parents, compulsory orders) but provides no framework for understanding why students drop out, preventing dropout, or helping students return. Teen mothers, working children, and expelled students have no legal pathway back to education.</p> <p><i>Source: Denarau Declaration, Thematic Area 3, Strategy E.</i></p> <p>Constitution: Constitution s.31(2)(b) (education for persons unable to complete primary and secondary education).</p> | <p>Create a dropout monitoring and re-entry duty:</p> <ol style="list-style-type: none"> 1. Require systems to monitor dropout rates and causes, and identify at-risk students. 2. Require re-entry pathways for out-of-school children and youth, including flexible learning options and removal of re-enrolment barriers. 3. Require schools to report students who cease attending. |
| <p>10 Clauses 23–33 (Authority Establishment, Governance and Funding)</p> | <p>The National Curriculum and Assessment Authority Lacks Independence, Legal Status, and Governance Safeguards</p> <p>The Denarau Declaration explicitly calls for "an autonomous body... independent from direct political control" with "legal protections to safeguard its autonomy." The Bill's Authority is not a body corporate, has no legal personality, and is chaired by the Permanent Secretary (Clause 25(1)(a)). It cannot hold property, enter contracts, or operate independently. The Minister appoints members, determines remuneration, and can remove members — with no independence clause, no funding framework, and no ECE or SIE representation. By contrast, both the Higher Education Commission (Clause 128) and the FTRA (Clause 84) are bodies corporate with stronger governance structures. Part 5 also has no Finance Division — unlike the Higher Education Commission (Clauses 153–156).</p> <p><i>Source: Denarau Declaration, Thematic Area 1B, Section H; Commissioner submissions (Dr Gally Deverell).</i></p> <p>Constitution: Constitution s.31(1)(a)–(c) (right to education at all levels); s.1(f) (good governance, separation of powers).</p> | <p>Restructure the Authority for genuine independence:</p> <ol style="list-style-type: none"> 1. Establish the Authority as a body corporate with perpetual succession, mirroring Clause 128 (Higher Education Commission) and Clause 84 (FTRA). 2. The Authority should be governed by a Board of 7–9 members appointed through a transparent, skills-based process by the Minister for Education. The Permanent Secretary should be a member but not the chairperson. Include representatives with ECED, SIE, and governance or legal expertise. 3. Insert an independence clause: "In performing its functions, the Authority shall act independently and shall not be subject to direction by the Minister or the Permanent Secretary in respect of technical, professional, or operational decisions relating to curriculum content, assessment standards, or examination outcomes." 4. Insert a Finance Division mirroring Clauses 153–156, with guaranteed annual grants. 5. Require annual reports with audited financial statements, subject to Auditor-General oversight and tabled in Parliament. 6. The functions of Curriculum Advisory Services (CAS) and the Exams and Assessment Unit (EAU) should be placed under the Authority. |
| <p>11 Clause 23 (Curriculum)</p> | <p>No Statutory Mandate for an ECED Quality Assurance Framework</p> <p>Fiji has no legislated quality assurance system for early childhood education and development services. International comparators such as the Australian Children's Education and Care Quality Authority (ACECQA) in Australia, the Education Review Office (ERO) in New Zealand, and the Office for Standards in Education, Children's Services and Skills (Ofsted) in the United Kingdom, all operate under enabling legislation. Without a statutory mandate, ECED quality standards remain fragmented and unenforceable.</p> | <p>Insert an enabling provision for an ECED Quality Framework:</p> <ol style="list-style-type: none"> 1. Require the competent authority to establish, maintain, and periodically review a national ECED Quality Assurance Framework covering registration and licensing standards, curriculum expectations, workforce qualification standards, and monitoring and continuous improvement. 2. The framework content should be prescribed in regulations or published instruments — not embedded in the Act itself — so it can be updated as standards evolve. |

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| | <p><i>Source: Denarau Declaration, Thematic Area 3; Commissioner submission (Dr Lavinia Tiko).</i></p> | |
| <p>12 Clause 23 (Curriculum)</p> | <p>Cyber Safety and Digital Citizenship Not Explicit Enough</p> <p>Clause 23(3)(a) mentions "digital literacy and learning, including artificial intelligence" but does not explicitly cover cyber safety, online protection, or responsible digital citizenship.</p> <p><i>Source: Denarau Declaration, Thematic Area 6; Policy Issues Paper, Issue 71.</i></p> | <p>Strengthen the digital literacy provision:</p> <ol style="list-style-type: none"> 1. Expand Clause 23(3)(a) to explicitly include cyber safety education, responsible digital citizenship, and online protection. 2. Require the Minister of Education to prescribe minimum technology and connectivity standards for schools, recognising that the digital divide between urban and rural schools must be addressed progressively. |
| <p>13 Clauses 23/29 (Curriculum & Language)</p> | <p>Indigenous Language Rights Have No Legal Protection</p> <p>The Bill includes "the formal learning of Vosa Vaka Viti and Hindi" as a curriculum thematic area (Clause 23(3)(c)), but is silent on language of instruction. There is no law preventing a future Minister from requiring English-only instruction from the first day of school. International research consistently shows that children learn better when taught in their mother tongue first. The Bill also does not expressly state that these languages are compulsory subjects in all primary schools, as required by Constitution s.31(3).</p> <p><i>Source: Policy Issues Paper, Issues 38, 70; Denarau Declaration, Thematic Area 1A.</i></p> <p>Constitution: Constitution s.31(3) (iTaukei and Fiji Hindi languages shall be taught as compulsory subjects in all primary schools).</p> | <p>Protect mother tongue education:</p> <ol style="list-style-type: none"> 1. Require the national curriculum framework to make compulsory provision for mother tongue instruction in ECED and the early years of primary education (to Year 3), with progressive transition to English as the primary language of instruction. 2. "Mother tongue" should include iTaukei, Hindi, and other languages spoken by students in their homes and communities. 3. Schools should remain free to teach English alongside mother tongue instruction from the earliest stages. |
| <p>14 Clause 29 (Assessment)</p> | <p>No Duty to Help Students Who Fail Assessments</p> <p>The Bill empowers assessment (Clause 29) but creates no duty for schools to provide targeted support when assessments identify students below proficiency. Assessment becomes data collection without action — students are tested, identified as struggling, but receive no help.</p> <p><i>Source: Denarau Declaration, Thematic Area 1B, Strategies A–B.</i></p> | <p>Create a duty to intervene:</p> <ol style="list-style-type: none"> 1. Insert a provision requiring schools to provide targeted support when assessments identify students below prescribed proficiency levels. 2. Interventions may include additional instructional time, small group support, specialised resources, and parent engagement. 3. The Permanent Secretary should provide guidance and resources, particularly for rural and maritime schools. |
| <p>15 Clauses 44–46 (Boards & Powers)</p> | <p>No Clear Boundaries Between Minister, Permanent Secretary, Boards, and Principals</p> <p>The Cabinet TOR required "streamlining and clarifying roles and responsibilities" (TOR 2.2(f)). The Bill leaves all operational role boundaries to Regulations (Clause 175). There are no clear statutory boundaries separating policy decisions (Minister), professional operations (Permanent Secretary), governance (Boards), and school management (Principals). This creates a risk of overlapping authority.</p> <p><i>Source: Cabinet TOR 2.2(f).</i></p> <p>Constitution: Constitution s.1(f) (good governance, including the limitation and separation of powers).</p> | <p>Define protected operational boundaries in the Bill:</p> <ol style="list-style-type: none"> 1. Identify which powers are reserved for the Permanent Secretary. 2. Identify which powers are delegated to School Boards and School Management Committees. 3. Confirm that the Minister may issue general policy directions but may not direct decisions in individual cases. |

| No. Bill Reference | The Issue | What We Recommend |
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| <p>16 Clauses 53/63 (Registration & Health/Safety)</p> | <p>No Reference to Building Codes or Climate-Resilient Construction Fiji's schools serve as community evacuation centres, yet the Bill has no reference to the National Building Code, climate-resilient construction, structural integrity, or disaster preparedness. <i>Source: Denarau Declaration, Thematic Area 3, Outcome E; Policy Issues Paper, Issue 42.</i></p> | <p>Require compliance with national building standards: 1. Require school premises to comply with the National Building Code of Fiji and applicable standards for climate-resilient construction. 2. Add education-specific requirements: disaster preparedness plans, safe evacuation procedures, and continuity-of-education arrangements during emergencies.</p> |
| <p>17 Clause 59 (School Closure)</p> | <p>School Closure — No Student Welfare Provision Clause 59 empowers the Permanent Secretary to close a school on eight grounds. There is no provision for what happens to students or teachers after closure — no transition plan, no duty to relocate students. Compare Clause 160 (higher education winding up) which requires 12 months' notice and that students' education "is not affected." <i>Source: Policy Issues Paper, Issue 38.</i></p> | <p>Insert a student welfare safeguard: 1. Insert a new Clause 59(4): Before ordering closure, the Permanent Secretary must be satisfied that continuity of education for affected students is assured, including identification of receiving schools and reasonable transition arrangements.</p> |
| <p>18 Clause 59(1)(g) (Closure Grounds)</p> | <p>Disproportionate Closure Ground A school can be closed because one person managing or assisting in management has been prohibited under Clause 166. One individual's disqualification triggers closure of an entire school, punishing all students. <i>Source: Commissioner deliberations, 26 February 2026.</i> Constitution: Constitution s.41 (rights of children — best interests are a primary consideration); s.31(1) (right to education).</p> | <p>Reframe Clause 59(1)(g): 1. Instead of closure, require the controlling authority to replace the prohibited person within a specified period. 2. Closure should be a last resort only if the controlling authority fails to comply.</p> |
| <p>19 Clause 63 (School Health & Safety)</p> | <p>No Legal Duty to Prevent Bullying, Harassment, or Violence Clause 63 focuses on hygiene, sanitation, and emergencies. There is no framework to prevent or address bullying (including cyberbullying), harassment, gender-based violence, or discrimination in schools. <i>Source: Denarau Declaration, Thematic Area 3.</i> Constitution: Constitution s.11(2) (right to be free from any form of violence at school); s.41 (rights of children).</p> | <p>Create a safe learning environment and duty of care: 1. Insert a new clause or expand Clause 63 providing that every school has a duty of care to maintain a safe and supportive learning environment free from bullying, harassment, violence, and discrimination. 2. Require every school to implement policies to prevent and respond to harmful conduct and establish confidential reporting mechanisms.</p> |
| <p>20 Clause 69 (Teacher-Student Ratio)</p> | <p>Teacher-Student Ratio Undefined Clause 69(1) refers to a "prescribed number of students" but no ratio is set in the Act and "prescribed" is undefined. Without actual ratios, there is no meaningful constraint on class sizes. <i>Source: Commissioner deliberations, 26 February 2026.</i></p> | <p>Set or require ratios by level: 1. Require ratios to be prescribed in regulations by educational level. The Commission's recommended starting points are: ECED 1:15, Primary 1:35, Secondary 1:40, and Special and Inclusive Education to be prescribed following consultation with special education experts. 2. Ratios should be reviewed at least every 5 years and aligned with the Free Education Grant formula.</p> |
| <p>21 Clauses 72/156</p> | <p>Schools Must Hire Counsellors But Receive No Dedicated Funding</p> | <p>Create a protected grant category and allow flexibility:</p> |

| No. Bill Reference | The Issue | What We Recommend |
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| (Counselling & Grants) | <p>Clause 72 requires every school to "engage a counsellor" but provides no earmarked funding. This is an unfunded mandate. Rural schools cannot afford qualified counsellors. Clause 156 (Grants) lists no specific student support or wellbeing category.</p> <p><i>Source: Denarau Declaration, Thematic Area 3; Policy Issues Paper, Issues 43, 44.</i></p> | <ol style="list-style-type: none"> 1. Amend Clause 156 to add a mandatory grant category for "student wellbeing and support" covering counselling, mental health, special needs, and other student support services. 2. Reconsider the rigid requirement in Clause 72 for every individual school to have a counsellor. Allow counselling and wellbeing services to be provided flexibly — including shared, district-level, or divisional models — while ensuring every student has access to support. |
| <p>22 Clause 73 and Part 15 (Offences)</p> | <p>Corporal Punishment Prohibition Has No Penalty</p> <p>Clause 73 is the most detailed prohibition in the Bill — it defines and prohibits corporal punishment, cruel treatment, violence, and torture of students. Yet Part 15 (Clauses 164–173) creates no offence for contravening Clause 73. A teacher who administers corporal punishment faces no penalty under this Act.</p> <p><i>Source: Policy Issues Paper, Issue 116.</i></p> <p>Constitution: Constitution s.11(1) (freedom from cruel and degrading treatment); s.11(2) (right to be free from violence at school).</p> | <p>Insert a new offence:</p> <ol style="list-style-type: none"> 1. Insert a new Clause 169A: A person who contravenes Clause 73(2) or (3) commits an offence — fine not exceeding \$10,000 or imprisonment not exceeding 2 years or both. 2. Where the person is a registered teacher, the court must notify the FTRA Board of the conviction. |
| <p>23 Clause 75(2) (Boarding Fees)</p> | <p>No Hardship Safeguard for Boarding Fees</p> <p>Clause 75(2) allows boarding schools to refuse enrolment for unpaid fees. Clause 71(2) prioritises rural and maritime students for boarding. But there is no hardship waiver. A child of compulsory school age who must board to access education can be turned away solely because of inability to pay. This conflicts with the right to education (Clause 7) and compulsory education (Clause 10).</p> <p><i>Source: Policy Issues Paper, Issue 118; Denarau Declaration, Thematic Area 4.</i></p> <p>Constitution: Constitution s.31(1)(a)–(b) (right to education); s.26(1) (equality and freedom from discrimination).</p> | <p>Insert a hardship safeguard:</p> <ol style="list-style-type: none"> 1. A student of compulsory school age who meets prescribed boarding eligibility criteria must not be refused enrolment solely because of inability to pay the boarding fee. 2. Empower a boarding fee assistance or waiver scheme, with details prescribed in regulations. |
| <p>24 Clauses 81–83 vs Clause 157(2) (Financial Reports)</p> | <p>School Financial Reports Not Accessible to Parents</p> <p>School annual reports go only to the Permanent Secretary (Clause 83). Parents who pay levies (Clause 76) and contribute to fundraising (Clause 78) cannot see the school's finances. Compare Clause 157(2): higher education reports must be "available for public examination, free of charge." This is an internal inconsistency.</p> <p><i>Source: Policy Issues Paper, Issue 62.</i></p> | <p>Add parent access to financial reports:</p> <ol style="list-style-type: none"> 1. Insert a new Clause 83(2): Annual financial reports of government and government-aided schools must be made available for inspection by parents, guardians, and the controlling authority at the school, free of charge. |
| <p>25 Clauses 79–83 and Part 15 (Offences)</p> | <p>No Penalty for Financial Non-Compliance</p> <p>Part 11 imposes financial duties — responsible management (Clause 79), records (Clause 80), statements (Clause 81), audit (Clause 82), annual report (Clause 83). Yet Part 15 creates no offence for non-compliance. A school manager could ignore financial reporting with no legal consequence.</p> <p><i>Source: Policy Issues Paper, Issues 113–114.</i></p> | <p>Insert a graduated enforcement mechanism:</p> <ol style="list-style-type: none"> 1. The Permanent Secretary may issue a written compliance direction with a deadline. 2. Failure to comply after the direction is an offence: fine not exceeding \$5,000 (first offence) or \$10,000 (subsequent offence). |
| <p>26 Part 11</p> | <p>School Funding Has No Equity Safeguards</p> | <p>Write equity-based funding into the Bill:</p> |

| No. Bill Reference | The Issue | What We Recommend |
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| (Financing and Accountability) | <p>There are no equity principles, no transparency requirements, and no protection against discrimination in school funding. Rural and maritime schools face higher costs but receive no differential resourcing. The Free Education Grant formula needs to account for location, accessibility, school size, and special needs. ECED and Special and Inclusive Education centres are the most critical — and most underfunded — parts of the education system.</p> <p><i>Source: Policy Issues Paper, Issues 57, 66; Denarau Declaration, Thematic Area 4, Strategy E.</i></p> <p>Constitution: Constitution s.31(2)(a) (progressive free education); s.26(1) (equality); s.1(d) (care for the less fortunate).</p> | <ol style="list-style-type: none"> 1. Require equity-based funding models that account for location and accessibility, socioeconomic context, school size, and special educational needs. 2. Require the Ministry to publish annual reports on grant allocations by category and school. 3. Ensure that ECED and Special and Inclusive Education centres receive appropriate differential funding. |
| <p>27 Part 12 (FTRA) vs Part 13 Div 5</p> | <p>FTRA Has No Statutory Funding Framework</p> <p>The FTRA is a body corporate (Clause 84(2)) with staff, a CEO, committees, and broad functions. Part 12 contains no financial year, no funds clause, no grants clause, and no obligation on the Minister to fund the FTRA. Registration fees (Clause 98) have no designated destination. The Higher Education Commission has all of these (Clauses 153–156) — an internal inconsistency.</p> <p><i>Source: Policy Issues Paper, Issues 92, 101; Denarau Declaration, Thematic Area 2.</i></p> | <p>Insert a Finance Division in Part 12:</p> <ol style="list-style-type: none"> 1. Define the FTRA's financial year. 2. List the funds of the FTRA (fees, grants, donations). 3. Require the Minister to allocate annual grants. 4. Add Clause 98(5): fees collected must be paid into an FTRA account. 5. Mirror the structure of Clauses 153–156. |
| <p>28 Clause 85(2) (FTRA Board)</p> | <p>Board Appointment Uses Subjective Qualifier</p> <p>Clause 85(2) requires Board members to be persons who "in the opinion of the Minister" have adequate qualifications. The equivalent provision for the Higher Education Commission (Clause 129(3)) uses objective criteria without this subjective qualifier.</p> <p><i>Source: Commissioner deliberations, 26 February 2026.</i></p> | <p>Remove the subjective qualifier:</p> <ol style="list-style-type: none"> 1. Remove "in the opinion of the Minister" from Clause 85(2). 2. Align with Clause 129(3): state the criteria objectively. |
| <p>29 Clause 86 (FTRA Board Functions)</p> | <p>No Provision for Orientation and Induction</p> <p>The first year of teaching is widely recognised as the period when teachers need the greatest support. Without structured orientation, beginning teachers struggle and may leave the profession. The Bill contains no requirement for the FTRA to develop induction programmes for newly registered teachers.</p> <p><i>Source: Denarau Declaration, Thematic Area 2; Commissioner submission (Dr Lavinia Tiko).</i></p> | <p>Add a Board function for teacher orientation and induction:</p> <ol style="list-style-type: none"> 1. Amend Clause 86 to add an explicit function: "develop and oversee structured orientation and induction programmes for newly registered teachers." 2. Programme details to be prescribed in regulations or FTRA policy. |
| <p>30 Clause 129 (Higher Education Commission)</p> | <p>Commission Member Terms Not Stipulated</p> <p>Unlike the FTRA (Clause 85(4): up to 3 years), the Higher Education Commission members have no statutory term limit. The Minister has complete discretion over appointment duration.</p> <p><i>Source: Commissioner deliberations, 26 February 2026.</i></p> | <p>Stipulate terms in the Act:</p> <ol style="list-style-type: none"> 1. Specify Commission member terms (for example, up to 3 or 5 years, eligible for reappointment), consistent with the FTRA Board under Clause 85(4). |
| <p>31 Part 13 (Clauses 126–160)</p> | <p>No Recognition of Prior Learning (RPL)</p> <p>Someone with 20 years' work experience cannot gain a qualification without starting from Year 1 of a degree programme. Part 13 has no provision requiring higher education institutions to assess and recognise prior learning.</p> <p><i>Source: Denarau Declaration, Thematic Area 5, Strategy G.</i></p> | <p>Require RPL systems:</p> <ol style="list-style-type: none"> 1. Insert a provision in Part 13 requiring higher education institutions to establish systems to assess and recognise prior learning for admission, credit, and qualifications. |

| No. Bill Reference | The Issue | What We Recommend |
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| | | 2. The Higher Education Commission should develop RPL standards. |
| <p>32 Clause 160 (HE Winding Up)</p> | <p>Student Protection on Winding Up Needs Strengthening Clause 160 requires 12 months' notice before winding up, but does not cover programme discontinuation. An institution could discontinue a programme mid-year, leaving enrolled students stranded. <i>Source: Commissioner deliberations, 26 February 2026.</i></p> | <p>Extend student protection: 1. Require Higher Education Commission approval before any programme discontinuation affecting currently enrolled students. 2. Require a transition plan including credit transfer arrangements.</p> |
| <p>33 Clause 161 (Ministerial Directions)</p> | <p>Minister Can Direct the Permanent Secretary on Any Matter Clause 161(1) empowers the Minister to give directions on "any" of the Permanent Secretary's powers and functions. Clause 161(2)(b) requires compliance. There is no distinction between general policy and specific operational or staffing decisions. The Minister could direct the Permanent Secretary to transfer a particular teacher or refuse a particular school's registration — decisions within the Permanent Secretary's constitutional domain under section 127 of the Constitution. <i>Source: Policy Issues Paper, Issue 28; Cabinet TOR 2.2(f).</i> Constitution: Constitution s.1(f) (good governance, limitation and separation of powers); s.127 (Permanent Secretary powers).</p> | <p>Limit ministerial directions to general policy matters: 1. Amend Clause 161(1) to provide that the Minister may give "general policy directions" but must not give a direction in relation to any specific individual person, student, teacher, school, application, investigation, or other operational matter.</p> |
| <p>34 Clause 162 (Minister not bound by advice)</p> | <p>Ministers Can Ignore Expert Advice With No Accountability Clause 18 creates the Education Advisory Council to advise the Minister, but Clause 162 states the Minister "is not bound by its advice." There is no requirement to explain rejected advice, table it in Parliament, or acknowledge it publicly. <i>Source: Policy Issues Paper, Issue 29.</i> Constitution: Constitution s.1(g) (transparency and accountability).</p> | <p>Require transparency when advice is rejected: 1. Where the Minister decides not to follow significant advice of the Council, the Minister must provide written reasons to the Council. 2. The Council's advice and the Minister's reasons must be tabled in Parliament at the earliest opportunity.</p> |
| <p>35 Clause 163 (Student Relocation)</p> | <p>Student Relocation Has No Procedural Safeguards The Permanent Secretary may relocate any student to any other school, overriding all other laws. There is no notice, no reasons, no consultation, and no appeal. Every other comparable decision in the Bill carries procedural safeguards — schools get appeal rights (Clauses 61–62), teachers get written reasons and 30-day appeals (Clauses 97, 110), higher education institutions get Tribunal review (Clause 151). A child would receive less procedural protection than is afforded to a school building. <i>Source: Policy Issues Paper, Issues 28, 33.</i> Constitution: Constitution s.16(1)(a)–(b) (right to administrative action that is lawful, rational, proportionate, and procedurally fair; right to written reasons); s.31(1) (right to education); s.41 (rights of children — best interests).</p> | <p>Insert procedural safeguards: 1. Before relocating a student, the Permanent Secretary must give the parent or guardian written notice, including the grounds and the proposed receiving school. 2. The parent must have a reasonable opportunity to make representations (except where urgent health or safety requires immediate action). 3. The Permanent Secretary must have regard to the best interests of the child. 4. The parent or guardian may appeal the decision to the Minister within 30 days.</p> |
| <p>36</p> | <p>Penalty Structure Is Disproportionate</p> | <p>Review and rebalance penalties:</p> |

| No. Bill Reference | The Issue | What We Recommend |
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| Clauses 169–170 (Penalties) | <p>Assaulting a student: \$5,000 / 1 year (Clause 169). Employing an unregistered teacher: \$50,000–\$150,000 (Clause 170). False paperwork: \$20,000 / 5 years (Clause 173). The current penalty structure may convey that administrative breaches are treated as more serious than physical harm to children. The Clause 170 penalty provides no flexibility for emergency or temporary staffing situations caused by Ministry delays.</p> <p><i>Source: Policy Issues Paper, Issue 111.</i> Constitution: Constitution s.11(1)–(2) (freedom from cruel treatment and violence); s.31(1) (right to education).</p> | <ol style="list-style-type: none"> 1. Increase the penalty for assaulting a student (Clause 169(2)) up to \$10,000 or imprisonment not exceeding 5 years or both. 2. Review the Clause 170 penalty for proportionality, and consider allowing a reasonable excuse defence for temporary staffing emergencies. |
| 37 Clause 171 (Registration Overseas) | <p>Section 171 Should Be Removed</p> <p>Clause 171 creates an offence for a person whose registration has been cancelled in another country who fails to inform the FTRA Board. This is unnecessary — the existing registration requirements handle this. A person wanting to teach in Fiji must apply for registration, at which point their history is checked.</p> <p><i>Source: Commissioner deliberations, 2 March 2026 — unanimously agreed.</i></p> | <p>Remove Clause 171:</p> <ol style="list-style-type: none"> 1. The Commission recommends that Clause 171 be removed from the Bill. 2. The existing registration process under Part 12 is sufficient. |
| 38 Clause 172 (Sexual Allegations) | <p>Sexual Allegations Against Teachers Should Be a Police Case</p> <p>Clause 172 deals with sexual misconduct allegations but treats it only as a Board disciplinary matter. There is no requirement to refer to police. The fine of \$1,000 is far too low.</p> <p><i>Source: Commissioner deliberations, 2 March 2026.</i></p> | <p>Strengthen Clause 172:</p> <ol style="list-style-type: none"> 1. Require that any allegation of sexual misconduct involving a student be referred to the Fiji Police Force as well as the FTRA Board. 2. Increase the fine to at least \$5,000 (first offence) and \$10,000 (subsequent offence). 3. Signal zero tolerance for this conduct. |
| 39 Clause 174 (Review of Act) | <p>The Review Clause Needs Strengthening</p> <p>Clause 174 requires the Act to be reviewed every 5 years — a positive feature. However, it does not specify what the review must examine, whether it must be tabled in Parliament, or any protection against removal of the review clause itself.</p> <p><i>Source: Cabinet TOR 2.2(i).</i></p> | <p>Strengthen Clause 174:</p> <ol style="list-style-type: none"> 1. Specify that each review must examine whether the Act's objectives are being achieved, whether education quality and equity have improved, and whether unintended consequences have emerged. 2. Require the review to be tabled in Parliament within 6 months of completion. 3. Make provision for an independent Education Commission (or similar body) to conduct a comprehensive review of the education system at least every 10 years. |
| 40 Clause 175(3) (Regulations) | <p>No Requirement to Consult Higher Education Commission</p> <p>Clause 175(1) requires consulting the Education Advisory Council for general regulations. Clause 175(3) requires consulting the FTRA Board for Part 12. But there is no equivalent requirement to consult the Higher Education Commission for Part 13 regulations.</p> <p><i>Source: Commissioner deliberations, 2 March 2026.</i></p> | <p>Add a consultation requirement:</p> <ol style="list-style-type: none"> 1. Insert a provision requiring the Minister to consult the Higher Education Commission before making regulations under Part 13. |
| 41 Clause 176(2) (Repeal) | <p>Regulatory Vacuum — All Subsidiary Legislation Revoked Immediately</p> <p>Clause 176(2) revokes all subsidiary legislation made under the repealed acts. On commencement day, the</p> | <p>Insert a transitional savings provision:</p> <ol style="list-style-type: none"> 1. Amend Clause 176(2) to provide that all subsidiary legislation continues in force, to the extent not inconsistent with this Act, until |

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| | <p>following all disappear before replacements exist: prescribed registration fees, prescribed forms, prescribed health and safety standards, prescribed boarding criteria, and all other regulations governing day-to-day operations.</p> <p><i>Source: Commissioner deliberations, 2 March 2026.</i></p> | <p>revoked or replaced by regulations made under this Act.</p> |
| <p>42 Clause 177 (Transition)</p> | <p>Transitional Provisions Have Critical Gaps</p> <p>Clause 177 saves existing registrations and personnel but makes no provision for: (a) disciplinary proceedings against teachers underway at commencement; (b) pending higher education applications and part-heard appeals; (c) no sunset clause for non-government schools to re-register under the new Act; (d) no transition for the Authority itself, which is a new body with no predecessor.</p> <p><i>Source: Commissioner deliberations, 2 March 2026.</i></p> | <p>Add comprehensive transitional provisions:</p> <ol style="list-style-type: none"> 1. Disciplinary proceedings underway at commencement continue under the new Act; evidence and suspensions remain valid. 2. Pending higher education applications and part-heard appeals continue. 3. Non-government schools must apply for a new certificate within 3 years of commencement. 4. The Permanent Secretary or Ministry continues performing curriculum functions until the Authority is constituted. |
| <p>43 General (Bill as a whole)</p> | <p>Key Education Statutory Bodies Not Referenced</p> <p>Two statutory bodies within the education ecosystem are entirely absent from the Bill. The Substance Abuse Advisory Council (SAAC), established by the Substance Abuse Advisory Council Act 1998, plays a critical role in addressing substance abuse in schools. The Tertiary Scholarships and Loans Service (TSLs), established by the Tertiary Scholarships and Loans Service Act 2014, administers tertiary scholarships and student loans. The Bill does not repeal, reference, or integrate either Act.</p> <p><i>Source: Commissioner deliberations, 2 March 2026; Denarau Declaration, Thematic Area 2.</i></p> | <p>Acknowledge and integrate these bodies:</p> <ol style="list-style-type: none"> 1. The Bill should formally reference both the SAAC Act 1998 and the TSLs Act 2014, or integrate their functions into the new framework. 2. Reference the TSLs in Part 13 (Higher Education), particularly in relation to Clause 130(g) on the allocation of government funds for higher education. 3. Reference the SAAC in Part 10 (Student Behaviour and Well-Being) on student welfare matters. 4. At minimum, add both bodies to the consultation requirements under Clause 14 or 18 (Education Advisory Council). |
| <p>44 Part 12 (Division 1 & Schedule)</p> | <p>FTRA/Board Naming Inconsistency</p> <p>The Bill's main text correctly establishes the FTRA (Clause 84), but the Schedule heading still reads "Fiji Teachers Registration Board" and the Clause 2 definition references the old 2008 Act.</p> <p><i>Source: Policy Issues Paper, Issues 77, 91.</i></p> | <p>Standardise terminology:</p> <ol style="list-style-type: none"> 1. Review all references to the "Fiji Teachers Registration Board" and ensure they reflect the current name. 2. Clearly distinguish between the FTRA (body corporate) and the Board (governing body). |

CONSTITUTIONAL ALIGNMENT

The following areas represent points where the Draft Bill could be strengthened to more fully give effect to the rights and obligations set out in the Constitution of the Republic of Fiji (2013). The Constitution is the supreme law of the State (Section 2(1)), and any law inconsistent with the Constitution is invalid to the extent of the inconsistency (Section 2(2)).

1. Constitution s.31(2)(a) requires the State to progressively provide free early childhood, primary, secondary, and further education. The Bill's Clause 8 guarantees free education for primary (8(1)), secondary (8(2)), and higher education (8(3)) — but omits early childhood education entirely. The Bill could be strengthened to align with the Constitution on this point. Therefore: insert a new Clause 8(4) providing for progressive free ECED. (See Finding 6.)

2. Constitution s.31(2)(b) requires the State to provide education for persons who were unable to complete their primary and secondary education. The Bill's Clause 9 is limited to "mature students" aged 19 and over in formal settings. There is no legal framework for out-of-school children of primary age, alternative education, or second-chance learning. Therefore: create a legal framework for alternative education pathways. (See Findings 7 and 9.)

3. Constitution s.31(3) requires that conversational and contemporary iTaukei and Fiji Hindi languages be taught as compulsory subjects in all primary schools. The Bill includes language learning as a curriculum thematic area (Clause 23(3)(c): "the formal learning of Vosa Vaka Viti and Hindi"), but does not explicitly state that these languages are compulsory subjects in all primary schools as the Constitution requires, and the obligation is framed as a duty on the Authority rather than an enforceable duty on schools at primary level. Therefore: strengthen Clause 23(3)(c) to explicitly require these languages as compulsory subjects in all primary schools. (See Finding 13.)

4. Constitution s.31(5) places the burden of proof on the State — if the State claims it does not have the resources to implement the right to education, the State must show that the resources are not available. The Bill's funding provisions (Part 11) contain no equity safeguards, no transparency requirements, and no mechanism for the public to verify how education resources are allocated. Therefore: insert equity-based funding principles and public reporting requirements. (See Finding 27.)

5. Constitution s.11(1) guarantees freedom from cruel, inhumane, degrading, or disproportionately severe treatment. Constitution s.11(2) guarantees the right to be free from violence at school. The Bill's Clause 73 prohibits corporal punishment and violence against students, but Part 15 does not create a corresponding offence for contravening this prohibition. Without a statutory enforcement mechanism, the constitutional right may lack a practical remedy. Therefore: insert an offence for contravening Clause 73. (See Finding 23.)

6. Constitution s.16(1) guarantees that every person has the right to administrative action that is lawful, rational, proportionate, and procedurally fair, and the right to written reasons for adverse decisions. The Bill's Clause 163 empowers the Permanent Secretary to relocate a student to any other school — overriding all other laws — with no notice, no reasons, no consultation, and no appeal. This is inconsistent with the constitutional guarantee of procedural fairness. Therefore: insert procedural safeguards including notice, reasons, and appeal rights. (See Finding 36.)

7. Constitution s.26(1) guarantees equality before the law and equal protection. Constitution s.1(d) requires care for the less fortunate. The Bill's Clause 75(2) allows boarding schools to refuse enrolment for unpaid fees, with no hardship exemption. Rural and maritime students who must board to access school can be excluded solely because of inability to pay — effectively conditioning a constitutional right on ability to pay. Therefore: insert a hardship waiver for students of compulsory school age. (See Finding 24.)

8. Constitution s.1(f) requires good governance, including the limitation and separation of powers. The Bill's Clause 161 allows the Minister to direct the Permanent Secretary on "any" of the Permanent Secretary's powers and functions, with no distinction between general policy and specific operational matters. This blurs the constitutional separation between policy-making (Minister) and operational administration (Permanent Secretary under s.127). Therefore: limit ministerial directions to general policy matters. (See Finding 34.)

9. Constitution s.41 protects the rights of children, including the principle that a child's best interests are a primary consideration. The Bill's Clause 163 (student relocation) does not require the Permanent Secretary to consider the best interests of the child when making relocation decisions. Clause 59 (school closure) contains no provision for the welfare of affected students. Therefore: insert best-interests-of-the-child requirements in both Clause 59 and Clause 163. (See Findings 18 and 36.)

OBSERVATIONS OF CONCERN

The following matters were noted during the Commission's deliberations and are raised as observations for the Committee's consideration. The Commission does not make formal recommendations on these points but draws them to the Committee's attention.

Substantive Concerns

1. Clause 59(1)(b) — The phrase "good government" may be inherited from colonial-era drafting. The modern standard is "good governance."
2. Clause 59(1)(d) and 60(1)(d) — The term "basic curriculum" is not defined anywhere in the Bill. The Authority sets "curriculum, assessment and educational standards" (Clause 23(1)). The terminology should be aligned.
3. Clause 165 — The definition of "unsuitable publication" could be clearer.
4. Clause 167 — The proportionality of the offence for misrepresenting school classification should be reviewed.
5. Clause 169(3) — If the "malicious disturbance" provision refers to third parties entering school premises, this may be more appropriately dealt with under existing criminal law rather than the Education Act.
6. Clause 175(1)(e) and (f) — The relationship between paragraph (e) ("fees and penalties to be paid") and paragraph (f) ("penalties exceeding a fine of \$400") needs clarification to avoid ambiguity.

Drafting Clarity

1. Clause 161(1) — The phrase "not inconsistent" is a double negative and should be simplified to plain English for clarity.
2. Clauses 162, 166, 167, 168, 169 — Multiple headings in the Bill use "etc" (for example, "Minister not bound by advice etc"). All headings should spell out their subject matter in full. "Council" should always be identified as "Education Advisory Council" throughout.
3. Clause 173 — The language of this clause is convoluted and should be simplified.
4. Clause 175(2) — The repeated reference to "the manner in which a thing is done" should be replaced with a specific reference to "matters mentioned in subsection (1)."
5. Clause 175(2)(a)–(g) — The necessity of this entire subsection should be reviewed, given that subsection (1) already lists the matters.
6. Clause 177(8) — Typographical error: "eduaction" should be "education."

Respectfully submitted by the Fiji Education Commission:

Professor Vijay Naidu

Chair

Commissioners:

Dr Priscilla Puamau

Ms. Anaseini Raivoce

Ms. Kelera Taloga

Dr Lavinia Tiko

Dr Kesaia Seniloli

Mr Arvind Maharaj

Written Submission on the Education Bill and the Higher Education Act

Introduction

We welcome the opportunity to provide input on the Education Bill and its intersection with the Higher Education Act. The Higher Education Act 2008 has been the cornerstone of regulating tertiary institutions, but the evolving landscape of higher education marked by digital transformation, global mobility, and new credentialing systems requires legislative updates to ensure relevance and effectiveness.

Key Observations

- **Alignment with Global Trends**

The current Act does not adequately address emerging practices such as micro-credentials, online learning platforms, and artificial intelligence in education delivery.

- **Regulatory Gaps**

The legislation lacks clear provisions for quality assurance of non-traditional learning pathways, leaving students and employers uncertain about the recognition of new qualifications.

- **Stakeholder Engagement**

While the Education Bill emphasizes access and compulsory education, higher education stakeholders including universities, technical colleges, and private providers require stronger representation in advisory councils and curriculum development processes.

Recommendations

1. Modernize Definitions and Scope

Update the definition of “higher education institution” to include providers of online and micro-credential programs.

2. Strengthen Quality Assurance

Establish a framework for accrediting emerging forms of learning, ensuring international recognition and portability of qualifications.

3. Enhance Governance Structures

Expand the role of the Higher Education Commission to include oversight of digital learning platforms and cross-border education partnerships.

4. Promote Equity and Access

Ensure that mature students, part-time learners, and those in remote areas benefit from flexible pathways supported by the Act.

5. Regular Legislative Review

Mandate periodic reviews of the Act to keep pace with technological and global developments in higher education.

Unregulated Practices

Student recruiting agencies often operate without standardized oversight, leading to risks of misinformation, exploitation, or inequitable access for students.

- **Globalization of Education**

With increasing numbers of students seeking overseas study, agencies have become critical intermediaries. However, the Act does not recognize or regulate their role.

- **Impact on Equity**

Students from disadvantaged backgrounds may be disproportionately affected by unethical recruitment practices, including hidden fees or biased guidance.

Recommendations

1. **Formal Recognition**

Amend the Higher Education Act to formally recognize student recruiting agencies as stakeholders in the higher education ecosystem.

2. **Accreditation and Licensing**

Establish a licensing framework requiring agencies to meet minimum standards of transparency, ethical conduct, and student welfare.

3. **Monitoring and Accountability**

Create a regulatory body or expand the Higher Education Commission's mandate to monitor agency practices, with penalties for misconduct.

4. **Student Protection Measures**

Require agencies to disclose all fees, provide accurate information about institutions, and adhere to a code of conduct prioritizing student interests.

5. **Collaboration with Institutions**

Encourage universities and colleges to partner only with accredited agencies, ensuring quality assurance and safeguarding student outcomes.

Key Observations

- **Weak Enforcement**

Current legislation relies heavily on administrative sanctions, which may not adequately deter serious violations such as fraud, exploitation, or misrepresentation by institutions or recruiting agencies.

- **Student Vulnerability**

Students are often exposed to predatory practices, including hidden fees, false promises of accreditation, or misleading information about overseas opportunities. Without prosecuting powers, regulators cannot effectively protect students.

- **International Best Practice**

Many jurisdictions empower higher education regulators with prosecutorial authority to ensure compliance and uphold standards, especially in cases involving financial misconduct or exploitation

Recommendations

1. **Grant Prosecuting Powers**

Amend the Higher Education Act to explicitly grant the Higher Education Commission prosecuting powers for serious breaches of the law.

2. **Define Scope of Offenses**

Clearly outline offenses subject to prosecution, including fraud, misrepresentation, exploitation of students, and operating without accreditation.

3. **Establish Legal Framework**

Provide mechanisms for collaboration between the Commission and law enforcement agencies to ensure due process and effective prosecution.

4. **Safeguard Student Rights**

Ensure that prosecuting powers are exercised with transparency, accountability, and a focus on protecting student welfare.

5. **Deterrence and Compliance**

Use prosecuting powers not only to punish misconduct but also to encourage institutions and agencies to maintain high standards of integrity.

Funds of the Commission

Overview

The funds of the Commission shall be subjected to the financial management and procedures of the Ministry of Economy.

Fees collected from higher education institutions whether through registration, accreditation, quality assurance, or other regulatory services constitute part of the funds of the Higher Education Commission, as outlined in **Section 46 of the Higher Education Act 2008**.

These funds are:

- a) Lawfully received by the Commission in the course of its statutory functions
- b) Intended to support the Commission's operations and strategic objectives

c) Subject to the financial management and procedures of the Ministry of Economy, but not absorbed into the Ministry's own consolidated funds.

Recommendation

Any fees derived from higher education institutions should be redirected to the Commission's consolidated fund, ensuring transparency, accountability, and alignment with the Act.

Conclusion

The Education Bill, in conjunction with the Higher Education Act, must evolve to reflect the realities of modern higher education. By addressing regulatory gaps, embracing innovation, and ensuring inclusivity, Fiji can strengthen its higher education system and better prepare its citizens for global opportunities.

Submitted on behalf of:

Higher Education Commission, Fiji

| No. | Relevant Law | Required Changes Missing | Justifications |
|-----|------------------------------------|--|---|
| 1. | <u><i>FTR 2 Interpretation</i></u> | <p>i. To include the following terms with appropriate definitions under the interpretation section:</p> <p>a) Honourable Minister for Education: responsible for overseeing Fiji's Education System.</p> <p>b) CEO: Chief Executive Officer</p> <p>c) Registered Teacher: Holds a valid FTRA Registration under the appropriate category.</p> <p>d) Registration: registration under section 11, Limited Authority to Teach (LAT), Provisional and Full registration which includes renewals as well.</p> <p>e) Fiji Teachers Registration Authority (FTRA): is mandated to regulate the teaching profession in Fiji. All teachers and knowledge providers that intend to enter the classroom and teach are required by Law to register with the FTRA.</p> <p>f) Fiji Teachers Registration Board (FTRB)</p> <p>g) Full Registration: is a status granted by the FTRA to a teacher who has previously been accorded Provisional Registration and has satisfactorily completed the prescribed period of</p> | <p>i. The terms mentioned would be used at various points in the FTR Act of Laws in Fiji therefore prior knowledge of the terms would validate the clauses mentioned.</p> <p>ii. The term FTRB should be replaced with FTRA as the name was changed in 2013 after divestment.</p> |

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| | | <p>h) supervised teaching practice, subject to formal evaluation and recommendation. This category signifies that the teacher has met the professional, ethical and performance standards required by the Authority and is thereby deemed competent to practise teaching without the supervisory conditions attached to Provisional Registration.</p> <p>i) FTRA ID Card Is an additional privilege extended exclusively to teachers who hold Full Registration status with the Authority.</p> <p>j) Early Childhood Education (ECE)</p> <p>k) Private Schools: Privately owned schools registered with the Ministry of Education using its own curriculum. Entire operations are managed by the school as per the laws of Fiji</p> | |
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| 2. | [FTR 3] Act binds the State | No change required | |
| 3. | [FTR 4] Establishment of the Board | <p>i. A member may be appointed for a minimum term of 1 year not exceeding 3-year period and is eligible for reappointment.</p> | <p>i. To align the board appointment term to the current practice.</p> <p>ii. To monitor their attendance and decision-making performance.</p> |
| 4. | [FTR 5] Functions of the FTRB | <p>Replace the word Board with “FTRA” The Functions of the FTRA are:</p> <p>Functions to be Carried out by the Fiji Teachers Registration Authority (FTRA)</p> | <p>i. These functions (a, b, c) have been undertaken by the FTRA Secretariat since its establishment and/or divestment in 2013.</p> |

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| | | <p>as part of its statutory and operational mandate:</p> <ul style="list-style-type: none"> i. The CEO shall act, on behalf of the Board, grant approval for the registration of persons who are duly qualified to be registered as teachers in accordance with the provisions of this Act. A comprehensive Registration Report shall be submitted to the Board at its quarterly meetings to ensure appropriate oversight and accountability. ii. Staff recruitment shall be conducted in accordance with the principles of open merit and transparency and in strict compliance with the provisions and guidelines stipulated in the Fiji Teachers Registration Authority Human Resources Policy. iii. To keep teacher registration in Fiji under continuous review and to prepare and submit reports and recommendations to the Board in relation thereto; iv. (c) To confer and collaborate with employing authorities, teacher education institutions, members of the teaching profession, teacher organisations and the wider community in matters relating to standards of teacher education programmes acceptable for the purpose of teacher registration, and to advise the Board accordingly; v. To undertake relevant review and research projects for the purposes of this Act, as may be assigned in writing by the Board or Minister from time to time; | <ul style="list-style-type: none"> ii. These functions (e, f, and g) are to remain as it is under “<i>Functions of the FTRA</i>”. |
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| | | <p>vi. To promote and uphold the teaching profession;</p> <p>vii. To develop, formulate and continuously improve professional teaching standards aligned with the evolving needs of pre-service & in-service teachers and the national workforce;</p> <p>viii. To develop, formulate and maintain a Code of Professional Ethics for the teaching profession subject to the review and approval of the Board.</p> <p>ix. To make recommendations to the Board in respect of special projects consistent with its statutory functions, including recommendations relating to the funding required to implement such projects.</p> | |
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| 5. | [FTR 6] Powers of the FTRA Board | <ul style="list-style-type: none"> i. The Board should now be referred to as the FTRA Board. ii. Matters of policy significance, regulatory importance, or requiring formal endorsement shall be presented by the CEO to the Board for its deliberation, decision-making, approval, and/or retrospective noting, as appropriate. iii. In recognition of the operational nature of functions historically administered by the Authority, the Board will, delegate all operational functions to the CEO. Such delegation shall relate to day-to-day operational matters, with the requirement that regular and comprehensive reports be submitted to the Board to ensure transparency, accountability, and continued oversight. iv. The Board shall exercise oversight of the Fiji Teachers Registration Authority in respect of the registration of persons who are duly qualified to be registered as teachers, in accordance with the provisions of this Act, with the operational support and administrative facilitation of the CEO. v. The Board shall provide strategic direction to the Authority in all matters pertaining to legal compliance, audit, Annual Report and Professional Standards and Professional Development frameworks for pre & in-service teachers. vi. to make recommendations to the Minister with respect to special projects not inconsistent with its other functions, including funding required to undertake such projects. vii. to review and maintain a code of professional ethics for the teaching profession. | <ul style="list-style-type: none"> i. Aligning the Act to the current work processes/ operations as it has been effective & productive and it is suitable and transparent to all the stakeholders. |
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| 6. | [FTR 7 Committees] | <p>To align the Act to note the following:</p> <ul style="list-style-type: none"> i. Code of Professional Ethics Committee ii. Professional Teaching Standards Committee iii. Other committees, it considers necessary for the purpose of this Act. | <ul style="list-style-type: none"> i. It's a small FTRA Board therefore too many committees would not be required to solve issues. ii. Having too many committees will prolong the decision making as all final decisions are made by the FTRA Board. iii. Having too many committees will be a costly affair in terms of money and time. |
| 7. | [FTR 8] Directions | No Change required | |
| 8. | [FTR 9] Secretariat | <ul style="list-style-type: none"> i. The Board shall appoint the CEO of the Authority in consultation through an independent recruitment organisation. ii. The FTRA CEO shall appoint its officers on an Open Merit Policy based on the approved Structure and budget for the administration of the Authority and FTRA Board. | <ul style="list-style-type: none"> i. The CEO's appointment in consultation with the FTRA Board will be fair and transparent, since the CEO works closely with the board and/or on behalf of the Board. ii. The CEO has a better understanding of the FTRA processes/ operations and based on open merit policy will be able to select ideal professional. |
| 9. | [FTR 10] Must register to teach | No change required | |
| 10. | [FTR 11] Power to register | <ul style="list-style-type: none"> i. The FTRA CEO should be bestowed with the powers to approve, suspend or revoke all registrations on behalf of the Board. CEO to refer all complicated cases to the Board either via flying minute or during the quarterly board meetings. ii. FTRA Board shall approve the Registration Report submitted by the FTRA CEO/Secretary to the Board during the quarterly Board meetings. | <ul style="list-style-type: none"> i. Daily approval of teacher registrations is undertaken by the CEO, as it would be impractical and unduly burdensome for the FTRA Board to approve registrations on a daily basis. Such an arrangement would constitute an abnormal practice, particularly where the Authority has an appointed CEO and management |

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| | | | <p>team responsible for the effective oversight and execution of day-to-day operational functions.</p> <p>The current practice should be reflected in the revised Act.</p> |
| 11. | [FTR 12] Application for registration | The word Board to be replaced with FTRA | |
| 12. | [FTR 13] Criteria for registration | <p>i. The word Board to be replaced with FTRA.</p> <p>ii. amend the clause: <i>a (i)</i> replace the word <i>Course</i> with programme and delete “and atleast 1 year of full time teaching to the satisfaction of the Board”</p> | To the Act with the current approved process |
| 13. | [FTR 14] Notice of Board's decision | <p>Include the word “FTRA”</p> <p>(I) FTRA/Board must, within 14 days after the date of its decision on an application, notify the applicant in writing about its decision, including the reasons for refusal if the application is refused.</p> | |
| 14. | [FTR 15] Registration fee | <p>(I) To capture the fact that prescribed fee for each category of registration differs depending on the level of qualification and period of service applicable to each category:</p> <ul style="list-style-type: none"> * Limited Authority to Teach (LAT) * Provisional * Full * Institutional | To the Act with the current approved process |
| 15. | [FTR 16] Certificate of registration | <p>Capture or rewrite 1 the following:</p> <p>(I) If an application for registration, including a renewal or a new registration, is approved by the FTRA, the Authority shall issue a Certificate of Registration in the prescribed form.</p> | |

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| 16. | [FTR 17] Duration of registration | <p>Include the following:</p> <p>(i) Expatriates: Registration period shall be granted as per the term stipulated in the Work Permit subject to the applicable registration category.</p> <p>(ii) If the first registration is granted during the year, the registration start date shall be effective from the date the registration application is approved.</p> <p>(iii) Not all categories of registrations are given to serve for a period of 3 years therefore delete the period of registration shall be 3 years starting on 1 January of the year</p> <p>Currently Registration Period is as follows: * LAT – 2 Years * Provisional – 1 Year up to 3 years * Full – 3 Years or less for retirees * Institutional 1 year</p> | <p>i. Its only appropriate for expatriates to be granted with the registration based on their term of the work permit.</p> <p>ii. Granting registrations from the date of approval will be more accurate as currently a teacher registering in the middle of the year is given registration from January which is incorrect. The license or the recognition for practice should be from the date of approval not back-dated.</p> |
| 17. | [FTR 18] Extension of registration | Delete Clause 18 from the Act | <p>i. FTRA would like to stipulate and implement clear process for the purpose of this clause whereby FTRA does not allow extension of registrations</p> |
| 18. | [FTR 19] Renewal of Registration | Replace the word Board with “FTRA” | |
| 19. | [FTR 20] Restoration of registration | <p>The clause of the Act be amended to expressly provide that:</p> <p>The CEO of the FTRA shall have the delegated authority to approve the restoration of cancelled, suspended or expired teacher registrations, subject to compliance with all statutory requirements prescribed under this Act and any applicable regulations.</p> <p>In exercising this authority, the CEO shall</p> | <p>i. To make it explicit to the teachers and stakeholders of the current process by stipulating it in this clause.</p> <p>To align the processes in the Act</p> |

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| | | consult with the Employers to ensure alignment with employment records and any disciplinary or administrative considerations. Where deemed necessary, the CEO may seek the views, guidance, or reservations of the FTRA Board prior to granting such restoration. | |
| 20. | [FTR 21] Provisional Registration | <ul style="list-style-type: none"> i. Rewrite: the CEO may grant a provisional registration under all different categories on behalf of the Board ii. The Provisional Registration may be renewed for a further specified period where the required standards or conditions have not yet been fully satisfied, subject to approval by the FTRA. | <ul style="list-style-type: none"> i. The clause is made explicit with the current process being stipulated as is titled provisional registration so that teachers and stakeholders are clear and aware of its requirements and period of service. |
| 21. | [FTR 22] Reports from employers on provisional registrants | <ul style="list-style-type: none"> i. The act mentioned to be carried out by the Board should be revised to elaborate that FTRA carries out such responsibilities. replace the word Board with FTRA ii. The <i>clause 22, (2)</i> says that it may be made by the employer however, it should be made compulsory that the employer sends the completed form indicating the registrant's performance of teaching duties being carried out at the relevant school or institute elaborating suitability for granting full registration. | <ul style="list-style-type: none"> i. The responsibility mentioned in this clause has been carried out by the FTRA since its establishment. If the recommendation to be provided by the employer is made compulsory, it would avoid discretion of any kind & make the application credible & suitable to be accepted & processed by FTRA. Teacher Quality will be monitored & maintained |

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| 22. | [FTR 23] Cancellation of provisional registration | i. The clause should capture the fact that it is the FTRA CEO that decides on cancellations of the provisional registrations on behalf of the Board subject to failure to adherence of the requirements stipulated in the approved provisional Registration application form | i. The responsibility mentioned in this clause has been carried out by the FTRA since its diverstment, 2013. |
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| 23. | [FTR 24] Limited Authority to Teach (LAT) | <p>i. The period for the Limited Authority to teach category of registration shall be for 1 year and may be extended for a further period of 1 year upon renewal.</p> <p>ii. Grant Special Registration as a subcategory under LAT</p> <p>iii. Special Registration Category</p> <ul style="list-style-type: none"> • The FTRA to grant a <i>Special Registration Category</i> to any person who: • provides religious or doctrinal instruction on behalf of a recognised faith- based or cultural organisation; or • possesses specialised knowledge or skills essential to the education sector that are not ordinarily encompassed by the standard registration classifications. • (2) A registration issued under this section— <ul style="list-style-type: none"> (a) shall remain valid until surrendered, cancelled, or revoked under this Act; and (b) shall not be subject to any statutory maximum term or renewal- period limitation. (3) Holders of a Special Registration Category must comply with all professional standards and conditions prescribed by the Authority from time to time. | <p>i. Granting 1 year of registration will be based on conditions that the teacher has achieved the required formal teacher training qualifications.</p> <p>ii. Currently, some teachers have been in this category for more than six years and Are yet to meet the MQR.</p> |
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| 24. | [FTR 25] Cancellation of limited authority | The power to cancel or suspend the LAT be bestowed to the CEO on behalf of the Board. Cancellation report to be submitted to the Board during the quarterly Board meetings or when required | i. The required changes be stipulated into the clause to align the current process to the practice carried out since the establishment of FTRA. |
| 25. | [FTR 26 to FTR 39] | Does not require any changes | |
| 26. | [FTR 40] Duty of registered teacher whose registration is cancelled | i. Replace the word Board with “FTRA” | i. The current process be stipulated into the clause to align it with the practice carried out since the establishment of FTRA |
| 27. | [FIR 42 & FTR 44] | Does not require any changes | |
| 28. | [FTR 45] Duties of employers | Replace the word Board with FTRA | i. The procedures for Teacher registration are stipulated by the FTRA since its establishment |
| 29. | [FTR 46] Annual Returns <i>The employer or a person so authorised by the employer must, on or before June each year, provide the Board with a return in the prescribed form of all persons teaching at the school as at 1 May that year.</i> | (i) This data is now available in the MoE’s main FESA software therefore obtaining manual record via forms from individual HOS is irrelevant. <i>delete this clause</i> | i. The information required via Submission of Annual Returns is readily available in FESA thus manual completion of forms by the HOS is no longer required ii. It will be a major cost saving as unnecessary printing and postage costs by schools can be avoided including filing of forms at FTRA iii. Delete this Clause |
| 30. | FTR 47 – FTR 49] | Replace the word Board with FTRA | |
| 31. | Insert New Clauses | (i) <i>FTRA Induction Programme; all newly registered teachers in Fiji shall be required to successfully complete the FTRA Induction Programme as a mandatory condition of their registration.</i> (ii) <i>FTRA Orientation Programme; all newly enrolled pre-service teachers and any other professional intending to undertake practicum,</i> | |

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| | | <p><i>teaching practice, internship, or similar instructional engagement in any school within Fiji, shall be required to complete the FTRA Orientation Programme prior to commencement of such practicum or engagement.</i></p> <p><i>(iii) Include this additional requirement in FTR 13 of the Act.</i></p> <p><i>Verification of academic and professional teaching qualifications, whether obtained locally or overseas, shall be mandatory and shall be confirmed through the Higher Education Commission Fiji and the respective awarding University, College, or recognised training institution, as applicable.</i></p> <p><i>No application for registration shall be approved unless satisfactory documentary verification has been received and validated by the Authority.</i></p> | |
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Amendment to the FTR Regulations 2008

| | Relevant Regulation | Required Changes | Justification |
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| 32. | [FTR 10,030] Verification of qualification by the Fiji Teachers Registration Board on Qualifications | <p>i. Remove all old FTRB Applications forms.</p> <p>ii. <i>Subsection 4 (e) and Subsection 5 (f)</i> to be removed and replaced with a more succinct statement depicting applicant having a valid Police Clearance without any adverse record & Medical Report</p> <p>Current New Registration Requirements:</p> <p>Completed FTRA Form 1</p> <p>Original Birth Certificate</p> <p>Certified Passport size photo</p> <p>FTRA Payment Receipt (<i>Applications lodged at other Centres</i>)</p> <p>Certified true copies of Academic Transcripts/Certificate</p> <p>Full Medical Report</p> <p>Police Clearance</p> <p>FTRA Induction Certificate Copy (<i>for Teachers only</i>)</p> <p>Work Permit Copy (<i>for Expatriates</i>)</p> | <p>i. Remove all old FTRB Applications forms. Forms are available on the FTRA website; this should not be part of the Regulation. This should not be made part of the Regulation</p> <p>ii. FTRA explicitly requires valid Police Clearance without any adverse record & a valid medical report.</p> |

| | Relevant Regulation | Required Changes | Justification |
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| 33. | [FTR 10,045] REFUND OF FEES | i. It is the MoE Finance Department that refunds the fees upon approval & justifications provided by the CEO | i. The regulation states that the Board is responsible for refunding the prescribed fee however as per the current process it is the MoE Finance Department that facilitates the refunding of fees upon recommendation made by the CEO. |
| 34. | [FTR 10,055] COMPLAINTS INDIVIDUALS | i. To stipulate the current process in the FTR 10,055 Regulation. | i. To align subsection (1) in this regulation to the current process. |

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| 35. | [FTR 10,060] COMPLAINTS FROM MINISTRY OF EDUCATION OR SCHOOL | <p>i. FTRA keeps the record of the teachers’, teacher educators’, or teacher administrators’ details therefore the mandatory report requiring the above details for the investigation to be carried out by the MoE and/ or Schools would need to be sent to the FTRA CEO</p> <p>ii. The CEO to consult the FTRA Board where necessary depending on the seriousness of the case</p> | <p>i. The FTR 10,060 Regulation needs to be aligned to the current process so that the teachers and the stakeholders are aware that the relevant details are classified and can be attained at the FTRA upon the approval of the CEO.</p> |
| 36. | [FTR 10,065] CONDUCT OF INQUIRY BY THE BOARD | <p>i. The FTR 10,065 Regulation to indicate that the initiation of inquiry may be conducted by the FTRA or Board depending on the nature and seriousness of the breach or misconduct done, considering the type of information needed by the MoE for the purpose of compiling the report.</p> <p>ii. If the initial inquiry is to be carried out by the FTRA, then the report may be escalated to the Board; seeking consultation and its discretion or decision depending on the seriousness of the case.</p> | <p>i. To align the current process to the current practice on conducting inquiry on cases of breaches and misconducts committed by the teacher.</p> |

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| | Relevant Clause [FTR 10,315] SCHEDULE B OTHER FEES | In “8” Basic Application Fee for Limited Authority to Teach (LAT): This fee shall apply to Teacher Training Institutions and any other institutions that intend to communicate with students during normal school hours, whether on school premises or at any other venue approved by the relevant authority. | |
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Purpose of the Amendment

The purpose of this amendment is to formally define and incorporate the Full Registration category within the principal Act as a substantive clause. At present, Full Registration is administered and regulated under subsidiary Regulations; however, given its central role in the statutory regulation of the teaching profession, it is necessary that this category be expressly recognised and defined within the Act itself.

Proposed New Clauses – Definition of Full Registration

1. Insertion of New Clause [X]: **Full Registration**

“Full Registration” means the registration granted by the Fiji Teachers Registration Authority to a teacher who has:

- (a) successfully completed an approved teacher education qualification recognised by the Authority (Degree Level Programme);
 - (b) satisfied all prescribed academic, professional, ethical and character requirements under this Act;
 - (c) completed any required induction, orientation, practicum, or professional assessment as determined by the Authority; and
 - (d) complied with all conditions, standards and codes of conduct prescribed under this Act and any regulations made thereunder.
- (e) Full Registration shall be granted for a minimum period of three (3) years, except in the case of retired teachers, whose registration period shall be determined in accordance with the conditions prescribed by the Authority.

A teacher holding Full Registration is authorised to practise as a teacher in Fiji without supervision, subject to continued compliance with the provisions of this Act, renewal requirements, and any applicable conditions imposed by the Authority.

3. Justification for the Amendment

1. **Legal Clarity and Certainty**
Full Registration represents the highest and most substantive category of teacher registration. Its current placement solely within the Regulations creates ambiguity and weakens legal certainty. Including this category within the Act strengthens the statutory framework and ensures clarity for teachers, employers, regulators, and enforcement agencies.
 2. **Alignment with Legislative Best Practice**
Core professional classifications that determine a person’s legal right to practise should be anchored in primary legislation rather than delegated legislation. This amendment aligns the Act with accepted legislative and governance best practices.
 3. **Strengthened Regulatory Authority**
Explicitly defining Full Registration in the Act reinforces the Authority’s mandate to regulate professional standards, enforce compliance, and take disciplinary action where necessary, particularly in matters relating to employment eligibility and professional accountability.
 4. **Consistency with National Education and Workforce Policies**
Recognising Full Registration in the Act ensures alignment with national education policies, teacher quality assurance frameworks, and workforce planning initiatives led by the Ministry of Education and other relevant agencies.
 5. **Transparency and Public Confidence**
Embedding the definition in the Act enhances transparency, promotes public confidence in the teacher registration system, and clearly communicates the standards required for full professional recognition as a teacher in Fiji.
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4. Consequential Amendments

Upon enactment of this amendment, the relevant Regulations shall be reviewed and aligned to ensure consistency with the newly inserted statutory definition, without altering the operational requirements already in force unless expressly approved by Parliament and/or Board.

2. Amendments for the Regulation will be under Category 3:

- (i) Inclusion of mandatory FTRA Orientation and Induction Programme for pre-service and expatriate teachers
- (ii) Verification of qualifications for all foreign qualification

3. FTR 10,020] Prescribed Qualification, Experience and Requirements for Registration as a Teacher

Include Early Childhood Education (ECE) under the Prescribed Qualification, Experience and Requirements for Registration as a Teacher.

4. [FTR 10,030] Verification of Qualification by by the FTRB on Qualifications

- i. (a) “to be made to the Board in the manner approved by the Board” delete the rest (forms)
- ii. (4) d “be recommended for full registration for his or her respective head” delete the rest

5. [FTR10,050] Renewal of Registration

Amend the sentence to read as “ to be made to the board in the manner approved by the Board”

6. [FTR 10,075] Composition of the Committee Enquiry

- (i) 15 (2) the number three to be changed to “two”;
- (ii) 15 (2) delete the word “Fiji” and replace the words Teachers union with “Teacher Unions”;
- (iii) New sub-section 3 to be added “the fifth member to be appointed by the Board.

7. [FTR 10,315] Schedule B – Other Fees

To include or any other Institutions under the Institutions category

Note: All Registration Forms currently included in the Schedules section of the Act are to be removed. These forms are periodically reviewed and updated as required and the most current versions are made available on the FTRA website for ease of access.

THY ROD
and
THY STAFF
They Comfort
Me

Christians and the
Spanking¹ Controversy

SAMUEL MARTIN

¹ Please note that through out this version of the book the word “smacking” is used. This term is identical in English to the term “spanking” which is more commonly used in the USA while the term “smacking” is used in countries associated with the British Commonwealth.

This volume is dedicated to my parents, Dr. Ernest L. Martin (1932-2002) and Helen R. Martin. Thank you for your love and for your desire for me to be a part of your family.

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First Edition - Winter 2006

Samuel Martin

Email: info@biblechild.com

Recompense to no man evil for evil. Provide things honest in the sight of all men. If it be possible, as much as lieth in you, live peaceably with all men.

Dearly beloved, avenge not yourselves, but rather give place unto wrath: for it is written, Vengeance is mine; I will repay, saith the Lord.

Therefore if thine enemy hunger, feed him; if he thirst, give him drink: for in so doing thou shalt heap coals of fire on his head.

Be not overcome of evil, but overcome evil with good.

Romans 12:17-21

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INTRODUCTION

Thy Rod and Thy Staff They Comfort Me

There are few subjects that cause passions to stir among people more than that of smacking children. This issue cuts right to the heart of questions concerning parental rights, correct methods of child rearing, appropriate punishment, freedom to raise one's children as one chooses and a host of other issues.

This issue pits two main groups one against the other. On one side of the issue there are those who take the religious position that smacking is beneficial for children because it is a teaching found in the Bible. Those who espouse this position have their proponents among pastors, Bible teachers, ministers, lay people in the church, religiously motivated psychologists and even among politicians who are either affiliated with religious movements or who believe in the necessity of smacking children. On the other side of the issue there are those in the human rights community, particularly focusing on children's rights, secular psychologists, doctors, university professors, and social workers.

Numerous non-profit organizations have been formed to advocate for and against this practice and hundreds of thousands of Pounds are spent to promote the idea and to discredit it. Debates that take place on television or radio are some of the most rancorous exchanges and studies are analysed, quoted, referred to, reinterpreted, discredited or agreed with. Some religious proponents even point out to their adherents that this practice is so fundamental to freedom of choice for parents to raise their children the way

they wish under the religious system of their choice, that if children's rights proponents have their way, parents will be prosecuted and thrown in jail for giving their children a swat on the bottom. Certainly, this kind of information stirs people up into action. So much so that attempts to pass legislation on the part of politicians are stifled over and over again by their desire not to offend their religious constituents. However, does all of this need to be?

My experience with this subject

I was raised in a very strict religious home and when I did things wrong, smacking was the chosen method of "correction." One of my earliest recollections as a small boy was being spanked in Interlachen, Switzerland for getting too close to the edge of a mountain guardrail. I, like so many people before me, was taught that these smackings were good things to help me become a better person. I believed this teaching to be the truth of God. However, in 1996 that all changed for me.

In 1996, I began to do some research work into my favourite book of the Bible: the book of Proverbs. Most of the work was simple word studies and reading commentaries about the book in general. It did not take me long to develop an interest in smacking children. At that time, I began to think about how I would raise my own children. Would I spank them like I was spanked myself? Initially my answer to this question was "yes."

That all changed when I read a book by Dr. Philip Greven titled: *"Spare the Child: The Religious Roots of Punishment and the Psychological Impact of Physical Abuse."* This volume opened up the whole issue of smacking for me in a different way than I had ever looked at it before. Probably the most important thing I learned was that there were conservative Christian leaders who themselves had been spanked as children, but they chose to adopt a new method for raising their children. The Reverend Dwight Moody was such a man as Dr. Greven points out.

Rev. Moody was a giant of evangelical Christian work in the last half of the nineteenth century. His conservative approach to the Bible is without

question, yet he chose not to spank his children! He chose to adopt grace, not law, as the ruling principle in his home. This to me was a revelation in knowledge.

As soon as I came upon Dr. Greven's work, I began to read other books such as "*For Your Own Good*" by Alice Miller. I can remember hearing Dr. John Bradshaw refer to this volume as I have followed his work since the early 1990's. I found this new book interesting and valuable, but I was also during this time really looking closely at the Biblical information regarding the whole matter of smacking.

What I began to see was that there were major problems with many of the ideas being promoted among those in the religious community surrounding this issue. I also found that the disagreements that many in the children's rights community were voicing were simply based upon what those in the religious community were advocating.

I began to see that what was taking place was based upon incorrect information being presented about what the Bible says about smacking children. I then began to think that this work might necessitate a full-length book on this subject.

My findings

The first thing I discovered is that most religious proponents of smacking children have not seriously researched the Biblical texts that they use to support this teaching. Most proponents of smacking have many supporters in the religious community. Most people simply quote a few passages in the book of Proverbs as their authority and think there is little else needed to do.

This is problematic especially concerning the question of what the Bible says about children. Most religious teachers do not point out that the Bible, in the original Hebrew language in particular, (which the bulk of the Old Testament and the book of Proverbs were originally written in) uses more than nine different words in Hebrew to describe the various phases of life for children up to adulthood. This was a revelation to me because all of

the verses in the book of Proverbs focus on a single word translated as children, but not referring to young child under the age of about ten!

I also learned that numerous sources from the Jewish world exist that offer a fascinating glimpse into their understanding of this subject and how they interpret these verses. In this regard, I came across a book written in 1989 by Meir Munk titled: “*Sparing the Rod: A Torah Perspective on Reward and Punishment in Education.*” This volume opened my eyes to the wealth of knowledge available from Hebrew sources about this subject which Christians rarely quote or refer to.

I also analysed all of the texts from the book of Proverbs that are found in the New Testament. Not once does any text most often quoted by smacking proponents² advocating smacking children ever appear in the New Testament. It seemed reasonable that if the early Christian writers of the Bible advocated smacking children, they would simply have quoted from the book of Proverbs from one of these texts, which seems to point to smacking children and use that as their authority for suggesting the practice, but not one of them did.

I also saw the importance of understanding the book of Proverbs in its legal context. Without this knowledge, one will find interpreting the whole book correctly difficult. The legal context of the book of Proverbs affects all the information in it and I found out that the writers of that book all had a legal orientation towards the Biblical books of Moses³ and the legislation outlined therein. There is nothing wrong with the system outlined by Moses. However, Christians are not under the Law of Moses, we are under the Law of Jesus Christ.⁴

I also learned that it is important to understand the gender focus of the book of Proverbs to interpret the information in it. I came to see that the

² Proverbs 10:13, 13:23,24; 19:18; 22:15 & 23:13,14

³ The first five books of the Bible, which are Genesis, Exodus, Leviticus, Numbers and Deuteronomy.

⁴ John 1:14

whole book is not designed for or oriented toward the feminine gender at all. The whole book is masculine in tone, substance and advice and today the information in that book is still designed mainly for men.⁵

I also learned that there are major translation problems affecting two of the verses that smacking advocates most often point to as their primary evidence for smacking children. One verse is used by many religious proponents of this practice to teach parents that if they don't spank their children, they risk sending them to eternal Hell fire. Another verse points to the need to bring tears when giving a smacking. The only problem with both of these verses is that they are both based upon faulty translations from Hebrew and this has been demonstrated clearly with the modern scholarship available in the last one hundred years.

I also learned that the idea of smacking children on the buttocks is an interpretation offered by many smacking proponents with no real support in the Biblical texts at all. This teaching has developed from religious teachers with no real authority from the Holy Scriptures.

I also saw that theologically speaking the whole idea of a smacking is not congruent with the teaching revealed in the gospel of Jesus Christ. God sent His Son into the world to save the world so they would not have to suffer for their own sins, but parents today punish their children and make them undergo the horrors of punishment for even the most minor of infractions. The idea of mercy is seemingly not applied at all. When parents sin, they ask God to forgive them, repent and know they are forgiven. When children sin, they are judged, tried, condemned, and punished.

I also learned that those in the children's rights community need to take care how they interpret the Bible. Many of the anti-smacking advocates attack the Bible on the basis of taking a verse here or there out of context.

⁵ Certainly, there is practical advice that women can use, but the textual orientation of the whole book is decidedly towards men.

This is dangerous and should not be done. Biblical interpretation should be left into the hands of those who are trained to do so.

The rest of this volume documents all of these findings listed above. I have presented these findings in the hope it will help people to understand and possibly change their minds as I have.

The goal of this book is to help show Christians who love the Bible and non-Christian critics of the Bible that there is a middle ground where we can meet and discuss issues that are important to our children, families and our culture.

It is my hope that in some small way I have met this goal with the publication of this work.

Samuel Martin
Jerusalem, Israel



1

The phases of child development outlined in the Bible

There is a commercial that appears regularly on Israeli television and it features a beautiful house being demolished. The workers are there with a crane and a huge wrecking ball is demolishing a house. The owner of the house then enters the picture with a look on her face of absolute disbelief. The workers then take the work order showing the house number to be “68.” They then turn the work order over and find out that the house number should have been “89.” This was a simple mistake with catastrophic consequences.

This commercial illustrates one of the biggest problems today facing advocates of smacking. This is because virtually all advocates of smacking simply say that the Biblical teachings regarding smacking relate to “*children*” without any elaboration or definition grounded in solid Biblical information. So what constitutes a “*child*” from the Biblical point of view? Just who is being discussed in the texts in the book of Proverbs? Scores of pastors, Bible teachers and even authors of authoritative Bible commentaries are quick to point to the texts in the book of Proverbs as their primary evidence in favour of smacking, but few seem to bother with seriously examining the data in question. This seems to represent a fundamental error. It is exactly the same as the Israeli commercial. What Christian parents must do is to examine these texts carefully to make sure they are speaking about “68” instead of “89.”

It is not appropriate to simply quote the five texts in Proverbs that refer to the “rod” as the authoritative evidence for smacking children and imagine that there is little else to discuss in this matter. This does a disservice to the book of Proverbs itself, the whole of the rest of the Bible, and especially the New Testament.

In this chapter, we are going to carefully look at the information that the Bible provides us as well as what it does not provide us. Both are equally important. By doing this, it is hoped that instead of looking at the number “68,” we actually are referring to the number “89.”

The Biblical data defining what is a child

What is a child? When does one begin being a child? When does one stop being a child? How does the Bible look at this question? These questions need to be asked and answered when it comes to even the most rudimentary of understandings about smacking children. We simply need to know how the ancient people of the Bible looked at the concept of childhood.

How did the people mentioned in the Bible look at their children? What defined a child in their world? What were the various phases of childhood as outlined in the Bible and how can we understand them? These questions are extremely important to ask and to answer. This is because we need to accurately interpret to *whom* the Biblical texts in the book of Proverbs suggesting smacking are directed.

To embark upon a study of the matter of the development of children in ancient Jewish society, one must first examine what Jewish people have said about children in their own works. This makes sense because it is the Hebrew Bible (the Christian Old Testament) that contains the texts that virtually everyone advocating smacking refers to. In opening this investigation, it is amazing what is available for the researcher, but it equally more surprising what is not available. It is very surprising that more has not been written on the development and environment of children in the Bible, but it appears that up until now few have been asking the questions that are

now being posed by those interested in the history of child development in ancient cultures.⁶

There are a number of interesting Jewish sources written by Rabbis, some of whom are ancient and other of which are more modern. However, these volumes are not a part of the mainstream body of reference literature available to Christians for several reasons. First, there is a lack of connection between Christian and Jewish scholarship and there are also language barriers. Many of their ancient volumes are written in Hebrew, Arabic, Yiddish, Aramaic or other languages and are simply not available to those outside of the traditional circles of Hebrew and Semitic scholarship. There are few ways for people, not knowledgeable of Jewish writings and without the needed language skills, to access the wisdom of these giants of Biblical scholarship.

From a more academic viewpoint, we also don't have a lot of books on the subject of Jewish attitudes toward children. In a recent book on the Jewish family, David Kraemer, who authored the section of this volume concerning "*Images of Childhood and Adolescence in Talmudic Literature*," says the following: "When asking about that other species of children (here the author is speaking of information concerning childhood development that would interest the professional student of childhood issues), we have woefully little to work with."⁷

Additionally, Kraemer points out that he was only able to find one book solely devoted to the subject of speaking "of the traditional attitude toward Jewish children."⁸ This book, "*The Jewish Child*," by W.M. Feldman, as Kraemer points out, found so little information about Jewish attitudes toward children that Kraemer said: "Feldman was forced to pad the book with chapters on such matters as mathematics in the Talmud, presumably

⁶ See Kramer, *The Jewish Family*, pg. 64-66, 1996.

⁷ Kraemer, *The Jewish Family*, pg. 66

⁸ *ibid.*

because children learned math in school.”⁹ Kraemer provides a great deal of excellent information from the period in which the Talmud was written (from the third century BCE until the fifth century CE), but as for a treatment of the child in the Bible itself, there is very little information available from Jewish sources.

Solomon Schecter, the English Hebrew scholar who was active in the last part of the last century published a short article about children in a Hebrew journal, but his article was a basic introduction to children’s themes in the environment of Jewish history. Certainly, this article is interesting and valuable, but it does not focus on a detailed analysis of the book of Proverbs or any of the texts relating to smacking.¹⁰

However, some excellent Jewish sources are available. One of the most illuminating volumes in English (for those interested in the Jewish perspective on education and child rearing and texts related to child rearing in the Bible) is the book titled “*Sparing the Rod: A Torah Perspective on Reward and Punishment in Education*.”¹¹ This volume reveals several important sources of the abovementioned Jewish works. This volume is an amazing glimpse into the wisdom of Jewish learning.¹² This book refers to many works written by Rabbis, but most of these works are not available currently in English translation. This is why this volume is so valuable because it gives us a glimpse into the depths of Hebrew scholarship.

Now if some Jewish scholars, who do not have the New Testament as their Holy Scripture, are pointing out that the Biblical, post-Biblical and historical sources are vague concerning specific information about children

⁹ *ibid.*, pg.66-67

¹⁰ Solomon Schecter, *Journal of Jewish Studies*

¹¹ Author is Meir Munk, Mishor Publishing Co. Ltd., Bnei Brak, Israel 1989. For more information about this volume contact Judaica Express in the USA at 1800 2 BOOKS 1.

¹² I wish to thank Rabbi Reuben Feinstein, the son of the late eminent Rabbinical scholar, Rabbi Moses Feinstein of New York, for his permission to quote this book. I highly recommend it to anyone interested in the Jewish perspective on this issue to get a copy of this volume mentioned in this paragraph.

and how ancient Hebrew society looked at them, how is that Christian ministers or Bible teachers can come along now and explain what the texts of the Hebrew Bible mean relative to children when individuals whose expertise far outstrips those of us in the Christian world are saying that they don't have the answers to these questions? This is one question that those in the Christian world who advocate smacking children need to answer.

Thankfully, some important work has been done in this regard by the eminent Christian Hebrew scholar, Alfred Edersheim. He was a Christian scholar who was intimately familiar with all of the Hebrew body of scholarship and his knowledge of Jewish religious sources was first rate.

A definition of terms

A good place to begin any discussion is with a definition of terms. In the Hebrew Bible (the Old Testament), there are quite a number of terms that are used to describe children at various phases of life. Edersheim in his invaluable work "*Sketches of Jewish Life*" says the following: "The tenderness of the bond which united Jewish parents to their children appears even in the multiplicity and pictorialness of the expressions by which the various stages of child-life are designated in the Hebrew [in the Hebrew language]. Besides such general words as '*ben*' and '*bath*' [these are Hebrew terms and their meanings follow here] -- 'son' and 'daughter' -- we find no fewer than nine different terms, each depicting a fresh stage of life."¹³ These phrases "*ben*" (Hebrew: son) and "*bath*" (Hebrew: daughter) are used hundreds of times in the Bible and are general terms used to describe, sons, daughters, children and a person's age.¹⁴

¹³ Edersheim, *Sketches of Jewish Life*, pg. 103

¹⁴ In Hebrew, when asking someone's age, even today in the modern language, you say: "The son (or daughter) of how many years are you?" This may seem an odd way to ask this question to the English ear, but this is how it was done in ancient times and this is also how it is done today.

This is an extremely important statement. What Edersheim is saying is that the phrases in Hebrew that describe children and childhood are distinct and are also characterized by an almost visual element. This will become more evident when we look at the examples given by Edersheim, but this point cannot be mentioned without some commentary. There is a reason for this. When we look at terms in the Bible that describe actions directed at a certain person or group, because we are dealing with a very old text that is culturally disconnected from our modern world by many hundreds of years, we need to be sure that the group in our modern world that we are applying these texts to are the same group in the ancient world that the people at that time applied the same information to. If we don't do this, then we can misapply the information we are looking at by applying it to a group of individuals for whom it was never intended.

This is where the main problem comes in understanding to *whom* the texts in the book of Proverbs were directed. If we assume that they were just applied to “children” in general without any definition, we run the risk of misapplying the text to a subgroup of the category of “children” who were never intended to be the recipients of such teachings. This is where great care is required in knowing and correctly applying the Biblical information that we do have. This approach seems to be a sensible one. It seems that we really don't have another choice in this regard because apart from direct commentaries from the writers themselves, how can we be absolutely certain that what we are saying about a text represents the meaning that the author intended? First, we have to clearly define the terms we are discussing. Then we can consider to who these terms are to be applied. We then have to look at how these terms are used throughout the Bible to determine God's definition of them. This is the best course of action to take to understand whom we are talking about. It is also very important to carefully consider the information that we do have and not dismiss something as unimportant. The entire Bible is important and valuable.

What we find in the Hebrew Bible is that, just as we have in English, we have terms that very specifically describe the various phases of childhood. By understanding these terms and by correctly applying them to the Biblical texts that refer to them (and not applying them to the Biblical texts that don't!), we position ourselves on a more equal level when it comes to comparing who is being discussed in one section and who we can apply those teaching to today. Let us look at these various phases now.

When we are willing to take a fresh new look at childhood in the Bible, we can see, as did Alfred Edersheim, that the words employed by the Biblical writers are very visual in nature in describing the various stages of child development. Edersheim opens his examination of this important matter with the following: “the first of these [terms designating phases of child development] simply designates the babe as the newly ‘born’ -- the ‘*yeled*’ or, in the feminine, ‘*yaldab*’ -- as in Exodus 2:3; 2:6; 2:8. [these texts in Exodus concern the baby Moses]”¹⁵

It is important here to mention what Edersheim meant by his use of the word “pictorialness” in describing the words used to point to the various phases of child development in the Hebrew Bible. The way that these words convey a visual or “picture like” sense is by connecting them to the Hebrew verbs from which the nouns are constructed. In Hebrew, the word “*yeled*” (masculine) or “*yaldab*” (feminine) are both related to the verb “*yalad*.” This verb simply means, “to give birth.”¹⁶ So the meaning of the noun of the same root refers to the one who came from the giving of birth. This is the “pictorialness” that Edersheim refers to. This verb, in various forms is found several hundred times in the Bible.¹⁷ This word is given a very clear meaning as referring to the time in the life of a child from birth to the time of weaning. Look at the following verse from the book of Genesis that shows this very

¹⁵ *ibid.*, pg.104

¹⁶ See Genesis 4:18; 4:22; 6:4; 10:8

¹⁷ Wigram’s Englishman’s Hebrew and Chaldee Concordance (WEHCC), pg. 527-530

clearly. “And the child (Hebrew: *yeled*) grew, and was weaned.”¹⁸ [Historical sources show that this weaning took place at the age of three.¹⁹ More on this later.]

We also find a logical approach to naming various stages of children’s lives in the Bible. This takes place through specifying names based upon actions taking place in the lives of the children themselves. By understanding that the use of certain words relates to actions that children specifically are doing (that point to a time in life that they are doing them), this will help us to correctly understand what stage of life is being referred to in the Biblical verses related to children.²⁰ Rather than just referring solely to “children,” we can better define the time in the life of these “children” and by doing this we can begin to put flesh on the skeletons that are these Biblical texts. Let us now return to Edersheim’s discussion with these points in mind. They will help us to understand the words that are used in the Bible to describe these important phases in the life of children.

To demonstrate the subtle difference a word can bring Edersheim says the following: “But the use of this term [the term refers to the word ‘*yeled*’ which means ‘babe’] throws fresh light on the meaning of some passages of Scripture. Thus we remember that it is applied to our Lord in the

¹⁸ Genesis 21:8

¹⁹ Mc’lntock & Strongs: Cyclopedia of Biblical, Theological & Ecclesiastical Literature, vol. II, pg. 243, article. ‘*child*,’ which refers to Genesis 21:8; Exodus 2:7,9; I Samuel 1:22-24; II Chronicles 31:16 and Matthew 21:16

²⁰ This concept is not strange to the English language either. For example, look at the verb “drive.” This word refers to an action of moving something from one place to another. It can refer to something such as a “driving a car or a tractor,” but it can also refer to things such as animals, like “driving a herd of sheep.” Now, what is the noun form of this verb? It is driver. So, the noun and the verb form of a word are closely connected in English as well as Hebrew. Hebrew only is different in the sense that each word has its own gender while in English gender is express through the use of adjectives or pronouns. In English, we say “a male driver or a female driver.” In Hebrew, there is no such use of these helping words because each word has its own gender. So, to say “male driver,” in Hebrew it is only one word “*nahag*.” Female driver is “*nahagah*.” (Hebrew in this sense is similar to Spanish, which incorporates the gender into the word directly such as “senor” (gentleman), or “*senorita*.” (lady)

prophecy of His birth:²¹ ‘For a babe (Hebrew: *yeled*) is born unto us, a son (Hebrew: *ben*) is given to us.’²² This word “*yeled*” appears almost 90 times in the Bible.²³

Edersheim continues: “The next child-name in point of time, is ‘*yonek*,’ which means, literally, ‘a suckling.’”²⁴ Note that Edersheim specifically uses the phrase “in point of time.” This is because each of these names follows the other as far as time is concerned. This word in Hebrew comes from the verb “*yanak*” which literally means, “to suck.”²⁵ In English, we would refer to these children as “infants” or “nursing babies.”

In fact, there are two different terms in the Bible that describe two different periods of a suckling child. The first term “*yonek*” refers to babies who are in the period of life that is characterized as receiving nourishment only from their mother’s breast. These are children who are aged from birth to about 12 months or so. After 12 months or so, children begin to eat other food other than that provided by their mothers through nursing, but they are also still nursing. This takes place, depending upon what culture you are referring to, anywhere from 12 months until a child is about two and a half or even three.

This transition from receiving nourishment through suckling only to a combination of suckling and eating solid food is mentioned in the Bible by referring to a different term to point out this new phase. (In the Bible, the age of three was the time for weaning officially as mentioned previously.) The term that describes this phase of life of suckling as well as eating some solid food is the Hebrew word “*olel*.” “As the word implies, the “*olel*” is still ‘sucking,’ but it is no longer satisfied with only this nourishment, and is ‘asking bread,’ as in Lamentations 4:4: “The tongue of the suckling child

²¹ Isaiah 9:6

²² Edersheim, *Sketches of Jewish Life*, pg. 104

²³ See WEHCC, pg. 530

²⁴ Edersheim, *Sketches of Jewish Life*, pg.104

²⁵ This verb appears 32 times in the Hebrew Bible and in every occasion refers to sucking, suckling or nursing. See WEHCC, pg.542.

(*yonek*) cleaves to the roof of his mouth for thirst; the newly eating children (*'olelim'* - plural of the word *olel*) ask bread.”²⁶ (translation mine) Edersheim continues: “This word, *'olel'*, refers to a child who is not weaned yet but still periodically nurses at its mother’s breast.”²⁷

One point that must be made regarding these two terms is that they are distinct and refer to two specific phases of life. An “*olel*” is always older than a “*yonek*.” The point that differentiates these children is the fact that some are eating food from their mothers only, while others are supplementing their mother’s milk with food from other sources.

Note the following quotes that show this: “Out of the mouth of babes ²⁸ and sucklings²⁹ hast thou founded strength because of thy enemies;”³⁰ Note also: “to cut off from you man and woman, child³¹ and suckling³²...”³³ This is ample evidence to demonstrate the distinction in these terms. The term “*yonek*” (or its related words) is found 32 times in the Bible³⁴ whereas the term “*olel*” occurs 20 times.³⁵

Logically, the time following the period of a child nursing at the breast is characterized by a specific term in Hebrew just as it is in English. This is the fourth designation found in the Bible. It “represents the child as the *'gamul'* or ‘weaned one,’”³⁶ from a verb which primarily means to complete, and secondarily to wean.”³⁷ This verb, which jointly means “to complete” and “to wean,” shows the child completing the nursing phase. There are several texts in the Bible that specifically refer to this completion

²⁶ Edersheim, Sketches of Jewish Life, pg.104

²⁷ *ibid.*

²⁸ Hebrew - *olelim* – plural of *olel*

²⁹ Hebrew – *yonekim* – plural of *yonek*

³⁰ Psalm 8:3

³¹ Hebrew - *olel*

³² Hebrew - *yonek*

³³ Jeremiah 44:7

³⁴ WEHCC, pg. 542

³⁵ WEHCC, pg. 907

³⁶ Psalm 81:2; Isaiah 11:8; 28:9

³⁷ Edersheim, Sketches of Jewish Life, pg.104

of the weaning phase. They refer to a variety of situations and personalities. For example, it is mentioned in the book of Genesis “that Isaac was weaned.”³⁸

King David also spoke about humility and pursuing a life of peace and tranquillity. He compared this to a weaned child sitting next to his mother. In this comparison, he shows that he had come to learn to humbly approach life and not to seek things that were beyond him. In doing this, he became aware of an inner peace and found a sense of completeness. This feeling he compares to that of weaned children who find that when they complete the nursing process, they find a sense of peace and quietness resting beside their mothers. This is an extremely beautiful and deeply sensitive comparison from the inspired pen of King David³⁹ who refers to this weaned child as sitting next to his mother.⁴⁰ We find that the phase of life for these children is between the ages of three to four. Note again that a “*gamul*” is always older than an “*olel*.”

This period is followed by another term mentioned by Edersheim. These years are times of particular closeness to their mothers, even clinging to her. He described it like this: “After that the fond eye of the Hebrew parent seems to watch the child as it is clinging to its mother -- as it were ranging itself by her -- whence the fifth designation, ‘*taph*.’⁴¹ The use of this word is further defined when we look at some of the verbs that are related to this noun. We find that the reason that Edersheim referred to this term as showing a child “clinging to its mother” or “ranging itself by her” is because the verbal uses of this noun refer to the English word “swaddled.” This term refers to the ancient custom of women wearing swaddling bands. These were exterior garments that were band-like in construction and were a

³⁸ Genesis 21:8

³⁹ Psalm 131

⁴⁰ *ibid*.

⁴¹ Edersheim, *Sketches of Jewish Life*, pg. 104; See also Esther 3:13, The ‘*taph*’ and the women in one day; Jeremiah 40:7; Ezekiel 9:6

handbreadths or so thick and were used to carry children by their mothers. This verb is used in a beautiful description of God's right hand "spanning" the heavens.⁴² This word "spanned" means swaddled. It shows that God cares for the heavens in the same way that a mother with child cares for it and brings it close to her with her right hand. We even find that the earth in ancient times had a "swaddling band" around it.⁴³ This was a circular band like ring similar to that found around other planets.⁴⁴

We also have the Bible referring to "swaddling clothes" which were garments that were used on very young children who were yet to be trained in normal bodily functions. These garments were used to wrap the child around their body and could easily be removed quickly to facilitate a child who needed to relieve him or herself. These garments were wrapped close to the body in a circular fashion.⁴⁵

In using this word "*taph*" it gives the strong impression that Hebrew mothers were intensely close to their children and their children stayed very close to their mothers throughout the time prior to the age of six years. This idea is beautifully taught in an extremely touching verse found in the book of Isaiah that describes the birth of a whole nation in one day who will be "carried upon her sides, and be dandled upon her knees. As one whom his mother comforts, so will I comfort you."⁴⁶ This is just more evidence that women in ancient times carried their young children and swaddling bands were a part of this process.

In closing this discussion about the word "*taph*," we find this phrase used 42 times in the Hebrew Bible and it universally refers to "little

⁴² Isaiah 48:13

⁴³ This "swaddling-band" was disturbed in the time of Noah and caused the Flood according to research conducted by Dr. Ernest L. Martin, my father and an extraordinary interdisciplinary Christian scholar. See his booklet "Solving the Riddle of Noah's Flood" (ASK Publications:1987)

⁴⁴ Job 38:9

⁴⁵ See Luke 2:7 and 2:12

⁴⁶ Isaiah 66:12-13

children.”⁴⁷ This period refers to young children who are between the ages of four to six years. After age six, then began a process of either continued closeness to the mother for girls or separation from the mother for boys and beginning a new life spending most of their time with their fathers.

Continuing, Edersheim says: “The sixth period is marked by the word ‘*elem*’ (in the feminine, ‘*almah*,’ as in Isaiah 7:14, of the virgin mother, which denotes becoming firm and strong.”⁴⁸ This is time in life mentioned in the Bible is when a young person is approaching adolescence. This word is translated in English by words such as “maid,” “damsel,” “virgin,” “stripling,” and refers to those young people who are not yet even young adults. These words are today called “pre-teenagers” in modern language. These words together are found nine times in the Bible.⁴⁹

Now, as we have in English there is another term that refers to the time just after and including the teenage years, where the young person is now starting to gain some sense of independence. Edersheim phrases it this way: “As one might expect, we have next the ‘*na’ar*,’ or youth -- literally, he who shakes off, or shakes himself free.⁵⁰ [The word *na’arah* is the feminine form of this word *na’ar* and it is also found frequently in the Bible.⁵¹] This word is found over 200 times in the Bible.⁵² There are some poetical uses of this phrase “*na’ar*,”⁵³ but the vast majority of these texts refer to younger men or women who have yet to marry.

⁴⁷ WEHCC, pg. 484

⁴⁸ Edersheim, Sketches of Jewish Life, pg. 104

⁴⁹ WEHCC, pg. 943

⁵⁰ Edersheim, Sketches of Jewish Life, pg.104

⁵¹ Genesis 24:14; 34:12

⁵² WEHCC, pg. 823-4

⁵³ In the book of First Samuel, Chapter 1, we find the word “*na’ar*” being used of Samuel immediately following his weaning in v.24. It is used several times also in Chapter 2 during the stage of Samuel growing up. It is clear that Samuel was brought to live in the Temple when he was a very young boy. It is also clear that from where he lived in Ramah, the Temple was at that time in Shilo, less than half a day’s journey away. While he was away from his mother, he had plenty of supervision living in the Temple at that time. The reason for the use of this phrase

One term that Edersheim does not refer to in his treatment of this issue is the word “*bthulah*”⁵⁴ We find this word used to refer to the phase of life for young women just immediately prior to marriage. Girls in this stage of life were referred to by the phrase “*bthulah*.” This word means a young woman who has not participated in sexual intercourse, or specifically, a *virgin*. This is the exact meaning and there are numerous texts to show this.⁵⁵ This word appears 50 times in the Bible.⁵⁶

Edersheim, concludes his discussion of these terms with the following: “Lastly, we find the child designated as ‘*bachur*,’ [the feminine is *bachurah* but this word is apparently not found in the Bible] or the ‘ripened one;’ a young warrior, as in Isaiah 31:8; Jeremiah 18:21; 15:8.”⁵⁷ Note again, Edersheim uses the word “lastly” which shows a continuing time element in discussing the terms. This phrase is where we start to see words describing marriage being coupled with those describing this phase of life. Note the following: “For as a young man (*bachur*) takes to himself (in marriage) a virgin (*bthulah*), so shall thy sons take thee to themselves, and as the bridegroom rejoices over the bride, so shall thy God rejoice over thee.”⁵⁸ So we find that the phrase “*bachur*” refers to a time in the life of young men, where marriage starts to become a reality. Men in the Biblical and post-Biblical periods generally married between 13 and 17 and women generally married between 12 and 18.⁵⁹

to describe him in this stage is not clear, however, he was “shaken free” from his home life at an early age to prepare him for the great tasks he underwent.

We see the same phrase used of Moses who was only a small baby at the time in Exodus 2. This phrase is coupled with the previously mentioned term “*yeled*.” It seems clear from the context that Pharaoh’s daughter was speaking poetically. The dialogue almost sounds like a mother saying: “Look here at this little man crying!”

⁵⁴ Which in English means “*virgin*.”

⁵⁵ Note Deuteronomy 22 in particular

⁵⁶ WEHCC, pg. 284

⁵⁷ Edersheim, *Sketches of Jewish Life*, pg. 105

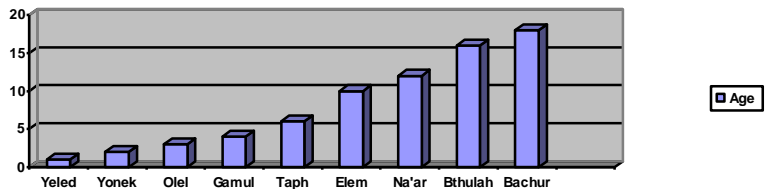
⁵⁸ Isaiah 62:5

⁵⁹ Mc’lntock & Strong’s: *Cyclopedia of Biblical, Theological & Ecclesiastical Literature*, vol. V, pg. 775.

Finally, the last two words that describe the final stage of life, adulthood, are man and woman. In Hebrew, these terms are for man, “*ish*,” and for woman, “*ishah*.” These terms are only mentioned here for continuity and reference, as we are not specifically discussing them in this context. They appear hundreds of times in the Bible.⁶⁰

Edersheim concludes his comments regarding these terms by saying the following: “Assuredly, those who so keenly watched child-life as to give a pictorial designation to each advancing stage of its existence, must have been fondly attached to their children.”⁶¹ Of this there is no question. It is quite interesting that the ancient Hebrews had specific designations for each phase of human development, much like our modern English terms newborn, infant, nursing child, toddler, preschooler, prepubescent, pre-teen, teenager, young adult and adult.

What the evidence from the Bible shows is that the Biblical writers had specific terms that they employed to each phase of life. The catchall phrase “child” is not sufficient to describe the multiplicity of terms used by the Biblical writers.



Conclusion

Now that we have defined and placed these terms in context, let us now consider how to better understand the Biblical passages that refer to these

⁶⁰ WEHCC, “*ish*,” pgs.60-69 (over 1,600 times); *ishah*, pgs.175-178 (over 550 times)

⁶¹ Edersheim, *Sketches of Jewish Life*, pg. 105

terms. At the very beginning of the book of Proverbs we have an introduction that orients the reader to the book as a whole. This section mentions that the book is directed to the “young man.”⁶² This word for “young man” (Hebrew: *na’ar*), as the previous analysis has shown, does not include young men who fall into the pre-teen category. Let us look at the evidence that shows this.

As mentioned earlier, the Hebrew terms that refer to the phases of life are “*yeled*,” “*yonek*,” “*olel*,” “*gamul*,” “*taph*,” “*elem*,” “*na’ar*,” “*bthulah*,” “*bachur*,” “*ish*” and “*ben*.” Let us now look at the occurrences of these terms in the book of Proverbs.

Now, the words “*yeled*,” “*yonek*,” “*olel*,” “*taph*,” “*bthulah*,” are peculiar in the book of Proverbs for one important reason. This is because they are not found once in any verse in the whole book in either masculine or feminine forms. Additionally, the words “*bachur*,” “*gamul*,” and “*elem*” are found only once.⁶³ The most prominent of these listed words found in the book of Proverbs is the word “*ish*” which means “man.” This word also overwhelmingly refers to grown men. This word is used in the book of Proverbs 84 times.⁶⁴

The word that we find used in three of the verses that advocate smacking in Proverbs is “*na’ar*.”⁶⁵ The phase of life associated with the “*na’ar*” (which means the “one shook lose”) is that of young adulthood or the teenage years. This is significant. Based on this evidence, it is safe to say that all of these texts in the book of Proverbs have no application to anyone less than about ten to twelve years of age.

⁶² This suggestion has been reiterated by Dr. Randall Heskett in Interpretation Journal April 2001 article: “Proverbs 23:13-14,” pgs. 181-4. This is an article by a professor with expertise in Old Testament Hebrew.

⁶³ For *bachur*, see Proverbs 20:29 and for *elem*, which in this case we find the word in the feminine gender being “*almah*” see Proverbs 30:19. For *gamul*, the verbal form *gamal* is found in Proverbs 11:17, but in this case, the context does not refer to a child being weaned.

⁶⁴ WEHCC, pg.67-8

⁶⁵ Proverbs 22:15; 23:13-14; 29:15

The other two verses⁶⁶ often quoted by smacking advocates when referring specifically to the recipient of the corporal punishment both refer to the word “son.” In Hebrew, the word used is “*ben*.” This word is used hundreds of times in the Bible and can refer to a son of any age. In light of the use of this word, “son,” it makes sense, considering especially that we have three others texts that all refer to the use of the “rod,” that we let these three texts, which use the Hebrew word “*na’ar*,” be our primary sources of authority to understand who was the recipient of such corporal punishment.

Obviously, we cannot let the two texts, which use the word “son” (Hebrew: *na’ar*) let us interpret the three texts, which use the more specific term “young adult” or “teenager.” All who are fathers refer to their teenage boys as their “sons,” but not all fathers’ sons are teenagers. We have to let the more precise term young adult or teenager, which in Hebrew is “*na’ar*,” be our guide when applying these texts to individuals.

In conclusion, this evidence shows that the book of Proverbs is referring to a specific phase in the life of a person. It is not referring to “children” in the non-specific way.

We have to be very careful in handling the information that we do have from this book because this information is sparse and terse. We also need to be very careful not to read things into the texts that are not there on the basis of an English translation. We have to let the original Hebrew words and their meanings come through into our understandings or else we can lose the richness of meaning that is there for the interested party to investigate.

This advice must be especially heeded when it comes to such issues of immense social importance as how we bring up the next generation. For their sakes, we need to be right and protect them from teachings that are not directed at them in the first place.

With this information in mind, let us now look at some further evidence concerning early and modern Hebrew conceptions about smacking

⁶⁶ Proverbs 13:23,24 and Proverbs 19:18

and the book of Proverbs. It will pay great dividends to pay attention to the words of some of the great Hebrew scholars who devoted their lives to Bible study.



2

Jewish attitudes toward the texts advocating smacking in the book of Proverbs

It is amazing that there is a very little contact between Jewish and Christian scholars regarding the subject of smacking. [This is really unfortunate. We Christians can learn a lot about the Bible from our Jewish brethren.] When you look at Orthodox Jewish works regarding child rearing, you will not find any references at all concerning Christians or Christianity. This is almost the same among more liberal Jewish writers. And why not? Most Jewish writers are writing for Jewish audiences. The same is the case for Christians. Most are writing for their own constituencies, so there is actually very little contact on scholarly levels, certainly in this subject area. This is unfortunate, but understandable.

From the earliest of my recollections, I was brought up in an environment of deep respect for all Jewish scholarship regarding the Hebrew Bible (the Old Testament). This started for me at a very early age. I lived in Israel for almost one year of my life prior to the age of seven. In addition, I can always remember my dad having a huge collection of religious books to conduct his work as a Christian theologian. He always had a great respect for and constantly referred to an innumerable number of Jewish books and Jewish religious sources. [My father held his library in very high esteem and he had particular reverence for his books devoted to Jewish scholarship.]

This is because of two reasons. First, the Hebrew Bible is written in Hebrew and Aramaic and the best people to understand it are those who are trained in those languages. Second, these books represent the history of the Jewish people, so it will pay us great dividends to be aware of and respect the opinions of the scholars who have devoted their lives to the study of and bringing of clarity to the religious texts that they hold with such holiness, purity, esteem and respect.

Jewish Opinions about the Proverbs speaking about smacking

How have Jewish scholars understood the texts in the Book of Proverbs that advocate the use of the rod? Let us consider this question. By understanding the Jewish point of view in regard to these texts, this will help us to see how their scholars have looked at these texts over the centuries.

At this point, let us refer to an invaluable volume mentioned previously. It is an English translation of a book that originally appeared in Hebrew in 1989. It is titled: “*Sparing the Rod: A Torah Perspective on Reward and Punishment in Education*” by Mr. Meir Munk.⁶⁷ This volume was produced under the direct approbation of and spiritual guidance of the eminent Israeli Torah sage and contemporary Rabbinic scholar, Rabbi Samuel HaLevi Wosner of Bnei Brak, Israel.

⁶⁷ *Sparing the Rod: A Torah Perspective on Reward and Punishment in Education* by Meir Munk (Bnei Brak: 1989) To get a copy of this excellent book call Judaica Express at 1800 2BOOKS1. It is with great appreciation that I acknowledge the fine work of Mr. Munk, the publishers, Mishor Publishing Co., Ltd., of Bnei Brak, Israel and Rabbi Reuben Feinstein of Brooklyn, New York (the director of Mishor Publishing Co. Ltd.). Rabbi Feinstein is the son of the eminent Torah scholar Rabbi Moses Feinstein of Brooklyn, New York. He graciously granted his permission for this volume to be quoted here. I strongly recommend this volume to any parent or teacher who wishes to dig in deeper to the immense wisdom and depth of knowledge available from the pen of Jewish scholars surrounding this subject

Jewish attitudes toward strictness in general

Before going into the question about Jewish attitudes toward smacking, it must be pointed out that strict religious observance is something that is demanded of adherents to the Jewish faith. However, there are right and wrong ways to go about creating a sense of strictness among religious adherents. Mr. Meir Munk summarizes the opinions of Jewish scholars surrounding their attitude towards children in the following six rules:

- A. Strictness gives rise to resistance, and is therefore negative.
- B. Instead of being strict with a child, we should get him to want to be strict with himself.
- C. Since we are not thoroughly familiar with the powers of the psyche, we may do damage by being strict. Strictness is best minimized, or done away with altogether.
- D. Study should lead to the *yiras shamayim* (Hebrew: a respect for heaven) and service of God. The teacher⁶⁸ must convey the sanctity and the affection which produces *yiras shamayim*.
- E. Quiet, patient explanation is the only way to teach.
- F. The 'Rod of Pleasantness' is to be preferred to the 'Rod of Severity.'⁶⁹

Following up on these thoughts, one of the well-known sages of the Talmud, Abba Eliyahu commented also on this idea of strictness. "The Torah (the Bible) is understood only by people who are not strict. I, too, reveal myself only to people who are not strict by nature."⁷⁰

The point to these texts is clear. An environment of life for children that is too strict is not conducive not only to learning secular information,

⁶⁸ I think that Mr. Munk would agree that adding the parent here makes sense as well.

⁶⁹ Munk, pgs.31-32.

⁷⁰ *ibid.* pg. 156.

but also for a healthy, mature spiritual development that leads to a strong and lasting faith. For religiously inclined parents, the last thing they wish is for the actions that they are taking for their children's perceived benefit to actually be counterproductive. In this regard, strictness, in all forms, according to rabbinical authorities, is to be strenuously avoided.

Before a smacking...

In the circles of Jewish scholarship, we find a large body of information about events that should take place prior to a smacking. This is because a smacking is not the place to start with eliminating bad habits or traits. If used at all, it is the last resort. A good example of this is found in the statement by Rabbi S. N. Brazovsky who confirmed this by mentioning the following: "To attempt to stamp out [bad traits] with ill will and corporal punishment is like dousing a fire with oil. Instead, we must hold our temper and show the child an even greater amount of boundless love and mercy than we had previously."⁷¹

Smackings are punishment. They are given in response to acts that take place. No one in their right mind would take their youngster aside and say: "Look Mary, you are a really great kid and there is no reason to spank you specifically, but I am going to give you a smacking anyway to remind you that you are supposed to behave well." Obviously, such a suggestion is crazy. Jewish scholars will have no such part of the previous suggestion. They take this matter of punishment very seriously and it can only take place under certain circumstances. We must understand that there is a whole system of events that can and should take place prior to a smacking ever being considered. Let us also understand that while many of the suggestions we find in Jewish sources refer to the child and his interaction with the school and the authorities associated with schools, many of the principles pointed out apply also to the home and the training taking place therein.

⁷¹ *ibid.*, pg. 54.

The first thing that must be understood is that “punishment and reproach are necessary. But like most good things, punishment is most useful and beneficial when it is rare. The less frequently it is imposed, the more effective it will be.”⁷² Before punishment can take place, three preconditions must be in place. These are: a warning has taken place; never punish out of anger, and make absolutely 100% certain that the child deserves the punishment. Without all of these items being in place, you can in no way attempt to effectively administer punishment.

Types of punishment

While the work of Mr. Meir Munk focuses on events taking place in a school environment, it is quite easy to relate these examples given below to the home environment. The first is a comment about a particular event. Next, if a comment is not effective, a warning should be given. After a warning, comes the threat. (In this regard, children should never be threatened with punishment at a later time because of a key legal case in which a parent threatened his child with a beating at a later time and the child went and committed suicide. This legal event in Jewish legal history has profoundly affected all interpretations surrounding smacking since the time when this event took place over 1700 years ago.)⁷³

After a threat, a reprimand should be employed. If these techniques do not work, Jewish sources recommend writing the child’s name in a book designed to document instances of misbehaviour.⁷⁴ Should these not prove effective still, a punitive writing assignment is suggested.⁷⁵ After that, belongings could be confiscated. Should this still not prove effective, removal

⁷² *ibid.*, pg. 63

⁷³ Masekhes Semachos Chapter 2.

⁷⁴ This technique is found in the Bible in the Old and New Testament. Writing someone’s name in a book is characterized as a very serious event. See Exodus 32:32 and Revelation 3:5 and 13:8.

⁷⁵ In this regard, Jewish scholars strongly recommend against a writing assignment that could create a feeling of dislike for the Bible. See Munk, pg. 75.

from class celebrations could be considered. Obviously, removing a child from the learning experience is to be avoided as the entire previously mentioned points take place in the classroom environment. Ejecting a student from class is a very serious matter and should only be undertaken on serious reflection. This could also take place for a few minutes, not the whole class period. Sending a child to the principal is also a serious matter that should be avoided and used sparingly. Only after these points have been exhausted is smacking considered in a classroom setting. This is because smacking represents the most serious of approaches to punishment. All other avenues of punishment should first be tried before resorting to this method.⁷⁶

Because the relationship of a parent and teacher are somewhat similar when it comes to the question of punishment, we can see here in this summary that there are many things that parents can also do, according to Jewish scholarship, prior to even thinking about the need for a smacking. These include many listed in the previous summary, but one could also include sitting quietly for a few minutes, asking a child to go to their room, not making a favourite food dish or many such similar things that could be used in an escalating way. There are, of course, dozens of excellent books that one could get which could suggest a hundred things or more one could do to punish your children without ever having to think about a smacking first.

Instruments of smacking

The first and probably most interesting aspect of Jewish interpretation surrounding the verses concerning smacking is the instrument used to conduct the smacking itself. Now the Biblical teaching in the book of Proverbs seems quite clear. The only item mentioned six times without

⁷⁶ Munk, "Sparing the Rod," pgs. 63-102. Please refer to the text for too many references to quote here.

ambiguity is the rod.⁷⁷ Now, how have Jewish scholars applied these texts in Proverbs when it comes to the instrument for punishment? First, note one of the earliest sources which refers to this subject mentions that “shoe straps” or “shoe latches” are the chosen instrument to administer a smacking.⁷⁸ Confirming this idea we have several Rabbi’s agreeing with this statement. Rabbenu⁷⁹ Gershom said: “Hit [the child] with a shoe strap, but not too much, because excessive beating will not make him wise.”⁸⁰ This statement seems to be completely contradictory to all of the teachings referring to the wisdom found in the “rod” mentioned in Proverbs. Rabbi Solomon Ben Isaac⁸¹ also “specifies ‘shoes latches’ (shoe straps); that is, a light blow which can cause no injury.”⁸² The learned Hebrew Christian scholar Alfred Edersheim mentioned the same idea. Speaking about a classroom setting he said: “The teacher was to endeavour to secure the confidence, the respect and the affection, both of parents and children. The latter he was to treat rather with kindness than with rigor. Beating, if necessary, with a strap,⁸³ *never with a rod*, was to be the principal means of correction;”⁸⁴ When you consider the statements about the rod from the book of Proverbs it is almost inconceivable that Edersheim could write such a statement, but he did!

One of the more illuminating quotes concerning this matter gives a good outline of the approaches found in Jewish schools when discipline was necessary. “Discipline was to be maintained, but punishment should be mild. For physical chastisement a light strap only was to be used. Persistent insubordination was not to be visited with expulsion; the offender was rather

⁷⁷ Proverbs 10:13, 13:24; 22:15; 23:13; 23:14 & 29:15 where the Hebrew word *shehvet* is used for rod.

⁷⁸ Babylonian Talmud, Tractate Baba Bathra 21A.

⁷⁹ Rabbenu means “our Rabbi” from the Hebrew language.

⁸⁰ Munk, *Sparing the Rod: A Torah Perspective on Reward and Punishment in Education*, pg. 86.

⁸¹ Known in Jewish circles by the acronym RASHI.

⁸² Munk, *Sparing the Rod*, pg. 86.

⁸³ Referring here again to Babylonian Talmud, see above note 3.

⁸⁴ Alfred Edersheim, *History of the Jewish Nation* (Grand Rapids: Baker Book House) 1954, pg. 278.

to be subjected to the salutary influence of his more tractable schoolfellows. Leniency was preferred to rough measures.”⁸⁵ We also find the monumental work, *The Shulchan Arukh*, referring to the preferred instrument for smacking: “Teachers must not administer beatings (a) like cruel enemies, (b) with a whip, or (c) *with a rod*. Instead, a little strap should be used.”⁸⁶ Once again here we see the rod forbidden, not encouraged, as the means to administer a smacking.

In summary, excessive discipline was avoided, the use of the rod was forbidden, suspensions or expulsions from school were frowned upon and to enhance the behaviour and learning ability of a sub-standard student, it was suggested to get him a tutor who was one his own age.

The late Torah scholar Rabbi Moses Feinstein also echoes this previous suggestion. He said: “In my humble opinion, I think a teacher should not strike a pupil even lightly with a stick or anything that may cause severe pain when wielded with force. A teacher should not use such an instrument to frighten pupils. Thus, he should not clutch a stick at all, but rather keep a little strap handy.”⁸⁷

Rabbi Feinstein goes even farther regarding the use of a stick specifically when it comes to children. He commented on another opinion offered by two other Rabbi’s saying: “You did well by quoting the late Rabbi Reuben Grazovsky, who cited Rabbi Shneur Zalman (Shulchan Arukh HaRav) to the effect that one who hits another with a stick is in violation of the commandment against injuring a fellow Jew. It appears that even if he dealt him a gentle blow with the stick – *since he may not strike a child with a stick at all* – it is tantamount to having struck any Jew. In this case, he has violated the commandment even with a gentle blow which causes no injury.”⁸⁸ The

⁸⁵ Hastings, Encyclopedia of Religion and Ethics, art. *Education (Jewish)*, p.195.

⁸⁶ Shulchan Aruch, Yoreh Deah 245:10, quoted in *Sparing the Rod*, pg. 86.

⁸⁷ Munk, *Sparing the Rod*, pg. 122.

⁸⁸ *ibid.*, pg. 123.

violated commandment under discussion by Rabbi Feinstein is found in Exodus 21:18.⁸⁹

Other suggested instruments of smacking are suggested from Jewish sources. Several authorities mention the hand. Rabbi Moshe Auerbach “suggested that one strike a child only with one’s hands, because then the discipliner, too, feels the pain; when the pain increases, he will stop.”⁹⁰ This statement, on the surface, seems to be directly contrary to Proverbs 19:18.⁹¹ Rabbi Yisrael Meir HaCohen Kagan, known in learned Jewish circles as the Chofetz Chaim, also chose to use his hands to punish, not straps or rods. His son, Rabbi Arye Leib mentions the following: “When I was little and was naughty – especially when I insulted someone – [my father] would slap me in the face. Because a slap in the face is meant more to embarrass than to cause pain, a very slight slap was enough. Bear in mind, then, that one slaps a child on the face to embarrass, never to cause pain.”⁹²

Finally, we have also have the following anecdote about one who used a ruler to administer corporal punishment. This short anecdote points to the prevailing attitude that Jewish scholars in general hold about those who attempt to inculcate wisdom into children by the means of force. “It is reported that a certain young teacher used to discipline pupils by striking their fingertips with the edge of his ruler ... until he slipped and struck his own hand. He never used that tactic again.”⁹³

What the data show are that even though there is an undeniable focus on the use of the rod as the sole instrument of punishment mentioned in the book of Proverbs, some of the greatest minds of Jewish scholarship have suggested other instruments and some have even religiously ruled

⁸⁹ What this section of the book of Exodus shows is that it is against the law for one person to injure another by fighting or similar activities.

⁹⁰ Munk, *Sparing the Rod*, pg. 87.

⁹¹ See Chapter “Chasten thy son while there is hope, and let not thy soul spare for his crying.”

⁹² Munk, *Sparing the Rod*, pg. 87.

⁹³ *ibid.*

against the use of the rod even though it is mentioned in the Bible. These Jewish scholars opinions today also happen to be binding and authoritative in understanding the Bible. The Bible actually cannot be interpreted in Jewish circles without the opinion and approbation of authorized rabbinical authorities.

Does the rod always mean a stick?

One of the more interesting things about Jewish scholars is their approach to this question. In actual fact, we find that several rabbinical authorities have found broader meanings to the verses in Proverbs advocating smacking. One of the most interesting is from Rabbi Shlomo Wolbe. Speaking about education and the classroom environment, he said: “‘Speak...calmly,’ the Talmud⁹⁴ tells us, ‘for then your words will be heeded.’⁹⁵ Rabbi Wolbe explains that ‘this is the great rule...in education. Anything said differently will [generally] go unheeded. The only way to educate is calmly and patiently. After all, that which is axiomatic to the teacher is new to the pupil.

The latter is, in a certain sense, being asked to reconstruct his character. Even when a child does not immediately do as told, the educator should not punish him at once but rather alert him to his duties with quiet firmness. When punishment does become necessary, bear in mind that the rod King Solomon speaks of (‘He who spares his rod hates his son...’⁹⁶) is to be understood in a broad sense. It includes many things, such as a frown and pretended disappointment. As implied by the word ‘*musar*’ at the end of the verse, the true discipline is the kind that which touches the youngster’s heart. The tender heart of a child is greatly upset when a parent [or anyone from whom he expects appreciation] expresses any measure of distress at his behaviour.

⁹⁴ The Talmud is the central document containing Jewish legal opinions beginning about 200 BC and continuing until about 500 AD.

⁹⁵ Babylonian Talmud Tractate Shabbat 34A

⁹⁶ Proverbs 13:23-34

The prophet [Zechariah] can help us to understand the concept of ‘rod’ more deeply. He says: “...I took for myself two rods [staffs]: one I named Pleasantness and the other Severity...”⁹⁷ It emerges that there is [not just one ‘rod’ for disciplining – even when understood broadly, as above. There is] a rod of pleasantness as well, and one can use it even more successfully than the rod of severity...’ What is the ‘rod of pleasantness’ in education? Keep the following rule in mind: ‘Encouragement makes a greater impact than punishment; praise and reward go farther than threats or penalties.’”⁹⁸

Rabbi Wolbe reminds us of another passage that bears mentioning in this regard. This is from that most familiar of English sections of the Bible. “The Lord is my shepherd; I shall not want. He makes me to lie down in green pastures: he leads me beside the still waters. He restores my soul; he leads me in the paths of righteousness for his name’s sake. Even though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; **thy rod and thy staff they comfort me.**”⁹⁹

King David, who wrote this passage, found in the rod a sense of pleasantness as Rabbi Wolbe pointed out. Obviously, in this passage, there is no thought of the rod being a punishing instrument at all.

The age for smacking

One of the important aspects of corporal punishment concerns the age when a smacking should take place. The Bible uses the word “*na’ar*”(youth) to describe those to whom smackings are to be directed.¹⁰⁰ What do Jewish scholars say about this point? The information that we do have is sparse, but we do have an opinion concerning students. According to this source,

⁹⁷ Zechariah 11:7

⁹⁸ Munk, *Sparing the Rod*, pg. 31

⁹⁹ Psalm 23:1-4

¹⁰⁰ See chapter “The phases of child development in the Bible” in this volume for the data that demonstrates this.

children under age 6 should never be spanked at all: “It emerges from the entire discussion¹⁰¹ here in the Talmud, according to the *Maharsha*,¹⁰² that this only applies from the age of six – and only after a gentle verbal appeal has failed. A child under six, however, is not hit even lightly for refusing to learn. The teacher tries to reach him through gentle speech.”¹⁰³ This train of thought relates well with the Biblical evidence related to the Hebrew words used to describe pre-adults.¹⁰⁴

Children under age six were not ready for education outside of the home. A Rabbinical scholar points out that “if you set your child to regular study before it is six years old, you shall always have to run after, and yet never get hold of it.”¹⁰⁵ This thought is further clarified with the following statement. In the article *Parent and Child* under the sub-heading, ‘Different Rules for Boys and Girls’ in the prestigious Encyclopaedia Judaica, we read the following: “halakhic scholars¹⁰⁶ laid down that children below the age of six years must be in the custody of their mother, since at this tender age they are mainly in need of physical care and attention. Above the age of six, boys must be with their father, since at this age they are in need of education and religious instruction, a task imposed by law upon the father, and girls with their mothers (‘the daughter must always be with her mother’), since they are in need of her instruction in the ways of modesty.”¹⁰⁷

Other rabbinical authorities point out the reason for this. They noted that young children simply couldn’t understand intellectually why they are being punished and what punishment is meant to do for them. Their intellectual capacity has not been developed. Note the following: “A young

¹⁰¹ The discussion referred to here took place between 2 rabbis. It is from the Babylonian Talmud, Baba Bathra 21A.

¹⁰² This phrase “*Maharsha*” refers to an authoritative commentary written on these Talmudic texts at a later time.

¹⁰³ Munk, *Sparing the Rod*, pg. 90.

¹⁰⁴ See chapter “The phases of child development in the Bible” in this volume.

¹⁰⁵ Babylonian Talmud, Tractate Ketuvot 50

¹⁰⁶ Halakhic scholars refer to scholars of Jewish legal principles.

¹⁰⁷ Encyclopedia Judaica, vol. 8, pg.98.

child – too young to understand why he is being punished – is sitting next to his father who is studying religious books. [Suddenly, the father notices that] the little one is about to relieve himself. He should not rebuke him. The child simply will not understand that the books are the cause of the rebuke [not his need to relieve himself], and he will respond by restraining himself out of fear – thereby endangering himself...”¹⁰⁸

We can see from early records that Jewish scholars were very sensitive to the need to handle small children carefully. Upon entering school at age six children were sheltered from subjects that might be discouraging to the young mind. Subjects dealing with sin and atonement, the afterlife and judgment were strenuously avoided.¹⁰⁹ These subjects require a more mature mind and this idea is absolutely reflected in the teachings of Jewish scholars.¹¹⁰

A clear theme running throughout religious Jewish thought (that relates specifically to the matter at hand) is outlined in the following: “Discipline is most effective in the age of puberty. Therefore forbearance is recommended with pupils until the age of twelve, but strictness after that, because youths from that age onward begin to show mental capacity and acumen.”¹¹¹ We can see that it was strongly felt from the earliest of times that children who were too young did not understand physical punishment, so for them it was not used. Those over the age of 13 were legal adults¹¹² in many respects and they were expected to adhere to the religious rules outlined in the Jewish faith. As pointed out earlier, this information relates well to the use of the word “*na’ar*” in Proverbs describing those best suited for the use of physical punishment in that period.

¹⁰⁸ Munk, *Sparing the Rod*, pg. 85-86.

¹⁰⁹ Edersheim, *Sketches of Jewish Life*, pg.135-136.

¹¹⁰ For more information in this regard, see Cohen’s, *Everyman’s Talmud*, pgs. 173-180.

¹¹¹ *The Jewish Encyclopedia*, art. *Pedagogics*, p.572

¹¹² See chapter “The Phases of Child Development outlined in the Bible”

In closing, we can see the evidence points to the fact that young children were not the objects of either the texts of the book of Proverbs or the interpretations of those texts by later Rabbinical authorities. With this in mind, we today should also take these facts into account when interpreting these texts.

Understanding the orientation of Jewish scholars to their religious texts

To complete this discussion, one thing must be mentioned. Jewish scholarship does allow for smacking, or corporal punishment. It is, however, permitted only under the strictest of circumstances. It is not being suggested that this is not a fact. It is a fact, but it is very important to understand the ways in which Jewish scholars arrive at binding Biblical interpretations to this day. These interpretations are arrived at with the greatest of deliberation and care and are not haphazardly formulated.

In closing this chapter, the following should be pointed out concerning Jewish interpretations of this or any subject related to their faith. These discussions can only take place under certain circumstances and involving recognized religious authorities. Without the input of a recognized Rabbinical authority, conclusions concerning religious matters cannot be arrived at. This may seem strange on the surface to those outside of the Jewish faith, but this is an absolute fact that affects every aspect of the life of the religious Jew.

When one objectively thinks about it, it is quite logical to have religious guidance and beliefs being formulated by recognized authorities. These recognized authorities are Rabbis who make up the various bodies of Judaism. While you do have several divisions in the Jewish community, all of the adherents to these various groups recognize the divinely inspired authority that has been placed in the rabbinical bodies that interpret Jewish Law.

One of the 613 commandments required of the religious Jew is to recognize and submit to the authority of a recognized body of Rabbis. This commandment is as follows: “According to the Law which they shall teach you, and according to the judgment which they tell you, shall you do; you shall not turn aside from the sentence which they shall declare unto you, to the right hand nor to the left.”¹¹³ This concept has been known and accepted throughout the period of Judaism’s history. The reason for this is clear.

Note the following: “The question arises concerning one who desires to be selective in his submission to Jewish law. The Torah, in this *mitzvah* (commandment), admonishes us that we may not be discriminatory in our obedience to Jewish law; whatever the Rabbis teach as *Halakah*¹¹⁴ must be accepted. If this principle were abandoned, the result would be a number of legal systems in Judaism, each pandering to the whims and follies of people, each of whom would select the law that best suited him. This is obviously impossible in a strong, purposeful and orientated society such as the Jewish community.”¹¹⁵

What this quote shows is the rationale for how Rabbis are allowed to interpret their religious and historical texts for today and create binding rules that are in force. If people do not adhere to the new rules, they are breaking the previously mentioned commandment that gives the authority to do this to the Rabbis. This idea is further reinforced by the earliest of Jewish scholars. They said: “If we believe in the authority of Moses, it follows that we must also believe in the authority of the succeeding sages. To deny the entire tradition of rabbinic influence on Jewish law or to stultify it by not acknowledging its continuity is tantamount to abrogating the entire legal system. In other words, either we believe that contemporary rabbinic

¹¹³ Deuteronomy 17:11

¹¹⁴ This word “*Halakah*” refers to Jewish legal rules. The word comes from the Hebrew verb “*halak*” which means “go” referring to the direction for people to go in their lives.

¹¹⁵ Chill, *The Mitzvot: The Commandments and their Rationale* (Jerusalem: Keter Pub., 1974), pg.425

authority is as binding as was that of Moses and the Written Law, or we reject Jewish law in its entirety.”¹¹⁶ This concept is to be applied even if the Rabbinical authorities are wrong! “A rare occasion may arise when the wise men will contend that the right side is the left one; even then, there is not sufficient ground for defying their authority. They are overwhelmingly on the side of truth and their authority must not be compromised because of a rare error.”¹¹⁷

This concept has always existed in Judaism and we even find Jesus referring to it in the New Testament. While Jesus did not always agree with the things that the religious scholars in his time said and did, he still urged the people (including his own disciples) in that time to follow the teachings of these recognized authorities. He said: “Then spoke Jesus to the crowds and to his disciples, saying, ‘The scribes and the Pharisees sit on the seat of Moses: all things therefore whatever they tell you, do and keep.’”¹¹⁸ We find Jesus not only speaking about the authority the Rabbis had, he acted based upon their authority as well. We can see this in how Jesus dealt with a religious requirement that the authorities (the people who represented the official legally authorized Rabbinical authorities) demanded he perform. It is recorded in the Gospel of Matthew. “And when they came to Capernaum, they that received the half shekel came to Peter, and said, does not your teacher pay the half shekel? He said, Yes.” Jesus then spoke to Peter and gave him a parable about being God’s son, but he also instructed him to go fishing to obtain a fish which would have the “shekel” in its’ mouth which he was then to give to the authorities. Jesus pointed out to Peter that since he was God’s son, he didn’t actually have to pay this half-shekel, but because the authorities, who God had put in place since the time of Moses, demanded it,

¹¹⁶ *ibid.*

¹¹⁷ *ibid.*, pg. 426

¹¹⁸ Matthew 23:1-2

he paid it because they had the divinely mandated Biblical authority at that time.¹¹⁹

In closing, it is clear that Jewish Rabbinical scholars have the authority to interpret and apply the religious teaching they have received from Moses' time and to modify and adjust those teachings as they see fit within their recognized systems of authority. They, of course, do not have the authority to change the Biblical texts, but they do have the authority to interpret those texts in light of the circumstances in which a matter is under discussion and their interpretations should be followed and accepted as binding rules. It is through this system that Judaism maintains a coherent religious system with recognized authorities that can legally interpret the rules that religious Jews are required to adhere to today. These also include those having to do with smacking and discipline.¹²⁰

This methodology is clearly shown in the important book "To Kindle a Soul: Ancient Wisdom for Modern Parents and Teachers" by Rabbi Lawrence Kelemen. Rabbi Kelemen shows how this way of arriving at authoritative religious teachings relates to smacking children. He says: "Today, those most enthusiastic about corporal punishment often cite the Bible as their authority: 'He that spares the rod hates his child.'¹²¹ They argue that this verse demands that we hit our children. However, traditional Jewish scholars never accept verses just at face value. Every verse must be understood in context, taking into account every other biblical passage and the entire corpus of Judaism's ancient oral tradition."¹²²

¹¹⁹ Matthew 17:24-27

¹²⁰ For more information about the rules and regulations governing the whole system of approaching corporal punishment from the Jewish perspective, I once again urge the reader to get the book mentioned in endnote number one for a full and comprehensive examination of this complex issue.

¹²¹ Proverbs 13:24

¹²² Kelemen, *To Kindle a Soul: Ancient Wisdom for Modern Parents and Teachers*, Targum Press: 2001, pg. 142.

In closing, it is helpful to consider the depth and breadth of the scholarship available from traditional Jewish sources. By doing this, we avail ourselves of a literal treasure trove of wisdom, knowledge and understanding.

The legal context of the book of Proverbs

Now, let us look at the legal context of the book of Proverbs. Unfortunately, this subject is rarely entertained in most circles of Christian scholarship that are advocating smacking. The advocates of smacking create the context and understanding for their readers or religious students seemingly without considering the orientation or world-view of the writer of the original books themselves. A teaching has developed around the book of Proverbs that portrays this volume as presenting God's timeless wisdom to mankind which is always to be applied without any real context. Any person can open up the Bible to the book of Proverbs and simply read therein and apply all of these statements exactly and without any real application of rules for interpretation. With this type of a teaching in existence developing a dialogue with individuals espousing this position is very difficult because they are simply adhering to what is written in the Bible.

Scholars have recognized the danger of not placing this book in its proper context prior to interpretation. The English scholar, Dr. E.W. Bullinger, in his Companion Bible pointed this out in regard to the book of Proverbs. He said: "This book makes no claim to unity of authorship; it is avowedly a collection, and includes the work of others beside Solomon the King. Hence, though in some sections there may be wisdom of a general order, in others one may find cautions and counsels which were intended for a particular individual, and not for 'all sorts and conditions of men'; and

which, therefore, are not abstract Wisdom in the sense implied by most expositors of the book.”¹²³ This appendix shows the common error that many religious expositors of this volume have fallen into. They have interpreted this volume literalistically and with no applicable context and herein lay one of the biggest problems in the smacking debate.

Commenting on this idea, Dr. Randall Heskett, in his article on Proverbs 23:13,14 comments on this same issue. “it is sad that many people assert their right to spank their children because ‘the Bible’ offers a warrant to do so. Yet they do not understand how to read the proverbs wisely. They interpret the Bible literalistically without hearing its literal sense, whereby the text is held together by its subject matter, namely the gospel of Jesus Christ.”¹²⁴ Dr. Heskett shows it is essential to interpret the Proverbs in light of the revelation of the gospel of Jesus Christ and the message of God’s grace to mankind. Most Christians would agree with this assertion, but the erroneous concept that this book of Proverbs contains timeless wisdom to be applied universally to all without any interpretation of the data based upon the cultural context or in light of the teachings of Jesus Christ revealed in the New Testament, affects how Christians apply and interpret this book.

To understand the book of Proverbs it is essential to orient the text to the reader. At this point, let us look at the legal context in which we find the book of Proverbs coming into existence. By understanding this fact, a person is well positioned to undertake a discussion of this fascinating and ancient volume.

The Legal orientation of King Solomon and King Hezekiah

King Solomon and King Hezekiah are two people who are specifically mentioned as authoring or editing sections of the book of Proverbs in which we find many of the texts specifically related to smacking.

¹²³ Bullinger, Companion Bible, Appendix 74, pg. 109.

¹²⁴ Dr. Randall Heskett, Proverbs 23:13,14, *Interpretation Journal*, April 2001, pg. 181.

King Solomon is identified as the primary author of this volume.¹²⁵ It is clear from the Bible that Solomon himself knew many proverbs. According to the Bible, Solomon “spake three thousand proverbs.”¹²⁶ The book of Proverbs itself only contains 915 verses and many of the proverbs found therein occupy more than one verse.

Solomon is identified as the principal author. He is specifically designated as the author of the section of the book of Proverbs from Chapters 10:1 to 22:16.¹²⁷ Solomon’s proverbs are also specifically found in another section of the book. It is from Proverbs 25:1 to 29:27. We know this because we find the following statement referring to this fact. It reads: “These are the proverbs of Solomon, which the men of Hezekiah king of Judah copied out.”¹²⁸ So, we know that this book came together under Solomon, but it also was added to in the time of Hezekiah, who lived about 200 years later than Solomon.

We know also for a fact that some sections of the book are even older and were collated and collected by the ancient Hebrews and placed in the book. Some of these writings have been found in the ancient collections of writings coming from ancient Egypt.¹²⁹ [Some people contend that because of this it makes sense to take these Scriptures with a grain of salt. I don’t agree with this thesis. The 915 verses that make up the book of Proverbs may not have been divine Scripture prior to the time they were put together, but after they were put together and placed in the Bible, they are now as much Holy Scripture as the Gospels themselves.]

It has been pointed out also that Proverbs 1:7 through Chapter 9 may have been authored by the ancient patriarch Joseph.¹³⁰ This idea has

¹²⁵ Proverbs 1:1

¹²⁶ I King 4:32

¹²⁷ See Proverbs 10:1 which starts with the following statement; “The proverbs of Solomon.”

¹²⁸ Proverbs 25:1

¹²⁹ See Ancient Near Eastern Texts, p.428b

¹³⁰ See Ernest L. Martin, *The Writings of Joseph in Egypt* (Pasadena: Foundation for Biblical Research: 1977).

merit particularly with the textual focus in this section about avoiding adultery, something Joseph was recognized for in Biblical history. Now, that we have the time frame and know that this book came from the times of Solomon and Hezekiah, what was the legal orientation of these two men during the times in which they lived? By answering this question, we can better understand the legal context of Proverbs.

Now, let us look at the legal orientation of King Solomon. Just before his father, King David, passed away, David met with his son, who would become the next king and gave him the following advice. The Bible says: “Now the days of David drew near that he should die; and he charged Solomon his son, saying, I go the way of all the earth: be thou strong therefore, and show thyself a man; and keep the charge of the LORD your God, to walk in his ways, to keep his statutes, and his commandments, and his judgments, and his testimonies, as it is written in the Law of Moses, that you may prosper in all that you do, and where ever you turn yourself.”¹³¹

What we see clearly from this verse is that the legal orientation that David commanded his son to follow was that found in the “Law of Moses.”¹³² We find later that Solomon was condemned because he did not follow this Law of Moses. Note this: “And the LORD was angry with Solomon, because his heart was turned from the Lord GOD of Israel, who had twice appeared to him and had commanded him concerning this thing, that he should not go after other gods: but he (Solomon) kept not that which the LORD commanded. So that the LORD said to Solomon, ‘Since this is your mind, and thou has not kept my covenant and my statutes, which I have commanded you, I will surely rend the kingdom from you and give it to your servant.’”¹³³ The context shows that Solomon violated the first of the Ten Commandments¹³⁴ by worshipping other gods.¹³⁵ These commands were

¹³¹ I King 1 2:1-3

¹³² *ibid.*

¹³³ I Kings 11:9-11

¹³⁴ Exodus 20: 1-7

¹³⁵ I Kings 11:4-8

first revealed to Moses, so Solomon violated the very Law of Moses that his father, King David, demanded that he keep.

It is clear from this text that the legal orientation of King Solomon and his father, King David, were the same. Both of them were adherents to the legal requirements of the Law of Moses. That is exactly what the texts teach and there are several other such texts in other sections of the Bible concerning these two men and their adherence to the legal system founded by God through Moses. The point is, the legal orientation of these two men affected everything they did and everything they wrote. Without understanding the orientation of the writer, we are in the dark about how we as readers today are to orient ourselves toward the text.

As I mentioned King Hezekiah previously, what was his legal orientation during the time he lived because it was his men who, under his instructions, copied out some of the other proverbs of Solomon (and today we find these writings in the book of Proverbs)? King Hezekiah was 25 years old when he began to reign as king.¹³⁶ He did that which was correct in God's eyes.¹³⁷ His first actions involved removing illegal religious places of worship as defined in the Law of Moses.¹³⁸ He trusted in God and his actions were characterized as being unlike any ruler in Judaea before his time.¹³⁹ "For he held fast to the LORD, and departed not from following Him, but kept His commandments, which the LORD commanded Moses."¹⁴⁰

So, we can see a common thread of belief and legal orientation among these men who were involved in the writing and construction of the book of Proverbs. What these texts show is that the principal revealed authors of Proverbs had an orientation toward the Law of Moses. This Law of Moses is found in the first five books of the Bible and concerns the laws

¹³⁶ I Kings 18:1

¹³⁷ I Kings 18:3

¹³⁸ I Kings 18:4

¹³⁹ I Kings 18:5

¹⁴⁰ I Kings 18:7

revealed to Moses by God which were the religious and civil law that has existed since the time of Moses and has been legally binding for Israelites and adherents to Judaism since that time. This system was also the legal system that was in force during the time when Jesus Christ lived.¹⁴¹

How does this relate to people today understanding the book of Proverbs? The point is, the book of Proverbs can only be appreciated and correctly understood in an environment where the Law of Moses is the legal orientation. Without this understanding, the book has no real context. Remove it from this context and you have chaos. This also makes sense even from the very beginning of the book of Proverbs. The first verse of the book says: “The proverbs of Solomon, the son of David, King of Israel...”¹⁴² Solomon, in the first proverb also urges his readers to “My son, hear the instruction of thy father, and do not forsake the law of your mother.”¹⁴³ The word for “law” is the Hebrew word “*torab*” which is used numerous times to describe the “law of Moses.”¹⁴⁴ The point is, all of the information that you find in the book of Proverbs was produced within a legal and religious environment where the Law of Moses was the governing religious system.

Biblical scholars have long pointed this fact out. “The wisdom, therefore, and instruction, of which so much is said in the book of Proverbs, is to be understood chiefly of moral and religious discipline, imparted, according to the direction of the Law [of Moses], by the teaching and under the example of parents.”¹⁴⁵

So how do we understand the Book of Proverbs today?

How does this affect the way in which we understand the teachings in the book of Proverbs? It affects them greatly because the teachings that we find

¹⁴¹ See Mark 1:44 and several dozen other similar passages.

¹⁴² Proverbs 1:1

¹⁴³ Proverbs 1:8

¹⁴⁴ See Joshua 8:31, 8:32, II Kings 14:6

¹⁴⁵ See Proverbs 1:2; 1:8; 2:2; 2:10; 4:1; 4:4; 4:20; 8:1; 9:1; 9:10; 12:1; 16:22; 27:24; 31 and Mc’Lintock and Strong’s “*Cyclopedia of Biblical, Ecclesiastical & Theological Literature*,” article, ‘Education, Hebrew,’ vol. III, 61.

in the book of Proverbs are not specifically Christian in orientation; they are oriented toward the Law of Moses. And why not? This is the exact orientation that the author of the book intended in the first place.

Note the following: “The aim of the proverbs included here is to make men know wisdom: when that is accomplished, it is hoped that men will do that which is right. As Crawford H. Toy¹⁴⁶ points out, the emphasis throughout this book [of Proverbs] is “on the intellectual recognition of the right as the basis of the good life is allied to the Socratic conception of morality, which is simply that if one knows what is right, he will do what is right. Conversion, or the change of heart, is not found in Proverbs.”¹⁴⁷

That is right! Conversion, or repentance, which means a change of heart, is something that Christians find being taught at the beginning of the Gospel message of Jesus Christ revealed first in the teachings of John the Baptist and subsequently by Christ himself.¹⁴⁸ Proverbs, as a doctrinal statement of belief has nothing to do with repentance, a changed heart or conversion. It has to do with the acquisition of knowledge as the key to right behaviour.¹⁴⁹ Knowledge is also a key aspect of law. You must know the law to keep the law.

Now, are we here saying that Proverbs is not Holy Scripture? No! In no way! Proverbs is a holy book to be sure as are all of the books of the Hebrew Bible (the Old Testament), but as I just mentioned, the idea of “conversion” is not found in this book. Conversion of the heart is the central doctrine of Christianity. This is why Christ came to earth in the first place to save people. People know what is right, but they cannot do what is right perfectly. If they could, there would be no need for a saviour. This is the exact teaching given by the Apostle Paul in the book of Romans. Paul

¹⁴⁶ Crawford Toy is a Christian scholar who wrote one of the most respected commentaries on the book of Proverbs.

¹⁴⁷ The Interpreters Bible (New York: Abingdon Press), vol. IV, pg. 780.

¹⁴⁸ See Matthew 2 &3, Luke 3 and Mark 1.

¹⁴⁹ Proverbs 1

lamented the fact that while he indeed knew the law backwards and forwards, but he found in himself an inability to keep that law perfectly.¹⁵⁰ He now had something much better. The idea that man repents and turns from sin and accepts Jesus Christ is the key to the Gospel message. Without repentance, or “changing your heart,” you can be the wisest person in the world and you can know what is right, but knowing what is right will not save one from sin. Knowing wisdom is one thing, but knowing Jesus Christ is another.

It is most important to realize that if we do not recognize this fact, we will continue to perpetuate the error that many are engaging in today stating that the texts in the book of Proverbs concerning smacking children are binding and in force today upon Christians. It is agreed that they are binding and in force today as much as they ever were since Solomon wrote the book and since God delivered the Law to Moses on Mount Sinai. The only point that needs to be made is that, as a Christian, one is no longer under the rules laid down in the Law of Moses because as Christians we now have a different law: the Law of Christ. This law is found in Galatians 5:23.

In closing, let us be very careful to apply the sections of the Bible that are directed *to* us and *for* us. The whole of the Bible is for our admonition, but the whole of the Bible is not directed to us. Just as God told Jonah to go and preach to the people of Nineveh, does that mean that every person named Jonah today needs to pack up his belongings and go to Nineveh today? The book of Jonah was directed to a particular “Jonah” and at a particular time. The same thing applies to the book of Proverbs. It is there for our admonition, but the entirety of the book must be interpreted in light of the Gospel message of salvation by grace.¹⁵¹

Let us all seek to follow the example given by Paul who said a Christian should be “a worker that needs not to be ashamed, rightly dividing

¹⁵⁰ Romans 7:14-25

¹⁵¹ “Proverbs 23:13-14” by Dr. Randall Heskett in *Interpretation Journal*, Apr. 2001, pgs.181-4.

the word of truth.”¹⁵² The truth can be divided. All truth is truth, to whom it is directed at the time it is given. Let us find our truth for today and apply it to our lives especially where vitally important questions regarding the upbringing, guidance and future of our children and our world are concerned.

¹⁵² II Timothy 2:15



4

The gender focus of the book of Proverbs

One of the most interesting aspects of the religious system outlined in the Old Testament is the different statuses assigned to men and women. Whether you agree with it or not, whether it applies today or not, this doesn't matter. What is important to understand is that these differences were real in ancient times and they definitely affected the way that people in that time looked at the world.

The worldview at that time was decidedly in favour of men. Men were assigned a different status than women. They had different social power and more rights than women did. Men's lives dominated the world outside of the home whereas women's lives were more oriented toward family.

How does this subject relate to the Biblical argument concerning smacking of children? The fact is, it relates very much because it is in Proverbs that we find the primary texts used by most people to justify smacking as an appropriate tool for child rearing. The majority of the argument in favour of smacking children (from the religious point of view) is primarily based on using the textual evidence in Proverbs. A person only need examine the books or other resources created by smacking proponents to demonstrate this fact without any doubt. If we did not find the texts in the book of Proverbs relating to smacking, there would be no need for this research. Without the statements from the book of Proverbs, anyone who is advocating smacking will lose virtually all of their primary evidence in favour of this argument.

The book of Proverbs: A background

The book of Proverbs is one of the most interesting books in the Bible. In it we find some of the oldest sections in the whole Bible. People have been quoting it for centuries. We even find that some sections of this book have been found in sources outside of the Bible. A whole section of this book has been found in an ancient book from Egypt known as “The Instruction of Amen-em-opet.” The section of the book of Proverbs found in this book is from chapter 22:22 to 24:22. These thirty verses that are found in our modern Bibles date to very early periods.¹⁵³ There are other texts from outside of the Bible that also feature sections of the book of Proverbs in them.¹⁵⁴ This is an extremely old book. There is no doubt that this book contains information in it from numerous international sources that were collected and collated into one key volume representing the best proverbial sayings from the ancient world.

The first question we have to ask about this book is its context relative to the other Biblical books.¹⁵⁵ Do we find this book positioned in the Bible in a place that will help to understand its’ contents? In essence, does the context we find the book in make a difference in the way we interpret it? The answer to this question is “yes.” The main reason is that information found in the Bible is not just haphazardly put here and there. It is placed where it is for a reason and in a context. Let us look at two examples that show this clearly. Let us look at an example demonstrating this.

¹⁵³ Ancient Near Eastern Texts, pg.421-4

¹⁵⁴ *ibid.*, pg. 428b – There is a text known as “The Words of Ahiqar” which is written in a language very similar to Hebrew (Aramaic) and the text dates to a period about 500 years before Christ. This section actually concerns one of the key texts related to smacking children: Proverbs 23:13-14.

¹⁵⁵ I have already dealt with the legal context of the book of Proverbs in another section of this volume.

Context is important

First, there is a context to the information placed in the Bible. It is placed where it is for a reason. This must be the case because we actually find the same information, word for word, quoted in one section of the Bible and mentioned in another section. Now if we were only concerned with the raw information itself, this would not be needed. However, we find that the information that was placed in the Bible was placed there for a reason and there is even a reason why repeated information is placed in certain sections.

This phenomenon is particularly evident in the book of Psalms. Look at Psalm 14 and Psalm 53. They are practically the same. Also Psalm 70 is parallel with Psalm 40:13-17. Note also that Psalm 60:9-12 is the same as Psalm 108:10-13. While no one knows the exact reason for this arrangement, it must be that there is a key behind this design. There is something more to this matter than simply rehearsing information.

One of the key teachings we have to understand from these texts that there is a design involved here. Not only do we see design in the phenomenon of repeating information, we also see other designs in the positioning of books. Sixtus Senensis, the medieval Jewish scholar commented on this: "As with the Hebrew [language] there are twenty-two letters, in which all that can be said and written is comprehended, so there are twenty-two books in which are contained all that can be known and uttered of divine things."¹⁵⁶ This idea is also further emphasized in the fact that we find the feature of the Bible acrostic being used to show order regarding information. A good example of this is Psalm 119, which has 176 verses, divided into groupings of eight verses each. Each verses begins with a different Hebrew letter so the 22 letters in the Hebrew language each have eight verses bearing a letter in the first verse in this Psalm. We also even find this phenomenon taking place in the last 22 verses of Proverbs 31 that describes a virtuous woman.

¹⁵⁶ *A General Introduction to the Old Testament*, vol. 1, pg. 87 by William H. Green

What this information shows is that there is a design feature in place that has to be taken into account in interpreting these books. Not only do we find these design features which are mentioned here in evidence, there are others. One in particular concerns a specific design feature related to gender. This design feature actually affects how we interpret the book of Proverbs. Let us look at it here.

Wisdom literature

The book of Proverbs is a part of a group of books in the Bible generally referred to as “Wisdom literature.” There are two other books that specifically fall into this category and they are the book of Psalms and the book of Job. Now it is very interesting that in the original Hebrew order of the books of the Bible, we find these three books in order forming an actual collection of their own. This ancient order preserved in Hebrew bible versions is only different as far as the order of the books that we find in Protestant Bible versions. The books are the same, only the order and numbering is different.¹⁵⁷ These three books, Psalms, Proverbs and Job, actually begin a section in the Bible known as the Holy Writings.¹⁵⁸ Jesus referred to this idea when he mentioned the three divisions of the Hebrew Bible known in ancient times as the “Law, the Prophets and the Psalms.”¹⁵⁹

Now, these three books have a number of similar characteristics, but in this discussion, I wish to focus solely on one. It is the fact that these books exhibit a common orientation to issues that are of interest to and almost solely concern men! This may seem like an odd statement at first, but if a person is willing to look closely at the data that are found in these books, one

¹⁵⁷ A good example of this is the Hebrew Bible’s reference to the book of Chronicles. This single book in the Hebrew Bible is made up of two books in our English Bible. They are First and Second Chronicles. These two books in our modern versions originally were numbered only as one book in the Hebrew Bible and this continues to this present day. See the appendix in this book “The order of the Hebrew Bible books versus the order found in Protestant Bible versions.”

¹⁵⁸ Greek: *Hagiographia*

¹⁵⁹ Luke 24:44-45

cannot help but to come away with such a feeling that they are decidedly masculine in theme and character. Not only are all the authors of these books men, but the themes that the books feature are also definitely more masculine in nature. Let us consider some of the evidence that makes this clear.

Looking at the first book in the Hebrew order of this small three-book collection of wisdom literature we find the book of Psalms. First, look at the people involved in writing the Psalms. They are David, Solomon, Moses, Asaph, Korah, Ethan, Jeremiah, etc.¹⁶⁰ Note that in the Bible we have Psalm type sections written or sung by women, but they are not included in the book of Psalms because of its masculine orientation.¹⁶¹ These Psalms (or songs) were spiritual songs sung in the Holy Temple in Jerusalem by priests, who were men and contributed to the spiritual system of the Israelite religion.¹⁶² Additionally, in the Bible the singing of spiritual music is something that is decidedly masculine in nature. Note that singers and prophets who also engaged in singing were men. Many of these singers were also priests of the family of Aaron or Levites and had a focus of their ministry towards the Holy Temple.¹⁶³

Now, the book of Psalms begins with the statement: “Happy is the **man** who walks not in the counsel of the ungodly.”¹⁶⁴ If one will survey this book, it will be found that the subject matter is decidedly masculine in nature and tone.

¹⁶⁰ King David wrote the first 72 Psalms. (See Psalm 72:20) Psalm 72 was written either by or for King Solomon. Moses wrote Psalm 90. Asaph wrote numerous Psalms such as those from 73-83. Korah wrote many Psalms such as those found in 84-88. Ethan wrote the major part of Psalm 89. A careful examination of Psalm 119 with a comparison with the book of Lamentations almost certainly points to Jeremiah as the author.

¹⁶¹ See Exodus 15:21 which is sung by Miriam and resembles a very short Psalm. Note also Judges 5 which is a type Psalm sung by Deborah and Barak. Finally, note the Psalm sung by Hannah in I Samuel 2:1-10.

¹⁶² I Chronicles 25:2-5

¹⁶³ See I Samuel 16:16 and also see I Samuel 10:5-7

¹⁶⁴ Psalm 1:1

Next in the order of the Hebrew Bible, we find the Book of Proverbs. Before we look at Proverbs, however, let us first consider the next book in the Hebrew Bible order. This is the book of Job. Job was a wise man dwelling in the land of Uz. (or a Wizard of Oz – that is another story)¹⁶⁵ The book of Job features speeches by five men and then a final speech by the LORD, who is always spoken of as a masculine being.¹⁶⁶ The subject matter concerns a great wealthy and wise man that had to deal with tragedy in his life and how he came to accept it and understand God and his teachings in a clearer way. The whole orientation of this book is masculine. Now, before I begin the discussion on the book of Proverbs, I would like to point something out. God did not forget women. This is very important to understand as women played a key role in the religion of the ancient Hebrews. We will see the theme of femininity playing a key role in the orientation of the next five books in the Hebrew order of the Biblical books. Let us look at these now.

The Biblical collection devoted to feminine themes

As I mentioned, the Hebrew order of the books, which is different from our Protestant Bible versions only in the order of the books (not the content) features a number of books that are in order and feature decidedly feminine themes. We have looked at the masculine focus of Psalms, Proverbs and Job. Now, the books that feature this feminine focus are the next five books that we find after Job. They are known in by the Hebrew term *Megillot*¹⁶⁷ which is

¹⁶⁵ Job 1:1

¹⁶⁶ For clear evidence of this, see Proverbs 8 where the LORD is pictured as a masculine being complemented by the feminine Wisdom, a very mysterious and thought provoking association.

¹⁶⁷ The Hebrew word *Megillot* in English means “Scrolls.” In this case, it refers to these five scrolls that we read at the festival times of ancient Israel. These festival periods were Passover when the Song of Songs was read, Ruth which was read at Pentecost, Lamentations which was read on the destruction date of the Temple, the ninth of the Hebrew month of Ab, Ecclesiastes was read at the feast of Tabernacles and finally, Esther was read at Purim.

itself expressed in the feminine gender. They are Songs of Songs, Ruth, Lamentations, Ecclesiastes and Esther. Let us look at the evidence for this feminine focus.

First, note the opening to the Song of Songs. The first voice in the book (after the introduction) speaking is a woman. She says: “Let him kiss me with the kisses of his mouth.”¹⁶⁸ This book is a romantic poem between a woman and a man. This is a very romantic volume that was read as a dramatic opera. This volume constantly refers to feminine themes.

Next, comes the book of Ruth. Ruth was the great grandmother of King David.¹⁶⁹ The feminine orientation of Ruth is obvious. It is the story of a woman, a foreigner who embraced the Jewish faith, who became one of the most important women in the history of ancient Israel. Her story was so important that a book was written about it and placed in the Bible. In this book, we find numerous customs and rituals associated with male/female relationships, but it is written in a decidedly feminine orientation.

Following Ruth, we find the book of Lamentations. It is not often recognized as a book oriented towards the feminine, but look at the first few verses of the book itself. “How does the city sit solitary, that was full of people! How is **she** become as a **widow**, **she** who was great among the nations, was a **princess** among the provinces, how is **she** become a vassal. **She** weeps sore in the night, and **her** tears are upon **her** cheek. Among all **her** lovers **she** has none to comfort **her**. All **her** friends have betrayed **her**, they have become **her** foes.”¹⁷⁰

Can a text be any clearer to illustrate this feminine orientation? What we also have to understand about the book of Lamentations is that it represents the death of the nation of Israel and in Hebrew culture, and it was women who most often did the lamenting over the dead.¹⁷¹

¹⁶⁸ Song of Songs 1:2

¹⁶⁹ Ruth 3:17-18

¹⁷⁰ Lamentations 1:1-2

¹⁷¹ Note Mark 16:10 which is one example of many that could be given concerning women and lamenting.

The next book in the Hebrew order is Ecclesiastes. It may stick out as an unfeminine book, but we must look under the surface here to see the femininity of this book. When one truly analyses this work, this is a treatise dealing with the deep mysteries and life from the highest of philosophical aspects. The author was without question supremely equated with the virtue of wisdom. Wisdom, as demonstrated numerous times in Proverbs, is a feminine virtue.¹⁷² Some scholars point out that this term “*kobelet*” is in the feminine gender in Hebrew and literally translated it means “Congregation of Women.”¹⁷³ Could this essay, while being given by a man, have been inspired from the highest of feminine virtues, Wisdom? It could be. We do find this work among other books exhibiting feminine characteristics.

The last book of this feminine section is the book of Esther. This book is the story of a young Jewish woman whose wisdom and femininity saved the whole of Jewish civilization during the time of the Persian Empire. This story must be considered an inspiration to all women no matter where they are or what social position in which they find themselves.

Now that we have seen the masculinity exhibited in the books of Psalms, Proverbs and Job and the femininity of Song of Songs, Ruth, Lamentations, Ecclesiastes and Esther, we can now see the importance and consideration of these gender issues that must be taken into account when interpreting these books. This is especially the case for the book of Proverbs. This is because the book of Proverbs is an extremely masculine book. If we do not take this fact into account, our whole conception of the book as a whole could be misguided. By taking into consideration where among the collection of books that we find this book, this will assist us greatly in interpreting the data found in that book. Seeing the larger context of the book, let us now listen to the tone of Proverbs itself. This will have a decided

¹⁷² See Proverbs 1:20,24; 8:1;32-36; 9:1-11)

¹⁷³ See *Restoring the Original Bible*, Ernest L. Martin (ASK Publications: Portland: 1994), pg. 131.

impact on how we further consider the statements given in this most difficult book.

The Masculine context and tone of the book of Proverbs

As I have shown in the previous paragraph, the book of Proverbs appears in a context surrounded by other books exhibiting masculine themes. The book itself, however, without ambiguity exudes masculinity. The points I wish to make are these: the information found in the book of Proverbs is directed to men. It shows men how to conduct their lives. It shows men how to deal with family and society and it also shows kings (who in Israelite culture were always men) how to deal with their subjects.

The masculine tone of the book of Proverbs commences at the very beginning. Before any proverbial teachings start, the author points out to whom the book is directed. The book begins with the following opening statement which orients the reader for the rest of the discussion: “The proverbs of Solomon, son of David, king of Israel: For the knowledge of wisdom and correction, for discerning the sayings of intelligence: for receiving of correction of prudence, righteousness and justice and equity; for giving to the simple shrewdness, to the **young man** knowledge and discretion. A wise **man** will hear and will increase learning, and a discreet **man** wise counsels will acquire.”¹⁷⁴

From the book’s beginning the author makes a precise distinction whom the information is directed. This book is designed for the young man to give that young man discretion and the information is also for the man who is already wise and wishes to become wiser still. That young man may also be a ruler to whom large segments of the book are directed. The author cannot seemingly make the direction any clearer.

This is a particularly important point to understand. Note also that when the author uses the phrase “young man,” this in Hebrew is the word

¹⁷⁴ Proverbs 1:1-5

“*na’ar*.” This phrase refers to the stage in life known as the teenage or young adult years. The writer could have used any word describing men to introduce this book, but this particular word was chosen.

This choice also makes perfect sense when one considers the subject matter of the book as a whole. (This will be discussed shortly.) Frankly stated, discussions put forth in this book require a certain level of age to be present to appreciate them. It is simply impossible for a 7 or 8 year old to appreciate the importance of avoiding adultery or recognizing the importance of marrying the right woman, being honest in business, saving money for the future and understanding complex comparisons such as being wise like animals. Young boys are more interested in fun and games rather than seriously thinking through elements of wisdom.

The point is, this book is not designed for young men below the teenage years and that is what the opening statement is indicating. It is in these periods when the adult awareness’s begin to develop and when one begins to think about marriage and family. It is during this period when such advice makes the best sense and that is what we have given to us in the book of Proverbs. Attempting to communicate such ideas to young children will find an unready audience. In actual fact, some of the subject matter in the book of Proverbs is simply not appropriate for young children. For example, the subject of adultery is not an acceptable subject to discuss with a six year old. I think this is obvious to all so further discussion on this point is not necessary.

It must be admitted at this point that the Hebrew language only has two genders: masculine and feminine. So can we not say when it says “young man” that it really means young person (of either sex)? Some may make this assertion, but we will see that the written evidence for such a suggestion is simply not available when one considers the subject matter of this book as whole. Let us see how this is the case.

The next point to show that this book as a whole is directed only to men, and young men in particular, is found in the first division of the book.

The reader encounters the phrase “My son” as a transitional phrase eleven times in the first nine chapters of this book.¹⁷⁵ Once again, it might be pointed out that this phrase could simply be translated as “my child” regardless of the sex, but once again this point cannot be justified from the texts. The reason for this is that the individual speaking is a father and the subject matter of the discussion is clearly oriented to that father’s male child.¹⁷⁶

Let us notice this fact clearly demonstrated. Notice the following text: “To rescue you from the **woman** that is a stranger, from the **female** unknown, who with **her** speech seduces.”¹⁷⁷ This father is telling his son to avoid strange inappropriate women. This must be considered fine advice in any age and for any sex as any caring father would also advise his daughter to avoid unacceptable male partners.

Note also the following: “For with sweet droppings drip the lips of **her** that is a stranger, and smoother than oil is **her** mouth.”¹⁷⁸ The fatherly advice continues: “Keep far from **her** your way, and do not go near the opening of **her** house.”¹⁷⁹ Additionally, look at this: “Wherefore should you stray, my son, with a strange **woman**? or embrace the bosom of a **woman** unknown?”¹⁸⁰

We can continue to read of this young man and how he is continually advised to avoid inappropriate women. Now is it to be construed that the author dislikes or is demeaning women here? It really does not seem so. However, he is advising his son to avoid the snare of adultery. Look at the following that shows this: “Can a **man** snatch up fire in **his** bosom, and **his** clothes not be burned? So **he** that goes in unto **his** neighbour’s wife, no **man**

¹⁷⁵ These texts are found in 1:8; 1:10; 2:1; 3:1; 3:11; 3:21; 4:20; 6:1; 6:3; 6:20 and 7:1.

¹⁷⁶ Proverbs 1:8

¹⁷⁷ *ibid.*, 2:16

¹⁷⁸ *ibid.*, 5:3

¹⁷⁹ *ibid.*, 5:8

¹⁸⁰ *ibid.*, 5:20

shall be guiltless who touches her ... **He** that commits adultery with a woman lacks sense, a destroyer of **his** own life is **he** that does it.”¹⁸¹

I think most would say this is fine advice for all. What else does the father suggest? “Drink you water out of your own cistern, and flowing streams out of the middle of your own well. Let not your fountains flow over abroad in the streets, dividings of waters. Let them be for yourself alone, and for strangers with you. Let your wellspring be blessed and get your joy from the wife of your youth: A loving hind! A graceful doe! Let her bosom content you at all time. And in her love may you stay evermore.”¹⁸²

The point here is clear. “Son, get married at a good young age, rejoice with your wife and don’t commit adultery.” I must say again that there is a bias toward men in this book. This is particularly so in this first division. Let us now consider further data in the rest of the book to see this point fully illustrated.

There is a more masculine emphasis in the book of Proverbs when it comes to the discussion of wives and women. I only point out these texts as evidence in regard to my thesis here. Wives are considered a blessing for husbands: “Who has found a wife has found a blessing, and has obtained favour from the LORD.”¹⁸³ We see a similar theme echoed in the following statement: “House and substance are an inheritance from one’s father, but from the LORD comes a wife who is prudent.”¹⁸⁴ Foolish children and contentious wives are lamented: “Engulfing ruin to his father is a son who is a dullard, and a continuous dripping are the contentions of a wife.”¹⁸⁵

Some may find these statements about women inappropriate for our modern world. In one way I agree, but I am quick to point out, with a sense of humour, that if one accepts my thesis of the masculine orientation of

¹⁸¹ *ibid.*, 6:27-32

¹⁸² *ibid.*, 5:15-19

¹⁸³ *ibid.*, 18:22

¹⁸⁴ *ibid.*, 19:14

¹⁸⁵ *ibid.*, 19:13

Proverbs, it must then be admitted that when the book speaks of “fools” and “dullards” and those “lacking understanding” it is men who are being spoken of! So, in a sense, we see here, a fair treatment of both sexes.

For example, we see that an unchaste woman is spoken of as a “deep chasm.”¹⁸⁶ But, what is the man, who finds himself in the embrace of a prostitute called? He is called a “simple one.”¹⁸⁷ He is also called an “ox,”¹⁸⁸ and finally a “fool.”¹⁸⁹ There is little favouritism directed at one sex or the other in this book. What are in evidence are strict social divisions of the sexes that were present in those times. Some may find these divisions repressive by modern standards, but it represents an error to judge the ancient Israelitish culture on the basis of our culture today. This is cultural relativism and such judgments are not helpful to anyone.

Finally, we can see a wonderful description of the virtuous woman.¹⁹⁰ In Chapter 31, here the virtuous woman is described as a wife, mother, businesswoman, physically fit and a merciful community activist. We see the righteous man exemplified in his seeking for wisdom, understanding and knowledge, practicing justice, knowing prudence, avoiding evil associations, saving for the future, speaking softly and a man who cares for his family and is totally faithful to his wife. These are just a few of the virtues that characterize the virtuous man as found in the book of Proverbs.

Application to the concept of smacking

After showing that the subject matter of this book is directed to men, what does this mean as far as the subject of smacking? The suggestion made here is that the Bible is teaching something that has been overlooked by many Bible scholars and commentators. This is the fact that the texts in the book

¹⁸⁶ *ibid.*, 23:27

¹⁸⁷ *ibid.*, 7:7

¹⁸⁸ *ibid.*, 7:22

¹⁸⁹ *ibid.*, 7:23

¹⁹⁰ See all of Proverbs 31

of Proverbs that speak of smacking with the rod apply only to the male, never to the female!

This may seem fantastic and absurd to some scholars and Bible teachers, but the evidence in this regard is quite compelling. The fact is, legally speaking men and women were treated differently among the Hebrew religion and culture and it is about time that those of us living in modern times recognized this fact and stop blindly applying texts that have no application to our modern existence outside of their original contexts and methodology of understanding. Let us consider this suggestion now.

Smacking only for the male sex?

The book of Proverbs speaks of the use of smacking in several places and in these texts; there is one thing in common. They all have a strong masculine bias. Because of the orientation of the book as a whole as well, could it be that the ancients only ever directed them to males? Based on my examination of the texts, this seems to be a plausible suggestion. This appears clearly to have been the intention of the writer of these texts. Let us consider some of this evidence.

Note the following: “In the lips of **him** that has understanding wisdom is found: but a rod is for the back of **him** that is void of understanding.”¹⁹¹ In this text in the original Hebrew, there is no ambiguity. If the author had intended both sexes to be spoken of, why did he not use the plural pronoun “them” instead of the singular masculine “him?” The use of the plural “them” would have included both sexes in the discussion.

Note also the following: “**He** that spares **his** rod, hates **his son**: but **he** that loves **him** carefully corrects **him**.”¹⁹²

Note the bolded words specifically pointed out here because they are very clear in the original Hebrew. The words are all in the third person

¹⁹¹ Proverbs 10:13

¹⁹² *ibid.*, 13:24

singular masculine. If both sexes were intended by the author, he would have said: “He that spares his rod, hates his **children**: but he that loves **them** carefully corrects **them**.” However, this is not the case. We find the author sticking with the third person singular masculine focus of the book throughout. This is because the overwhelming subject matter of this book is written about and for men. Dr. Randall Heskett also points out this idea of these texts being oriented solely for men.¹⁹³ Dr. Heskett is not alone in this opinion. Let us look at another scholarly opinion in this regard.

The book of Proverbs and its masculine orientation

The idea that the book of Proverbs is oriented towards men in particular is not only clearly revealed in the text of the book itself, but other scholars have also pointed this out. One important example of this can be found in the work of Dr. E. W. Bullinger.

Dr. Bullinger was a highly active conservative Bible scholar in England about 100 years ago. His chief accomplishment of many decades of Biblical research was the production of the *Companion Bible*. This Bible version is a monument to conservative Christian Bible scholarship. In this volume, Dr. Bullinger produced copious notes and added numerous appendices to help non-experts better understand the Holy Bible. It is in one of these appendices that we find a very important article about the book of Proverbs.

This appendix points out that the gender orientation of this book is decidedly masculine. “If the contents of sections one¹⁹⁴ and two¹⁹⁵ already described had been by Solomon, there would have been no need in this place for the introductory line ‘The Proverbs of Solomon.’ That mode of address is quite unlike that of section one,¹⁹⁶ with its second person of the pronoun;

¹⁹³ See Heskett, *Interpretation Journal*, April 2001, Article “Proverbs 23:13-14,” pgs. 181-184.

¹⁹⁴ Proverbs 1:7-9:18

¹⁹⁵ Proverbs 10:1-22:16

¹⁹⁶ Proverbs 1:7-9:18

the proverbs are not spake to “my son,” [as in Proverbs 1:7 to 9:18] but they mention “**he**” and “**him**,” using generally the third person of the pronoun. [It is third person masculine also] Apparently, they continue to chapter 19:26, or thereabouts. **They were for men in general to learn**, and not for a prince or distinguished individual to learn. (as “my son.”)¹⁹⁷

Dr. Bullinger is not alone in his assertion that the book of Proverbs is squarely oriented towards the male gender. Dr. John J. Pilch, in an excellent article concerning the attitudes of ancient Israelites towards punishment, points out the following. “Most of the parenting advice in Sirach¹⁹⁸ and Proverbs concerns ‘sons’ or is addressed to males.”¹⁹⁹ This is another proof to show that the book of Proverbs was written by men and was directed to men in general and younger men specifically.

Doesn't the Bible mean both sexes when it refers here to the male gender?

Some may say that both sexes are intended by the use of the singular pronoun and because Hebrew has no neuter gender, we are supposed to assume it means both. This may be, but why do we have to interpret the texts in this fashion? If it means “children” of both genders, why doesn't the text simply use the plural of “child,” which is easy to construct in the Hebrew language and is done dozens of times in the Bible? Look at the following where the Bible makes use of the masculine and the feminine in the same texts and uses both the feminine and masculine pronouns: “and your sons and your daughters shall prophesy; your old men shall dream dreams, your young men

¹⁹⁷ The Companion Bible, The Lamp Press: London, Appendix 74, pg. 109

¹⁹⁸ Sirach is a book that is a part of what is known as the Apocrypha. The subject of this book is that of wisdom and is similar to the book of Proverbs in subject matter. It is known by many names, but the most common one today is “*Ecclesiasticus*.” This volume is very old and is widely quoted in Jewish antiquity, but it is not a part of the Protestant canon of Holy Scripture.

¹⁹⁹ Dr. John J. Pilch, “*Beat his ribs while he is young*” (*Sirach 30:12*): *A window into the Mediterranean World*, Biblical Theology Bulletin, 1993. Georgetown University.

shall see visions.”²⁰⁰ This text is clear as it mentions both sons and daughters. Now, if sons and daughters are meant clearly in Proverbs, one seemingly has to read such an interpretation into the text without any Biblical textual authority.

To conclude this section, the gender orientation of the book of Proverbs is decidedly masculine. Any attempt to suggest or prove otherwise does serious violence to the data outlined in the whole of the book. It is therefore essential that we take this information into consideration when attempting to draw conclusions about the teachings given in this book. If we don't do this, we run the risk of missing out on what the true teachings of this book may be.

The point to this whole question comes down to this: Shouldn't we carefully consider the evidence and the data regarding such an important thing as raising our children and the proper way to train them and even to correct them? Don't we wish to communicate to them the concepts of love, unity, grace, peace, truth, non-violence and harmony? Should not our sole desire in raising our children be to come to know the fruits of the Holy Spirit of God that are universally recognized principles of goodness recognized by all faiths? These are: “Love, joy, peace, longsuffering, kindness, goodness, faithfulness, gentleness, self-control;”²⁰¹ One would think that virtually all parents would definitely answer these questions with a resounding “yes.”

²⁰⁰ Joel 3:1

²⁰¹ Galatians 5:22

5

The New Testament and the texts advocating smacking in the book of Proverbs

One of the most puzzling aspects of the whole argument concerning smacking is encountered when one looks at the data that are found in the New Testament. This collection of 27 books written by less than a dozen people features all of the teachings that make up the basis for the Christian faith.

When one looks at the New Testament, one finds numerous references to the Hebrew Bible (the Old Testament). The exact number of direct quotes and allusions from the Hebrew Bible to specific texts in the New Testament is over 200. Now among these quotes we find the book of Proverbs quoted directly 23 times in the New Testament. Because of the importance of the association between these books, let us look at each of these quotes and examine each context in which they refer to the book of Proverbs.

General Comments and Overview

To begin, there are a number of books (actually the majority of books) that do not quote the book of Proverbs directly even one time. These are Matthew, Mark, the book of Acts, I Corinthians, Galatians, Philippians, Colossians, I and II Thessalonians, I and II Timothy, Titus, Philemon, I, II and III John and Jude.

None of these books refer to any passage from the whole of the book of Proverbs. This is particularly important when you consider the contents of such books as the Pastoral Epistles of Saint Paul (First and

Second Timothy, Titus and Philemon). These volumes were directed to pastors who had congregations and Paul never once related any teaching in any part of those books to any portion of the book of Proverbs. Now, I am not suggesting that Paul did not accept the whole of the book of Proverbs as inspired Scripture (because he quoted it in other sections of his works), however when you consider the subject matter of these four books, they contain numerous teachings on social issues and many of them relate to children,²⁰² but not only does Paul not quote any of the texts relating to smacking²⁰³ he doesn't even refer to a single passage from the whole of the book of Proverbs. In First Timothy, Paul even refers to adults who were "chastened," but he doesn't use the same language when speaking about children.²⁰⁴ Paul also doesn't refer to any text from Proverbs in II Thessalonians even though he discusses subjects relating to parents and children.²⁰⁵

Probably the most important example where Paul put parents on notice concerning their behaviour towards their children is found in his letter to the Colossians. He said: "Fathers, provoke not your children, that they be not discouraged."²⁰⁶ [Could it be that Paul said this in response to the actions of some parents whose provocations against their children were leading them to discouragement?] This is the perfect point to raise the texts from Proverbs about smacking as a corollary to this thought, but this idea is nowhere to be found here or in the whole of the book of Colossians. In fact, the book of Colossians does not even quote the book of Proverbs directly one time. Finally, look at the example of the Gospels of Matthew and Mark. We find children to be a frequent topic of discussion,²⁰⁷ but in both of these books, Proverbs is not directly quoted once.

²⁰² See I Timothy 3:4; 3:12 Titus 1:6.

²⁰³ Proverbs 10:13; 13:24; 22:15; 23:13-14 and 29:15.

²⁰⁴ I Timothy 1:20.

²⁰⁵ II Thessalonians 2:7 and 2:11.

²⁰⁶ Colossians 3:21

²⁰⁷ See Matthew 18:2,3,4,5; 19:13,14; Mark 9:36, 37; 10:13,14,15.

Now, what about the books that do quote Proverbs? Let us look at the individual Scriptures and relate them to the book of Proverbs. First, let us look at the books of the New Testament, in order, which only quote Proverbs one time.

First, we have a reference in the book of Luke. This is as follows: “But when you are bidden, go and take the lowest place; that when he that hath bidden you comes, he shall say to you, Friend, go up higher: then shall you have glory in presence of all that sit at meat with you.”²⁰⁸ This text refers to a passage from Proverbs that mentions a similar thought.²⁰⁹ This point is given in a parable of Jesus.

The book of James also only refers to the book of Proverbs one time in the five chapters. Speaking about adulteresses,²¹⁰ James said: “Wherefore it saith, God resists the proud, but gives grace to the humble.”²¹¹ This text refers to a specific proverb from Proverbs 3.²¹² In both of these single examples, we find no reference to any of the Proverbs relating to smacking²¹³ nor do these texts even refer to children.

Next, we have the book of John that quotes Proverbs twice.²¹⁴ Neither of these quotes refers to any of the smacking texts or children either. The book of Romans quotes from Proverbs four times.²¹⁵ Again, none of these texts refer to smacking or children at all. The book of Second Corinthians refers to Proverbs three times.²¹⁶ Once again, none of these texts quote the Proverbs relating to smacking or children. These two epistles

²⁰⁸ Luke 14:10.

²⁰⁹ Proverbs 25:6-7.

²¹⁰ See James 4:4.

²¹¹ James 4:6.

²¹² Proverbs 3:34.

²¹³ Proverbs 10:13; 13:24; 22:15; 23:13-14 and 29:15.

²¹⁴ John 1:1 quotes Proverbs 8:30 and John 3:13 quotes 30:4

²¹⁵ Romans 2:15, 11:14, 11:17 and 12:20 refer to Proverbs 1:16, 3:7, 3:4 and 25:21 respectively.

²¹⁶ II Corinthians 3:3, 8:21 and 9:7 refer to Proverbs 3:3, 3:4 and 22:8 respectively.

written by the Apostle Peter refer to Proverbs five times.²¹⁷ Repeating the same theme, none of these verses quotes the texts relating to smacking, nor do they refer to children. One does refer to the “children” of Abraham, but this is not referring to actual young people.²¹⁸ On the contrary, Peter urged his readers to “be fervent in your love among yourselves; for love covers a multitude of sins.”²¹⁹ This would have been the perfect point to quote Proverbs 23:13-14 concerning the rod and sparing it, thus hating your son, but Peter was silent in this regard. The book of Revelation quotes Proverbs twice in the same chapter.²²⁰ While one of the texts quoted in Proverbs does refer to children,²²¹ the text in the book of Revelation only quotes part of the text from Proverbs and does not include a reference inside the context or even remotely close to anything relating to children.²²² The text does not relate to children at all. Additionally, neither of the texts quotes the smacking texts from Proverbs concerning the rod. Finally, we have a text in Ephesians that mentions Proverbs as well,²²³ but this text has nothing to do with children or the smacking texts either.

Finally, we have three texts remaining in the New Testament that do refer to children and discipline with direct reference to texts in the book of Proverbs. The first one is found in the book of Ephesians and it refers to two texts in the book of Proverbs in the same verse.²²⁴ The book of Ephesians mentions the following: “And you, the fathers, provoke not your children to anger: but be nourishing them up in the discipline and admonition of the Lord.”²²⁵ This quote refers directly to Proverbs 3:3 and 2:2. While it must be admitted that the verse in Proverbs 3:11 does have a similar word to

²¹⁷ I Peter 2:17, 3:6, 4:8, 4:18 and II Peter 2:22 refer to Proverbs 24:21, 3:25, 10:12, 11:31 and 26:11 respectively.

²¹⁸ I Peter 3:6.

²¹⁹ I Peter 4:8.

²²⁰ Revelation 3:14 and 3:19 refer to Proverbs 8:22 and 3:12.

²²¹ Proverbs 3:12.

²²² Revelations 3:17.

²²³ Ephesians 5:18 refers to Proverbs 23:31.

²²⁴ Ephesians 6:2 refers to Proverbs 2:2 and 3:11

²²⁵ Ephesians 6:2

describe “correction”²²⁶ as we find in several of the smacking texts,²²⁷ this word, correction, does not only mean correction received via the rod. This correction can be “heard,”²²⁸ and “seen”²²⁹ and “learned by incarceration.”²³⁰ In closing, had the Apostle Paul wished to refer his readers to the texts referring to smacking in this section (or any other of the contexts where he mentioned children or correction), he could have done so, but he did not.

The last two verses in the New Testament that quote the book of Proverbs are found in the twelfth chapter of the book of Hebrews.²³¹ One of these verses follows up on the first thought and does not specifically refer to disciplining children directly.²³² It is more of a comparison. The verse in question, which many Christian commentators point out does refer to physical punishment, is found in this section of the book of Hebrews. The texts says: “My son, despise not thou the chastening of the Lord, nor faint when thou art rebuked of him; For whom the Lord loveth he chasteneth, and scourgeth every son who he receiveth.”²³³

The first thing to understand about this passage is that it refers to punishment, but does it refer specifically to punishment with a rod or specifically with any other instrument? No! Does this verse in the book of Hebrews refer back to any of the texts advocating smacking in the book of Proverbs?²³⁴ No! Is the word rendered “scourging,” which does refer to

²²⁶ Hebrew: *musar*

²²⁷ See Proverbs 13:24, 22:15 & 23:13 that also use a Hebrew word “*musar*” for “correction.”

²²⁸ See Job 36:10, Proverbs 8:33, 13:1, 19:20 and Jeremiah 17:23.

²²⁹ Proverbs 1:2. We read that the book of Proverbs was given to people to know instruction. To obtain the instruction the book speaks of, one has to read its contents.

²³⁰ Proverbs 7:22 refers to receiving correction via the “stocks” and other translate this word as “chains.” Incarceration was intended by the writer of Proverbs to teach correction.

²³¹ Hebrews 12:6 and 12:13 quote from Proverbs 3:11 and 4:26.

²³² Hebrews 12:13 referring to Proverbs 4:26.

²³³ Hebrews 12:5-6

²³⁴ Proverbs 10:13; 13:24; 22:15; 23:13-14 and 29:15.

bodily punishment (and is used in that fashion in the New Testament²³⁵), ever used to describe actions taken against children? Not once.

When the New Testament mentions the word “scourging” and refers it back to the Old Testament book of Proverbs, does the word in Hebrew always mean bodily punishment or can it mean other things?²³⁶ Yes, it can mean other things. In fact, when we look specifically at the context in Proverbs 3:11, we do not find the concept of “scourging,” by means of a physical beating, in the text at all. What we do find is that the Hebrew word “*musar*” has a broad meaning and it does not only refer to physical punishment.

The important thing to understand concerning this passage is that we cannot put all of our theological eggs in one basket when considering this passage in the formulation of such an important Bible doctrine as something like smacking children. We need further confirmation of this idea in other Biblical passages in the New Testament, but, sadly, we don’t have any such information concerning this subject. We have to understand that while all “scourging” is indeed punishment, not all punishment is “scourging.” Punishment can be many things, but it isn’t always understood as being with a rod or even taking place in regard to one’s body. This is the exact teaching given in the contexts where we find the Hebrew word “*musar*”²³⁷ used and without an application of these contexts as they appear in other sections of the Bible (which helps us to define the Biblical meaning), we are not letting Scripture give us the meanings of the words that God is using.²³⁸

²³⁵ John 19:1; Luke 18:33; Mark 10:34

²³⁶ See Job 36:10, Proverbs 8:33, 13:1, 19:20 and Jeremiah 17:23; Proverbs 1:2. We read that the book of Proverbs was given to people to know instruction. To obtain the instruction the book speaks of, one has to read its contents. Proverbs 7:22 refers to receiving correction via the “stocks” and other translate this word as “chains.” Incarceration was intended by the writer of Proverbs to teach correction.

²³⁷ *ibid.*

²³⁸ See Isaiah 28:10-13

It is also quite problematic to base a teaching on one verse of Scripture.²³⁹ The concept of seeking multiple witnesses is a Biblical concept and it should be utilized in the construction of Biblical doctrines especially where such important subjects such as the raising of youth are concerned.²⁴⁰ This idea is also reinforced numerous times in the Hebrew Bible.²⁴¹ Here we are not debating how a Biblical name is pronounced or what day to attend church. Creating sound Bible doctrine in this regard is most important because the application of the doctrine will have profound effects on innocent children who cannot advocate for themselves.

So, in conclusion, what do the data show? In no instance does the New Testament quote from any of the texts that are used to demonstrate that smacking is valid for today. There is no instance in any of the New Testament's 27 books that specifically refers to a child receiving any bodily punishment. The evidence shows that the New Testament writers were quite familiar with the whole of the book of Proverbs and quoted from numerous sections of it, but wholly avoided any passage mentioning the rod. Because of these facts, anyone who seeks to advocate for the idea that smacking is a New Testament teaching is standing on shaky theological and Scriptural ground. This is the plain information we find in the Bible itself.

²³⁹ *ibid.* & II Timothy 2:15 also speaks about “**rightly dividing** the word of truth” through study and examination. This verse strongly implies that the truth can also be “wrongly divided.” Obviously, this is something we all wish to avoid. May God help us all in this regard.

²⁴⁰ Matthew 18:16 & II Corinthians 13:1.

²⁴¹ Deuteronomy 17:6 & 19:15.



6

The New Testament references to physical punishment

As pointed out in the last chapter, specific references to smacking children are non-existent in the New Testament. We do, however, find references to physical beatings of a bodily nature. Let us look at these now.

While numerous passages mention “beating,” “stripes” and similar such events, most of these passages refer to bodily chastisements that do not involve the rod. These beatings refer to people, especially to Jesus Christ, but do not involve the rod specifically.²⁴²

Paul even on one occasion used the “rod” as a symbol of judgment against the Corinthian Church.²⁴³ This is not literal and Paul meant it symbolically which has been pointed out in other sections of this book.

The apostle Paul also refers to himself administering beatings on Christians. Prior to his conversion to Christianity, Paul mentioned that: “I was imprisoning and beating in every synagogue them who were believing on thee.”²⁴⁴ This shows that beatings were common punishments given to those who had committed crimes. This included Christians who were accused of

²⁴² Christ is mentioned several times as being a recipient of beating such as Mark 15:19. Paul is also “smitten on the mouth” in Acts 23:2,3

²⁴³ I Corinthians 4:21

²⁴⁴ Acts 22:19

breaking one of the Ten Commandments for believing that Jesus was divine.²⁴⁵

There are also several occasions that refer to the Apostle Paul being beaten by rods.²⁴⁶ One situation refers to some public officials who had Paul and Silas beaten with rods. Paul then pointed out to these officials that they were Roman citizens.²⁴⁷ When he did this, the officials realized that they had made a mistake. It was permitted, according to Roman law, for the officials to have someone beaten with rods as a form of punishment for the commission of crime in which one was found guilty. It was not the illegality of being beaten with rods that Paul was against, it was the fact that it took place without he and Silas being legally “condemned” according to that law. The officials did not follow the due process of Roman law when they beat Paul and Silas without a proper trial and giving them the opportunity to defend themselves. This is shown clearly in the actions of the officials following Paul’s revelation that he and Silas were Roman citizens.²⁴⁸

The other times Paul mentions “beatings with rods” has to do with a reference in the book of II Corinthians.²⁴⁹ This text refers specifically to Paul’s interactions with the Roman legal system and the authorities administering that system.

One of the interesting things about the Apostle Paul is he did not object to certain types of physical beatings, even with rods. These beatings were allowed in the Roman²⁵⁰ and Jewish²⁵¹ legal systems of that day. This

²⁴⁵ Exodus 20:3

²⁴⁶ Acts 16:23 in addition in Acts 16:37 Paul mentions being “beaten” referring to the earlier beating mentioned in verse 23. He also mentions that “thrice was I beaten with rods” in II Corinthians 11:25.

²⁴⁷ Acts 16:37

²⁴⁸ Acts 16:38-39

²⁴⁹ II Corinthians 11:25

²⁵⁰ For the numerous references of the Roman legal system refer to “*History of the Rod in all Countries and Ages*, 2nd. Edition, 1877)

²⁵¹ See Deuteronomy 25:2,3. See also Acts 5:40 where the Apostle Peter received a beating at the hands of the Sanhedrin, or High Council in Jerusalem (see Acts 5:34, 41)

was not always the case, however. Note that when Paul was before the High Priest and the Jewish Supreme Court, he accused the High Priest of breaking the law²⁵² by having him smitten on the cheek.²⁵³ The idea of forbidding unprovoked slaps is echoed by later Rabbis. Rabbi Cohen points this out as follows: “The concept of forbidding unnecessarily severe punishment was extended by the Rabbis to include an unprovoked slap by anyone on the person of another.”²⁵⁴

The Jewish legal system and Paul also had some interactions. He refers to these events in the following: “Of the Jews, five times I received forty stripes save one.”²⁵⁵ These events have to do with Paul being found guilty of violations of Jewish law and receiving the prescribed sentence for such violations according to the Law of Moses. This Law of Moses was (and still is) the binding religious law that all Jews of that day agreed to uphold. These events, it must be understood, were not taking place outside of clear legal frameworks because the Jewish legal system of the day was quite developed and unless clear evidence was presented, one could affect the decision of the court on the basis of providing for oneself an effective defence.

A good example of this is found in Acts 23. Paul had come to Jerusalem to visit the Apostles living there. He had been found in the Temple and had been falsely accused of bringing a non-Jew into the Temple, which was strictly forbidden according to Jewish law.²⁵⁶ The Bible mentions the following: “Paul perceived that the one part were Sadducees and the other part were Pharisees, he cried out in the Sanhedrin, Men and brethren, I am a

²⁵² The law which Paul seems to be referring to here is clearly that found in the book of Exodus 21:18 which refers to one Jewish believer causing injury to another.

²⁵³ Acts 23:2,3

²⁵⁴ Rabbi Abraham Chill, *The Mitzvot: The Commandments and their Rationale*, (Keter: Jerusalem, 1974), pg.483.

²⁵⁵ II Corinthians 11:24

²⁵⁶ Acts 21:28,29 and Acts 24:6. These texts show that this was the charge brought against Paul that he attempted to bring a non-Jew into the Temple that was legally forbidden.

Pharisee, son of Pharisees; I am being judged for the hope of the resurrection of the dead. And when he had said this, a dissension arose between the Pharisees and the Sadducees; and the multitude was divided.”²⁵⁷

The important thing to remember about these “beatings” that Paul received is that these events did not take place haphazardly or without a due process taking place. Paul was an expert at Jewish Law and he used it to his advantage to avoid prosecution and that is what this text is showing. The Apostle Paul was professional lawyer of the highest calibre and he was recognized by his peers as being such.

Jesus and the act of driving out the moneychangers

Some Christians are quick to point to the example of Jesus when he went to the temple in Jerusalem at the Passover season mentioned in the Gospel of John²⁵⁸ as Jesus’ endorsement of bodily punishment. At that time, Jesus responded to the scene of rampant commercialism that had taken over the Temple area. In response to this scene, Jesus made “a scourge of cords.”²⁵⁹ This scourge of cords was not, as the context clearly shows, designed to be used on people. The Bible indicates that “he [Jesus] made a scourge of cords, and cast all out of the temple, both *the sheep and the oxen*.”²⁶⁰ He then “poured out the money of the changers, and overthrew their tables; and to the dove sellers he said; ‘Take these hence; make not the house of my Father a house of merchandise.’”²⁶¹

The strong indication we get from this story was that the scourge of cords was directed at the animals, not the people. There is little evidence here that Jesus used the scourge to hit the people. In fact, it is quite possible that according to the Law of Moses, it would have been forbidden for Jesus to do

²⁵⁷ Acts 23:6-8

²⁵⁸ John 2:13-17

²⁵⁹ John 2:15

²⁶⁰ *ibid.*

²⁶¹ John 2:16

so. This is because according to the Law of Moses, it is forbidden for one Jew to strike another outside of the legally sanctioned environment of the court of justice.²⁶² Had Jesus struck one of the people with the scourge, he could have been convicted of a crime at that time on the basis of the above-mentioned law. Those who are quick to point to this as evidence for Jesus' approval of bodily punishment may need to reconsider this position in light of the laws that governed the actions of the Jewish people at that time. People could not just go around beating other citizens. Such behaviour was illegal at that time as it is now.

Conclusion

To conclude this discussion, the data are clear. While the New Testament has numerous references to people being beaten in judicial and extra judicial circumstances, there is one thing that is absolutely clear. The events that describe beatings being administered to a circumstance took place in legally sanctioned venues such as courts.

Additionally and most importantly, while beatings are indeed discussed with a fair amount of frequency, there is not one specific reference to an incident where a parent specifically is described as administering a smacking or a beating to a child anywhere in the New Testament. On the contrary, all of the times that we do see these events described, they universally refer to interactions between and among grown adult people. To ignore this evidence in discussing this subject misses an opportunity to place the whole question of smacking into its proper context, which is outside of the culture of Christianity.

²⁶² Exodus 21:18



7

Will a smacking save your child from going to Hell?

The thought of eternal punishment is an extremely frightening idea. The idea that people will be eternally separated from God and will suffer in an ever burning hell fire has to be one of the scariest thoughts that the imagination can conjure up. One cannot think of a more frightening thing. It is safe to say that if one knew that one could guarantee one's children a place in heaven, one would be willing to do almost anything.²⁶³ This especially is the case when one thinks that one's actions could have some influence in saving their children from the fate of eternal punishment. This idea creates a huge sense of responsibility that has been placed upon the parent.

Among numerous Christian groups, a teaching has emerged that smacking your children is not only capable of saving them from an eternity in Hell, but smacking is the central means to see that this never takes place. Because of this teaching, numerous Christian teachers have whole-heartedly advocated for smacking children from the earliest of ages to save them from going to Hell.

Where did this responsibility have its origin? It is found in one Biblical verse that is the sole source for this concept. There is no doubt that on the basis, primarily, of this one verse, many thousands of Christian parents

²⁶³ This would include administering a smacking.

have lived lives of supreme pain and immense suffering over their wayward children and the thought that their children will be assigned a place in eternal torment. This is no doubt true, but how does this Biblical verse stand up to the scrutiny of an academic examination?

In this chapter we are going to look at this verse under the microscope. The microscope we will use will be a simple but thorough examination of the Bible to better understand this verse and what it means. We'll also consider the comments of some learned scholars to help us understand what this verse means. Before we begin, let us first look at the Biblical verse in question. It is found in the book of Proverbs and it directly relates the idea of smacking children with their eternal destination. It reads as follows: "Do not withhold correction from the child: for if thou beatest him with the rod, he shall not die. Thou shalt beat him with the rod, and deliver his soul from hell."²⁶⁴

Let me say from the beginning, that I believe this Scripture to be true if we interpret it correctly. This, however, is where the problem comes in and the problem really finds its origin primarily in one word in the verse. It is the use of the word "Hell." (There is a second word that relates to this first word "Hell" that influences this interpretation in this verse and we shall deal with it shortly.)

It is the use of this word "Hell" in this verse that Christian smacking advocates have taken literally and they have created the doctrine that a smacking can save your child from going to Hell. It is this precise meaning that many influential conservative Christian groups, prominent Christian psychologists and Bible teachers assign to this verse. For example, one prominent Christian teacher refers to this idea by saying: "God has ordained issues of the greatest importance to hinge upon the discipline of the rod – even involving the child's eternal salvation."²⁶⁵ Another modern pastor says the following: "The parent who spansks the child keeps him from going to

²⁶⁴ Proverbs 23:13-14 quoted from the King James Version

²⁶⁵ Larry Christenson, *The Christian Family*, pg. 112

hell. ... The parent has kept his child from hell by teaching him truths that can be learned only by discipline and the use of the rod.”²⁶⁶

Modern Bible interpreters are not alone in their understanding of this verse. We find that many influential conservative Protestant theologians since the time of the Protestant Reformation have embraced this idea.²⁶⁷ An example of this idea is referred to in the following quote: “The gentle rod of the mother is a very soft and gentle thing: it will break neither bone nor skin; yet by the blessing of God with it, and upon wise application of it, it would break the bond that bindeth up corruption in the heart ... Withhold not correction from the child, for it thou beatest him with the rod he shall not die, that shalt beat him with the rod and deliver his soul from hell.”²⁶⁸

I believe that all of these individuals quoting this passage and interpreting it in the way that they are doing it are deeply sincere Christian people. It is not their sincerity or commitment to God, however, that needs questioning here. It is the interpretation of this verse.

Does this verse really mean that by smacking your children, you will save them from the eternity of an ever-burning hell fire? It seems a sensible approach to look at this matter of such importance carefully and truly examine what the Bible means.

To begin, let us look behind the English word “hell” in Proverbs 23:13-14 to the Hebrew original. The entire book of Proverbs was written in ancient Hebrew and it is this language that is translated into English in our modern Bibles. Now what is the word that is translated “*hell*” in this verse from Proverbs? It is the Hebrew word “*sh'ol*.” It is often transliterated in English as “*sheol*,” but the “e” is not found in the Hebrew original, so I have not included it here. Now, this word is translated as “*hell*” 28 times in the

²⁶⁶ Rev. Jack Hyles, *How to Rear Children*, pgs.95-96

²⁶⁷ Numerous quotes are given in this regard in Philip Greven’s book, “*Spare the Child: ...*” and in Alice Miller’s book, “*For Your Own Good.*”

²⁶⁸ John Eliot, *The Harmony of the Gospel*, Quoted in A. Miller’s “For Your Own Good,” Intro. pg. xx

Hebrew Bible (the Old Testament).²⁶⁹ This, however, is not the most interesting thing about this word. This word, “*sh’ol*” is found 65 times in the Hebrew Bible.²⁷⁰ So we have 37 instances in the Hebrew Bible where this word “*sh’ol*” is translated by another word, not by the English word “*hell*.” This is significant. Could it be that this word “*sh’ol*” in Hebrew does not specifically refer exactly to the common concept of *hell*?

Now, one would think that when one is talking about the concept of “*hell*” in the Bible, we are dealing with a very clear and straightforward idea. Hell is a place of burning fire and it is where sinners go to burn there forever. There is no way to get out once you go there and you stay there forever. Now this is your standard definition of “*hell*.” With this in mind, now, let us look at the use of this word “*sh’ol*” in the Bible to see how this word relates to the standard definition of “*hell*.”

The use of “*sh’ol*” in the Bible

The first time we encounter the use of the word “*sh’ol*” is in the book of Genesis. The story in question concerns the response of the patriarch Jacob who was told that his son, Joseph, had been killed. Let us look at this text. The Bible says the following: “And Jacob rent his clothes, and put sackcloth on his loins, and mourned for his son many days. And all his sons and all his daughters rose up to comfort him; but he refused to be comforted; and he said, For I will go down to my son mourning into the *grave*. Thus his father wept for him.”²⁷¹

Now I said that this word “*sh’ol*” appears in this verse in the book of Genesis? It is the italicised word mentioned just near the end of the verse. It is the word “*grave*.” From this verse, we see that the patriarch Jacob believed that he, himself, would “go down to my son mourning into the *grave*.”

²⁶⁹ WEHCC, pg. 1220, under section “*sh’ohl*”

²⁷⁰ *ibid.*, Please refer to appendix 1: “The Biblical uses of the word “*sh’ol*” and the variances in English translation found in the King James Version.”

²⁷¹ Genesis 37:35

(Hebrew: *sh'ol*) Based upon what Jacob said, he clearly believed that his son Joseph was now in “the grave.” (Hebrew: *sh'ol*) This is a fact that is not disputed. Now, I think that any objective person examining this text would agree that Jacob and Joseph are not presently burning in “*hell*” on the basis of this verse? The text does not indicate this. However, it must be understood that the word here translated “*grave*” and the word translated “*hell*” in Proverbs 23:13-14 are exactly the same word in the original Hebrew language. Now how is it that the word “*grave*” and the word “*hell*” are translated by the same word from the Hebrew language? Before we answer this question let us look at some more examples of the use of this word “*sh'ol*.”

One of the most interesting texts concerning the use of this word “*sh'ol*” concerns that surrounding an incident in the life of Jonah the prophet. Most people are fairly familiar with the story of Jonah. A fish swallowed him. Now while in the belly of the fish, Jonah said the following: “Then Jonah prayed unto the LORD his God out of the fish’s belly, and said, I cried by reason of mine affliction unto the LORD, and He heard me; out of the belly of hell (Hebrew: *sh'ol*) cried I, and thou heardest my voice.”²⁷² This is the exact same word that Jacob spoke of as “the grave.” Here Jonah calls it “*hell*.” He clearly is referring to the belly of the fish as a type of “*hell*” because this location is nowhere near the traditional description of hell because Jonah returned from it after leaving the belly of the fish. He did not spend eternity there, so this usage does not refer to an eternal state.

This word “*sh'ol*” is also translated by another word in English. It is the word “*pit*.” We find this taking place in only three verses. Two times this takes place in the following quotation: “But if the LORD make a new thing, and the earth open her mouth, and swallow them up, with all that appertain unto them, and they go down quick into the pit (Hebrew: *sh'ol*); then ye shall understand that these men have provoked the LORD. And it came to pass,

²⁷² Jonah 2:1-2

as he had made an end of speaking all the these words, that the ground clave asunder that was under them: And the earth opened her mouth, and swallowed them up, and their houses, and all the men that appertained unto Korah, and all their goods. They, and all that appertained to them, went down alive into the pit (Hebrew: *sh'ol*), and the earth closed upon them: and they perished from among the congregation.”²⁷³ Now, clearly the verse shows that the people lost their lives, but this idea doesn't really seem to relate to the traditional teaching of “hell.” The text doesn't mention anything about them remaining there for eternity. It just says that the people went down “alive into the pit.” The point with this whole discussion is that the Biblical meaning of the word “*sh'ol*” is not universally an ever-burning hell fire.

To make the matter even more confusing, we not only find the word “*sh'ol*” translated as “hell,” “pit,” and “grave,” but it is also translated by two of these words in one single verse! The following quote is one of the most interesting of this group of verses that actually features this word “*sh'ol*” several times. It comes from the book of Job.

Let us look at it here: “If I wait, the grave (Hebrew: *sh'ol*) is mine house: I have made my bed in the darkness. I have said to corruption, Thou art my father: to the worm, Thou art my mother, and my sister. And where is now my hope? As for my hope, who shall see it? They shall go down to the bars of the pit (Hebrew: *sh'ol*), when our rest together is in the dust.”²⁷⁴

In this verse, we find the same word in Hebrew (*sh'ol*) translated by two different English words. They are “grave” and “pit.” If you look at the context of this verse, Job is clearly speaking about the day he will die and will go and meet his family who had already died. They would one day be in the same place “when our rest together is in the dust.”²⁷⁵ Clearly, this verse in no way points to a traditional conception of hell at all. This is the reason why the translators of the King James Version did not place the word “hell” for

²⁷³ Numbers 16:30-33

²⁷⁴ Job 17:13-16 King James Version

²⁷⁵ Job 17:16

the word “*sh’ol*” in this verse. Clearly, Job identified “*sh’ol*” with the resting place of the dead. Additionally, in one Bible version, the word translated as “corruption” in the above verses is also translated by the word “pit” as well.²⁷⁶ Now this just adds to the confusion.

The point in this whole discussion is that this word translated as “hell” clearly does not always mean an ever-burning hell fire. This is what the great Christian theologian and scholar H.A. Ironside pointed out in his commentary on the book of Proverbs. Commenting on this specific verse in question, he said: “Sheol is not exactly hell. It is the world of the spirits.”²⁷⁷ Another prominent Christian commentator on the book of Proverbs refers to this passage and specifically avoids that use of the word hell in this verse.

Note the following: “Thou shalt beat him with the rod, and shalt deliver his soul from Sheol.”²⁷⁸ Dr. Randall Heskett, Professor of Old Testament at the Toronto School of Theology in his excellent article titled: Proverbs 23:13-14 also specifically avoids translating this word “*sh’ol*” as “hell.”²⁷⁹ This is where the problem comes in saying that in Proverbs 23:13-14 the word “*sh’ol*” means an ever burning hell fire. There is no clear justification for this interpretation outside of looking at the King James Version translation and simply just saying that is what it means. The Biblical information regarding this word simply won’t support this thesis.

Now how does this information affect the meaning of the book of Proverbs? Can’t we know it really does mean “hell” because it says “and shalt deliver his soul from hell.”²⁸⁰ Because the verse speaks about the word “soul” (Hebrew: *nephesh*), doesn’t this show that this verse is speaking about the child’s eternal soul? If so then it must be talking about “hell”? The only

²⁷⁶ The Jerusalem Bible, Koren Edition, pg. 838

²⁷⁷ H.A. Ironside, *Notes of the Book of Proverbs*, pg.323, Loizeaux Brothers, Bible Truth Depot: 1907.

²⁷⁸ Tyndale Old Testament Commentary, Proverbs, pg. 51, Inter-Varsity Press, 1964.

²⁷⁹ Heskett, *Interpretation Journal*, April 2001, Pgs 183.

²⁸⁰ Proverbs 23:14

problem with this suggestion is the word in the King James Version once again translated as “soul.” In actual fact, this word does not always mean an eternal soul! In actual fact, this word, on many occasions, does not even refer to human beings! This is an absolute fact. Let us consider this information because it bears directly on this discussion.

One of the most interesting things about the usages of this word “soul” (Hebrew: *nephesh*) is that on the first usage of it in the Bible, it doesn’t even refer to a human being at all. Look at the following from the first chapter of the book of Genesis: “And God said, Let the waters bring forth abundantly the moving creature (Hebrew: *nephesh*) that hath life, and fowl that may fly above the earth in the open firmament of heaven.”²⁸¹ What we find in this verse is that the Hebrew word translated “soul” in Proverbs 23:14 is in this verse translated “creature.” The context clearly refers to animals. Note later we find that “the Lord God formed man of the dust of the ground, and breathed into his nostrils the breath of life; and man became a living soul (Hebrew: *nephesh*).”²⁸² So we have the same word referring to a human and to animals.²⁸³ This doesn’t bode well for the idea that the Hebrew word “*nephesh*” always refers to the eternal soul because there are numerous cases in the Hebrew Bible where it does not.

Not only does this same word refer to humans singularly, it refers to them collectively. Note the following: “And all the souls that came out of the loins of Jacob were seventy souls.”²⁸⁴ In this context, this word does not in any way refer to the eternal soul idea.

In summary, what we find in the King James Version, which has influenced most English versions profoundly, are 49 different words or

²⁸¹ Genesis 1:20

²⁸² Genesis 2:7

²⁸³ See also Leviticus 24:17 and 24:18. One of these verses speaks about killing a man and another speaks about killing an animal, but the same Hebrew word (*nephesh*) is used.

²⁸⁴ Exodus 1:5

phrases translated from the Hebrew word “*nephesb*.”²⁸⁵ This creates a very difficult problem for the average Bible student attempting to decipher the actual meaning of the Bible. There is no justification for this on the part of the people who translated the King James Version, but it makes sense considering a committee of 54 different men did the work. Obviously one person thought a word meant one thing and another thought it meant another, but to have 49 different words for the same word in Hebrew is problematic when it comes to developing a coherent understanding of the word from the original languages.

This fact also applies to the word “*sh’ol*” and it accounts for the reason why we find different English words relating back to a single Hebrew word. There is no need to do this, however, unless the Hebrew text by the context given gives us a compelling reason to follow this tact. In the vast majority of situations, this approach is simply unnecessary.

The modern beginning of the problem:

The King James Version

How is it that the word “*grave*” and the word “*hell*” are translated by the same word from the Hebrew language? When English Bible versions began to appear, the people who constructed these Bibles were often made up of committees who did the work of translating the Bible. The King James Version was such a production. The King James Version, which was produced in 1611, became the most influential English version for the next three hundred years. The scholars who translated the King James Version were 54 in number and sometimes they used different words in English to explain what the Hebrew words meant. Sometimes, this did not work out well. This is such a case of that phenomenon.

²⁸⁵ WEHCC, pg, 1416

What this information shows is that the interpretation that children who are not spanked are in danger of going to Hell just won't stand up to serious textual examination. While it might be pointed out that early Hebrews believed that physical punishment was suitable for certain people of a certain age after everything else had failed within the environment of the Law of Moses (as I have pointed out in other sections of this volume), the indication from the text seems strongly to point to getting the wayward person back on the straight and narrow way so that they would save their being from dying later in life due to a criminal life or bad habits. It doesn't say when or for how long. It just says to save them from the grave. Obviously, this is good advice, and early Jews believed in corporal punishment as a very last resort for those who had moved into a position of breaking law, but to say that this verse specifically refers to eternal punishment is simply reading an interpretation into the text that the Biblical evidence will not allow.



8

“Chasten thy son while there is hope, and let not thy soul spare for his crying”

In the last chapter, we discussed the subject of the use of the word “*sh’ol*” in Proverbs 23:13-14 and the problems associated with the interpretation that is applied to this verse by many religious teachers who are advocating smacking. This verse in Proverbs 23:13-14 is not the only verse relating to smacking, however, that poses some serious problems when we look at the actual meaning in the original languages. Another key verse along this same line is found in Proverbs 19:18 and is the title for this chapter. Let us look at it. It says: “Chasten thy son while there is hope, and let not thy soul spare for his crying.”²⁸⁶

On the basis of this verse cited above, numerous advocates of smacking have developed complex doctrines concerning the need for children to cry during and after being spanked. For example, one pastor in his book on child rearing points out that: “The smacking should be administered firmly. It should be painful and it should last until the child’s will is broken. It should last until the child is *crying*, not tears of anger but tears of a broken will.”²⁸⁷ Another author follows the same line of thinking: “After correction, a parent needs to allow a child to cry for a reasonably short

²⁸⁶ Proverbs 19:18 King James Version

²⁸⁷ Jack Hyles, *How to Rear Children* (Hammond, Ind.: Hyles-Anderson Publishers, 1972), pp.99-100

amount of time. Then a child should be told to stop *crying* and be brought under control.”²⁸⁸ Probably one of the most prominent religious advocates of smacking children puts the same thought this way. He says: “Real *crying* usually lasts two minutes or less, but may continue for five. After that point, the child is merely complaining, and the change can be recognized in the tone and intensity of his voice. I would require him to stop the protest crying, usually by offering him a little more of what caused the original tears.”²⁸⁹

There is one theme that is common throughout the last three quotes that I have given above. It is the word “*crying*.” These advocates of smacking, by using this word, are specifically referring to this passage in the book of Proverbs as their justification for this suggestion. There can be no doubt that this is the case. They are not alone in suggesting this idea. Thousands of pastors and Bible teachers suggest exactly the same thing on the basis of using this single verse as their Biblical authority. There is, however, a problem with this whole idea. Let us look at this verse in Proverbs 19 in greater detail. Before we do that, however, let us place the question of “crying” as it is laid out in the book of Proverbs as a whole in context.

The use of the word “*crying*” in the book of Proverbs

The book of Proverbs mentions the concept of “*crying*” on 10 different occasions. Let us look at these individually. First, we find the three usages of the Hebrew word “*rab-nan*.” These are as follows and the corresponding English word is italicised in these texts: “Wisdom *crieth* without; she uttereth her voice in the streets.”²⁹⁰ Next, note the next usage: “She²⁹¹ *crieth* at the gates...”²⁹² Finally, the last usage of this word in Proverbs: “In the

²⁸⁸ Roy Lessin, *Smacking: Why When How?* (Minneapolis: Bethany House Publishers, 1979), pg.79

²⁸⁹ Dr. James Dobson, *Dare to Discipline* (Wheaton, Ill.: Tyndale House; & Glendale, Calif.: Regal House, 1970), pg.13

²⁹⁰ Proverbs 1:20 King James Version

²⁹¹ Referring her again to the subject of “Wisdom” who is the speaker in a great part of the Proverbs 1-9.

²⁹² Proverbs 8:3 King James Version

transgression of an evil man there is a snare: but the righteous doth *sing* and rejoice.”²⁹³

What we find in these contexts (and the others featuring this word Hebrew “*rah-nan*”), is that this word is most often translated into English by the words “*sing*,” “*shout*,” “*sang*,” “*cry out*,” *rejoice*,” “*shout aloud for joy*,” “*triumph*,” and “*shouteth*.”²⁹⁴ At no time in any text, neither in Proverbs, nor any other Biblical book where this word is used, does this word ever refer to crying in the sense of tears, either of joy or pain.

Next, we find four instances where the concept of “*crying*” is again mentioned in Proverbs. This concerns the use of the Hebrew word “*hab-mah*.” Let us look at them now. First, we have the following: “She *crieth* in the chief place of concourse, in the openings of the gates.”²⁹⁵ Next, we have two texts speaking of impious women: “She is *loud* and stubborn; her feet abide not in her house.”²⁹⁶ We also have the following: “A foolish woman is *clamorous*; she is simple, and knoweth nothing.”²⁹⁷ Finally, note this text: “Wine is a mocker, strong drink is *raging*...”²⁹⁸ Now what is interesting about these four texts is that while the original word in Hebrew “*hab-mah*” is translated by four different words in English that are italicised in the texts above (*crieth*, *loud*, *clamorous* and *raging*), none of these words or texts relate to the idea of “*crying*” which brings tears.

We also have two other examples of “*crying*” found in Proverbs. They are found in the following text. “Whoso stoppeth his ears at the *cry* of the poor, he also shall *cry* himself, but shall not be heard.”²⁹⁹ The first word translated “*cry*” is in Hebrew “*z-gab-keab*.” This word does occasionally refer to crying, even of children.³⁰⁰ The second word translated “*cry*” is the Hebrew

²⁹³ Proverbs 29:6 King James Version

²⁹⁴ Wigram’s Hebrew and Chaldee Concordance, pg. 1177

²⁹⁵ Proverbs 1:21 King James Version

²⁹⁶ Proverbs 7:11 King James Version

²⁹⁷ Proverbs 9:13 King James Version

²⁹⁸ Proverbs 20:1 King James Version

²⁹⁹ Proverbs 21:13 King James Version

³⁰⁰ See Jeremiah 48:4

word “*gab-nab*.” This word is translated numerous ways in the Hebrew Bible, but never in the sense of “*crying*” with tears.³⁰¹

So we are left with one final verse that refers to “*crying*” and it is the verse that this chapter is named after. It is Proverbs 19:18. Let us look at it once again. “Chasten thy son while there is hope, and let not thy soul spare for his *crying*.” Once again, I have italicised the word “*crying*” in the King James Version and it is this verse that, as I said previously, provides the justification for smacking proponents to strongly recommend that children who are spanked be brought to the state of crying with tears.

There is only one problem with this interpretation. It doesn’t hold up to even the most simple of examinations of the meaning of the Hebrew words.

The word translated “*crying*” in Proverbs 19:18 is the Hebrew word “*mooth*.” This word is used well over 500 times in the Hebrew Bible and is translated by about 40 different cognate words that all refer and are translated by words relating, without ambiguity or exception (except for this single verse we are here discussing) to the concept of death! Only in this verse did the King James Version translators render this word by the English word “*crying*.”

This word has nothing even remotely related to crying that brings tears at all. What we have here is a very bad mistranslation.³⁰²

Modern Bible scholars recognize this fact almost universally.³⁰³ First, the Revised Standard Version, in reference to this verse says: “do not set your heart on his destruction.³⁰⁴ J. B Rotherman’s excellent translation renders it as follows: “Correct thy son, because there is hope, Yet not so as to slay him ...”³⁰⁵ Finally, in the Interlinear Bible, we have the following: “Chasten your

³⁰¹ Wigram’s Hebrew and Chaldee Concordance, pgs. 962-5

³⁰² See Wigram’s Hebrew and Chaldee Concordance, pgs. 675-681

³⁰³ Note that some scholars have suggested that this verse refers back to the verb in Hebrew “*hah-mah*” and could therefore be rendered “his anguish” or “his crying,” but this opinion is held by a small minority of scholars.

³⁰⁴ The Interpreters Bible (Nashville.: Abingdon Press), pg. 894

³⁰⁵ The Emphasized Bible (Fleming Revell, 1902), Proverbs 19:18, pg. 624

son while there is hope; and do not set your soul on making him die.”³⁰⁶ By correcting the translation, a whole different meaning to the verse arises. The feeling shifts away from harsh, legalistic judgment to one of moderation. It shows that there are actions that parents can and should take to correct behaviour of a wayward child. [within the environment of the Law of Moses as pointed out before.] However, these actions should not be taken to extremes. This is clearly implied by the meaning of this verse. This verse could be argued to be against aggressive forms of punishment.

When we look at this verse, the use of the word “hope” is most important. We get a strong indication that the latter portion of the verse points to a situation where hope is now lost. This is certainly in evidence if an uncorrected life leads one down the path of crime, which in the Mosiac system could lead to the death penalty. This seems a much more clear interpretation based upon the context and it is this idea that most Christian authorities assign to this verse. Certainly, no parent would lose hope in a child due to his crying, but one certainly would find oneself in a hopeless situation if his or her child were moving down the path towards death.

Additionally, we find that while there are over 20 Hebrew words that relate to “*crying out*,” “*crying aloud*,” “*to cry*”, etc. not one of these words is found in the whole book of Proverbs.³⁰⁷

Not only that, there are six different Hebrew words that refer to the concept of “*weeping*” which involves tears on numerous occasions. In actual fact, a careful examination of these words will show that they rarely refer to children. One example where one of them does refer to a child concerns the discovery of the baby Moses by Pharaoh’s daughter. The text says: “And when she had opened it (the box in which Moses lay), she saw the child: and, behold, a weeping boy.”³⁰⁸ More often though you find these words describing weeping having to do with people weeping over the deaths of

³⁰⁶ The Interlinear Bible (Peabody.: Hendrickson), Proverbs 19:18, pg.522

³⁰⁷ See Wigram’s Hebrew and Chaldee Concordance, pg. 1503

³⁰⁸ Exodus 2:6

loved ones, over deaths in battle, over deaths of holy men or kings and similar situations.³⁰⁹ The important thing to point out in this context, however, is that these words are conspicuous in the book of Proverbs: conspicuous for their absence!³¹⁰ These six Hebrew words translated by “weeping,” “wept” and “weep” are not found once in Proverbs.

Finally, there is only one word in the Bible that is translated and means exactly without exception “tears.” This is the Hebrew word “*dim-gah*.” This word means “tears” (as a result from crying or weeping) exactly and this word also does not appear in the whole book of Proverbs even one time.³¹¹

In summary, looking at the evidence as a whole, the concepts of “crying,” “weeping” and “tears” are not discussed within the pages of the book of Proverbs. Based on this evidence, the idea that the Biblical book of Proverbs advises parents or any other person to spank children to induce crying and bring forth tears is without any foundation or basis according to the data found in the Biblical texts.

³⁰⁹ Wigram’s Hebrew and Chaldee Concordance, pg. 1672

³¹⁰ *ibid.*, pg. 1672

³¹¹ *ibid.*, pg.346

A rod is for the back or the buttocks?

One of the most problematic teachings promoted by religious advocates of smacking children is the almost universal opinion that children, who are to be spanked, are to receive the smacking on the buttocks. The problem with this teaching comes to light with a very simple examination of the Biblical passages that are used as proof for the necessity of this practice.

A good example of this is found in the following quote from a smacking advocate. “God has given the parents the perfect area on which to administer a smacking – the child’s bottom.”³¹² Another smacking proponent points out that “God, in His wisdom, prepared a strategic place on your children’s anatomy which has enough cushiony, fatty tissue and sensitive nerve endings to respond to Spirit-led stimulation. This area is the base of the back, above the thighs, located on the backside of every child.”³¹³

It is clear from these quotes that these proponents of smacking have certain Biblical passages in mind to support these positions. The Biblical references in question are the following:

“In the lips of him that hath understanding wisdom is found: but a rod is for the back of him that is void of understanding.”³¹⁴

³¹² Roy Lessin, *Smacking: Why When How?* (Minneapolis: Bethany House Publishers, 1979), pg. 74-75

³¹³ Larry Tomczak, *God, the Rod and Your Child’s Bod*, pg. 118.

³¹⁴ Proverbs 10:13 (King James Version)

“Judgment are prepared for scorers, and stripes for the *back* of fools.”³¹⁵

“A whip for the horse, a bridle for the ass, a rod for the fool’s *back*.”³¹⁶

Note: It is interesting, in this context, that the phrase “son” or “father” is not mentioned, but rather these texts seem to address “fools” or “those lacking understanding.”

Some Christian teachers point out that the Bible indicates that the rod was to be used on the back, but then give a preference for the buttocks in the same context. A good example of this is found in the following quote: “The rod should be used on the bare back, preferably on the buttocks, especially on younger children.”³¹⁷

There is only one simple question that arises from this matter. If the Bible meant the rod should be applied to the buttocks, why does the Bible say “the back?” This is an important question that needs answering by smacking advocates because we find a perfectly clear Hebrew word in the Bible translated “buttocks” and that is exactly what the word means. Note the following texts that show the usages of this word.

The prophet Isaiah was commanded by God to do the following. “In the year that Tartan came unto Ashdod (when Sargon the King of Assyria sent him) and fought against Ashdod, and took it; at the same time spake the LORD to Isaiah the son of Amoz, saying: ‘Go and loose the sackcloth from off thy loins, and put off thy shoe from thy foot.’ And he did so walking naked and barefoot. And the LORD said, “Like my servant Isaiah hath walked naked and barefoot three years for a sign and wonder upon Egypt and upon Ethiopia, so shall the King of Assyria lead away the Egyptians

³¹⁵ Proverbs 19:29 (King James Version)

³¹⁶ Proverbs 26:3 (King James Version)

³¹⁷ J.R. Fugate, *What the Bible says about Child Training* (Garland, Texas: Alethia Publishers, 1980, pg. 143.

prisoners, and the Ethiopians captives, young and old, naked and barefoot, even with their *buttocks* uncovered, to the shame of Egypt.”³¹⁸

Some might say that this text doesn’t really mean “naked” completely, yet the Hebrew word used for the word “naked” (Hebrew: *ghab-rohm*) is the exact same word used in the book of Genesis to describe the bodily condition of Adam and Eve prior to the time they clothed themselves.³¹⁹ The patriarch Job also used this word when saying: “Naked came I out of my mother’s womb, ...”³²⁰

In this context of Isaiah 20, note the phrase “with their buttocks uncovered.”³²¹ This Hebrew word for buttocks (*shebth*) means buttocks in the sense that people today refer to the buttocks area. This is defined further in another Biblical verse. Note the following text referring to an event in King David’s time. King David sent emissaries to a neighbouring country who was previously David’s ally. These emissaries of David were not received very well. “Wherefore Hanun took David’s servants, and shaved off the one half of their beards, and cut off their garments in the middle, even to their *buttocks*, and sent them away.”³²²

The first thing to note concerns the garments these men were wearing. As Jews adhering to the law of Moses, they would have been wearing outer garments made of a single piece of woven cloth like those demanded in the Law of Moses for adherents to Judaism.³²³ These garments were made from a single piece of cloth. There was a hole in the middle of them and this is where the head of the wearer of the garment was placed. Then, the garment

³¹⁸ Isaiah 20:1-4 (King James Version)

³¹⁹ See Genesis 2:25; I Samuel 19:24; Job 1:21; 22:6; 24:7; 24:10; 26:6; Ecclesiastes 5:15; Isaiah 20:2; 20:3; 20:4; 58:7; Hosea 2:3; Amos 2:16 and Micah 1:8.

³²⁰ Job 1:21

³²¹ Isaiah 20:4

³²² II Samuel 10:4

³²³ See Numbers 15:38 and Rabbi Abraham Chill, *The Mitzvot: The Commandments and their Rationale*, Keter Books; Jerusalem, 1974, pgs. 338-341.

stretched down covering the whole body and it was uniform in length in the front and the back. Fringes (Hebrew: *tzitzit*) were placed on each corner of the garment according to the Law of Moses.³²⁴

As the text mentions, these garments were “cut off . . . in the middle, even to the buttocks.”³²⁵ If one were to cut this garment we are talking about here in the fashion mentioned in the text, the lower part of the body would be exposed leaving the upper part of the body covered. There is no doubt how David’s men felt about this event taking place. “When they told it unto David, he sent to meet them, because the men were greatly ashamed . . .”³²⁶ Note it is also clear from the text that the same also concerned them having their beards shaven.³²⁷

These texts show that the Hebrew language has a word for buttocks (*shebt*), clearly and plainly. Smacking advocates need to explain why they interpret the word “back” as “buttocks” when the Bible uses the word “back” and “buttocks” in different contexts? If the Bible means buttocks, this word is used in other contexts to mean buttocks. It is providing a seemingly personal opinion concerning this interpretation to say “back” means “buttocks.”

³²⁴ Numbers 15:38

³²⁵ II Samuel 10:4

³²⁶ *ibid.*

³²⁷ *ibid.*

The theological interpretation of a smacking

This may seem an odd title for a chapter, but it is specifically titled as such to introduce a subject that needs discussion and clarification in this context. It may also seem somewhat of a complex subject only to be discussed by religious university professors at the graduate students level. However, this is not true at all. All Christian parents desire their actions to please God. This is especially the case when it comes to matters of children and how we are to raise them, care for them and guide them into adulthood.

Now, the only reason that I can see in the Bible and in all of the commentaries and books written about this subject is the fact that smackings are given as punishment. This reason is because of wrong actions. To rehearse the evidence for this fact is not needed in this context as it has been covered amply in other areas of this work. The point is, smackings are given as punishment. They are to be used as tools for punishment. Smackings are given in response to a wrong act committed by a child and are designed to show the child that he or she made a mistake (or in theological language, committed a “sin”) and by giving the smacking, we then reinforce this idea in a way that will remind the child not to “sin” again.

Now, the key point that I wish to introduce here is this. Smackings only take place in an environment of law. What I mean by this is quite simple. When a parent spanks a child, a legal environment has been entered into. The parent assumes the role of judge, jury and punisher, while the child is the

defendant in the case. For example, John's mother told him not to go into the kitchen because the floor was wet. John went into the kitchen despite his mother's wishes and got the floor dirty with his muddy shoes. His mother found out and pronounced him "guilty." Then she "sentenced" him to a smacking as "punishment." John received the smacking as punishment and the crime had then been paid for. John was now free to do as he wished again (within his families rules). He was no longer facing or under a punishment. This chain of events represents a simple but clear legal proceeding.

We find the same chain of events taking place in a number of Biblical examples given by the Apostle Paul that refer specifically to punishments he received and his reactions to them. Let us first look at Acts 23. This section of the Bible reveals a legal proceeding, or a court case, that took place with the Apostle Paul as the defendant. He was brought before the Sanhedrin of the Jewish people. Now, this was not any simple court. It represented the Supreme Court of the Jewish nation. It had 71 members and was a very solemn assembly. Only legal scholars of the highest calibre were allowed to be on this body.

The Apostle Paul was brought before this body accused of a crime. He was accused by the Israelites at that time of bringing a non-Jewish person into the Temple at Jerusalem, which was a crime punishable by death.³²⁸ Now when the Apostle Paul was brought before this court, he was permitted according to the Law of Moses³²⁹ to defend himself. He was actually required to respond to the charges against him of bringing a non-Jew into the Temple. This is exactly what he proceed to do. He first comments that he has been a faithful citizen toward God until that day. At that point, a very interesting thing took place. Paul was smitten on the mouth by an associate of the

³²⁸ Acts 21:8. This Scripture says that the Jews of Asia accused Paul of bringing a non-Jew into the Temple that was a crime punishable by the death penalty. Such an idea is, of course, absurd considering Paul's intimate knowledge of the Law of Moses.

³²⁹ Deuteronomy 13:15

existing High Priest.³³⁰ At that point, Paul accused the man, who he did not recognize to be the High Priest, of breaking the Law of Moses³³¹ by ordering him to be smitten in that fashion. At that point, Paul is informed that he is addressing the High Priest of the Jewish nation: “And they that stood by said ‘The High Priest of God do you revile?’ And Paul said: I was not aware, brethren, that he was high priest; because it is written: ‘Of a ruler of your people shall you not speak injuriously.’”³³²

Now what does this have to do with a smacking? What we are witnessing here is someone being punished by hitting him in the mouth for a sin that a recognized authority administered in a legal environment. Note that Paul pointed out his error for speaking to the High Priest in the way that he did. In a sense he apologized not to the High Priest, but to God, whom the High Priest was the representative of. Paul did not bring up the fact that he was struck again. He went on with his very effective defence.

Note the chain of events. Paul was in the Temple undergoing a personal ritual. He is accused and then brought before a court of justice to answer the charges. He begins his defense and is found guilty of a sin and punished legally. He then accepts the punishment and moves on with his defense.

The point is this. This event took place in a legal environment. When someone is struck, they have been judged as guilty of a sin, they have been sentenced and they will be punished. Whether you are talking about talking back to your mother or to the High Priest of the nation of Israel, you are in a legal environment. The smacking represents the punishment phase of the legal proceeding.

Let us look at another example given by the Apostle Paul in this regard. When Paul was in Phillipi he was accused of introducing foreign and

³³⁰ Acts 23:3

³³¹ Specifically Leviticus 19:15 that says that it is illegal to commit unrighteousness on someone while undergoing judgment.

³³² Acts 23:5 which refers to Exodus 22:28

unlawful customs among the populace of the city.³³³ Paul and his companion Silas were brought before the city leaders and charges were levelled against them.³³⁴ This was a legal proceeding. Paul and Silas were then judged, found guilty and sentenced to a beating and to being thrown in jail. This is exactly what took place.³³⁵ Now, this again shows that the beating took place in an environment of a legal proceeding.

Finally, a closing example of this the Apostle Paul actually underwent the only legally recognized method for administering the death penalty allowed in the Law of Moses.³³⁶ He was stoned and left for dead.³³⁷ In actual fact, this stoning was a legally sanctioned form of punishment designed to kill the criminal. This stoning was legal in every way and Paul was left for dead due to it. Note that this punishment once again took place in a legal environment.

The point to this whole discussion surrounds the fact that during the time that Paul lived, he was subject to the Law of Moses which had numerous punishments, beating with rods, stoning, striking on the mouth and the like. This was the system then and was legal at the time because the Law of Moses was the legal system at that time for Jews and Israelites and anyone else who wished to embrace that faith. But is the Law of Moses valid and in force in our times today? Are we still under the Law of Moses? Are we still under any law for that matter? What about the concept of grace? How does this fit in?

³³³ Acts 16:19-23

³³⁴ Acts 16:20-22

³³⁵ Acts 16:23

³³⁶ Stoning was the pelting of stones by a mob at a person who had merited their ill will (Exodus 8:26; 17:4; II Chronicles 24:20ff; cf. Hebrews 11:37; Acts 5:26) or the infliction of the death penalty by stoning (Leviticus 20:2; Deuteronomy 13:10). The method, which an enraged crowd took of executing vengeance with the weapons lying readiest to their hand, came to be employed afterwards as a regular and legal method of inflicting the death sentence on a criminal. Stoning is the ONLY form of capital punishment recognized in the Mosaic Law (Hasting's, vol. II, pp.528,529)

³³⁷ Acts 14:19

What we who are Christians today have to recognize is that we are no longer under the Law of Moses or any other law other than the Law of Christ. What is that Law of Christ? It is the Gospel of the grace of God. It is this grace, or unmerited favour, that is, a favour from God that we don't deserve on the basis of our works, but He gives it to us through our attachment to and identification with Jesus Christ. Is it not this message that we, as Christians, wish to communicate to our children? The concept of the grace of God cannot be communicated to children accurately by administering a smacking. Smackings are given in environments of law, not grace. Let us look at an example of this in action in the life on one of the great Christian ministers of the last century.

Rev. Dwight Moody was one of the most famous of evangelists of the late 19th century. He was a Christian scholar who knew the difference between law and grace and he applied this difference in the way he raised his children. Rev. Moody grew up in a home dominated by law. "To these whippings (from his father) Mr. Moody always referred with great approval but with delightful inconsistency never adopted the same measure in the government of his own family. In his home grace was the ruling principal, not law, and the sorest punishment of a child was the sense that the father's loving heart had been grieved by waywardness or folly."³³⁸ Reverend Moody understood the simple difference between grace and law. He chose the clearly spelled out New Testament teaching that "you are severed from Christ, you who would be justified by law; you are fallen away from grace."³³⁹

The great Protestant theologian of the last century, Karl Barth, also understood grace in the same way when it came to smacking children. Barth taught the following: "Christian exhortation as such can never point in the direction of disciplinary severity.' To raise children 'in the discipline and instruction of the Lord, excludes provoking them to the anger, resistance,

³³⁸ Wm. Moody, *The Life of Dwight L. Moody* (New York: Fleming Revell: 1900, pg. 24

³³⁹ Galatians 5:4

and rebellion that emerges through the ‘assertion of Law, or the execution of judgment.’ Admonitions in the book of Proverbs not to spare the rod of correction must be transformed by the duty to know and correspond in thought and deed to grace, and in that light to summon children to repentance. A mother’s and father’s training and advice are to be a ‘joyful invitation’ to their children to rejoice with them in Jesus Christ. “To be joyful,” Barth explains, ‘is to expect that life will reveal itself as God’s gift of grace, that it will present and offer itself in provisional fulfilments of its meaning and intention as movement. To be joyful means to look out for opportunities for gratitude.’ The work of parents is limited by time and a receding social space in which other influences on children increasingly come into play. It is limited by the fact that parents cannot relieve their sons and daughters of personal responsibility. How much more vigorously must it be said that parents may nevertheless ‘give their children the opportunity to encounter the God who is present, operative and revealed in Jesus Christ, to know him and to learn to love and fear Him,’ and to that extent offer them a life that is joyful.”³⁴⁰ Additionally, let us seek after the Spirit of God because “if you are led by the Spirit, you are not under the Law.”³⁴¹

What these quotes show is the difference between grace and law and how two Christian scholars applied these teachings to the subject of smacking. We need to let the message of grace made clear in the New Testament speak to us and let it transform us into people of joy, being thankful for everything, understanding and applying the teachings of grace and not focusing our attention of law, judgment, punishment and sin.

In closing, the theological interpretation of a smacking is that it is a punishment for the violation of law. This law can be the law of the family, the law of the city, the law of school or the law of the government. The Bible

³⁴⁰ William Werpehowski, essay “*Reading Karl Barth on Children*,” M. Bunge, *The Child in Christian Thought*, Eerdmans: Grand Rapids: Michigan, 2001, pgs. 399-400.

³⁴¹ Galatians 5:18

shows, however, that “you (who are Christians) are not under the law,” any law except that of the Spirit. What is the teaching or fruit of the Spirit? Love, joy, peace, longsuffering, kindness, goodness, faithfulness, gentleness, self-control.³⁴² What part of a smacking brings forth the principle of Love? of joy? of peace!? of longsuffering? of kindness? of goodness? of faithfulness? of gentleness? or of self-control? The truth is there is no part of a smacking that brings forth any of these things. On the contrary, smacking is more acclimated to those concepts found in Galatians 5:19-21. Against these fruits of the Spirit there is no law³⁴³ and in an environment where they are taught and practiced there is no need for a smacking.

³⁴² Galatians 5:23-24

³⁴³ *ibid.*



Appendix One

Misunderstanding the harshness in Biblical teachings

One of the recurring themes found in many articles and books written by psychologists or those in the children's rights/human rights community against smacking concerns some statements that are found in the Bible which seem very harsh on the surface. The fact is, there are some statements that are in the Bible, when looked at on the surface, one would come away with a very harsh, cold and unfeeling approach to life advocated by the writers of the Bible.

I could give many examples, but in this regard, I am going to focus just on one. The example is from the book of Deuteronomy chapter 21:18-21. It concerns the so-called "stubborn and rebellious" son. The text reads: "If a man have a stubborn and rebellious son, which will not obey the voice of his father, or the voice of his mother, and that, when they have chastened him, will not hearken unto them: Then shall his father and his mother lay hold on him, and bring him out unto the elders of the city, and unto the gate of his place; And they shall say unto the elders of his city, This our son is stubborn and rebellious, he will not obey our voice; he is a glutton, and a drunkard. And all the men of his city shall stone him with stones, that he die: so shalt thou put evil away from among you; and all Israel shall hear, and fear."

This text seems so clear and easy to understand. It is the death penalty without exception. Speaking about the abovementioned text from the book of Deuteronomy, Dr. Philip Greven whose excellent work I have previously quoted in this volume, interpreted this text in the following way. “Other Old Testament texts lend additional support to the punishment and violence against children advocated in the name of King Solomon. ... Thus, the price for filial disobedience is death.”³⁴⁴ This is a common interpretation about the harshness of the legislation outlined in the book of Deuteronomy, but does it represent an accurate historical understanding of the application of the text itself?

Looking on the surface, this interpretation is exactly that related by the text itself. Moses comes across as a harsh, legalistic and brutal writer. But is this the truth? What is required of this text is some accurate interpretation. In this regard, I wish now to refer to the work of Rabbi Abraham Chill, whose excellent book has been quoted in other sections of this work. Rabbi Chill provides a thorough historical context for interpreting this text. This text cannot be interpreted without the assistance of outside authorized authorities. Rabbi Chill, who is himself a recognized authority of Jewish law, points to almost 20 different historical sources to assist him in understanding this passage.³⁴⁵ It is by referring to the intellectual giants of past scholarship that we can see the depth and breadth of opinion regarding this or any Biblical text. Rabbi Chill, a giant of Biblical scholarship, would not think for one moment of referring to this text in a historical vacuum and offer a face value estimation of its meaning.

There are two points about this text and about the death penalty in general, as it was understood in the Biblical and post-Biblical period. First, the death penalty was imposed only when the Temple in Jerusalem was in existence. “Under Jewish Law capital punishment was imposed only when

³⁴⁴ Greven, *Sparing the Rod*, pg. 49.

³⁴⁵ Chill, *The Mitzvot*, pg. 242.

the Temple was still in existence, when the offerings were still brought to the altar, and when the Sanhedrin still sat in the Chamber of Hewn Stones (in the Temple).³⁴⁶ This means that no matter what this text says, following the destruction of the Temple in AD 70 by the Romans, this text has never even once been applied to anyone.

Second, death sentences were not every day occurrences. We need not to rely on the images of colourful Hollywood films that perpetuate historical inaccuracies. We need to examine the historical documents to teach us what was indeed taking place based upon eyewitness testimony. Note the following: “the death sentence was imposed only after much investigation and deliberation on the part of the court of justice. The judges made every effort to avoid imposing capital punishment. Circumstantial evidence was not accepted in trials for a capital offence and once the defendant in the such a case had been acquitted, he could not be brought to trial again for the same offence, even if direct evidence had turned up in the meantime to prove his guilt.”³⁴⁷ It must be pointed out here that we are speaking about a Jewish cultural background. This quote refers to “judges,” the Court of Justice,” “defendants,” and a “case.” These terms must be understood as referring to courts that were in existence to adjudicate matters of law and in this case we are talking about matters of Jewish religious law. In addition, on reading this quote, some may be reminded of the concept of “double jeopardy” which is a component of our modern Western judicial systems. Jewish legal scholars have known about “double jeopardy” for over 2000 years and it was applied in ancient times.

We find other sources making even stronger cases against the death penalty. Note the following: “Should the court find that the homicide was deliberate, sentence of death was passed; but there was great reluctance to resort to capital punishment and every endeavour was made to avoid it.

³⁴⁶ Chill, *The Mitzvot*, pg. 67.

³⁴⁷ *ibid.*, pg. 67

Indeed, it was remarked: ‘A Sanhedrin³⁴⁸ which executed a person once in seven years was called destructive. Rabbi Eleazar ben Azariah said, ‘Once in seventy years. Rabbi Tarphon and Rabbi Akiba said, If we were members of a Sanhedrin, never would a person be put to death.’”³⁴⁹ So, we see that the death penalty itself had very strict rules and regulations associated with it.

The Stubborn and Rebellious Son

Next, what constituted a “stubborn and rebellious son?” There is no age mentioned in the text, so who decides? Rabbi Chill shows that “who is considered a ‘stubborn and rebellious son’? Any young man three months past bar mitzvah age...”³⁵⁰ This means that this punishment was never inflicted on anyone below the age of 13 years three months. So the concept of “son” required interpretation.

This all may sound interesting, but many may say that this is still a harsh punishment even for a child who just turned thirteen? This may be but consider this. Rabbi Chill points out that the death penalty was not the first solution to a family choosing to apply this law to their child. “The first offence reported by the parents made the boy subject to flogging; if he repeated the offence and was again brought to the court by his parents he received the death penalty – execution by stoning.”³⁵¹ So, we can see that ancient Israelites were not taking their children out and stoning them to death every time a boy ate too much or drank some wine. There was strict due process involved and those accused of these crimes had legal rights before the law. When you look at it, early Jews were quite familiar with the modern concepts of human and children’s rights. Much of what makes up our modern body of law today in this regard was known and practiced in ancient times.

³⁴⁸ Meaning the Supreme Court of the Jewish nation.

³⁴⁹ Cohen, *Everyman’s Talmud*, pg. 317.

³⁵⁰ Chill, pg. 241

³⁵¹ *ibid.*

Some might say that here we begin to see the harsh nature of this law after all. Not so fast! Rabbi Chill further adds that: “At least 23 members of the Sanhedrin had to be present when such an offender was tried. Not only that, if one of his parents was lame, blind or deaf, or if one of his parents was unwilling to have him brought to court, the offender was exempt from the death penalty. This meant, in effect, that the death penalty for a ‘stubborn and rebellious son’ was very rarely carried out.”³⁵²

An addition, regarding this point of the 23 judges, a majority was not sufficient to convict a person in a death penalty case. The judges had to have a majority with a minimum of two votes. This shows that such a case required a great deal of deliberation to judge the defendant guilty.³⁵³ We also find that the junior judges in such a case had to cast their votes first on the basis of their respective ages. The older judges voted last so their votes would not influence the opinion of the younger judges.³⁵⁴ By digging deeper into the history surrounding this text, we dispel the false notion that the ancient Hebrews were a brutal, violent, lawless society that stoned their children for the most minor of infractions. [This information should be a wake-up call to those in the human rights community whose attacks on the Bible often focus on this and similar verses for their criticisms levelled at the Holy Scriptures.]

We also find that the child himself was not the only one on trial. The great medieval Jewish scholar Maimonides placed some of the blame for “stubborn and rebellious sons” squarely on the parents. “How does a son become ‘stubborn and rebellious?’ Through the fault of the parents who are too permissive and permit him to lead a life of irresponsibility.”³⁵⁵ Parents who did not guide their children were a part of the problem and contributed to their children becoming “stubborn and rebellious.” Two giants of Jewish scholarship further echo this idea. Rabbi Moses Al Sheikh said: “He explains

³⁵² *ibid.*

³⁵³ *ibid.*, pg. 105

³⁵⁴ *ibid.*

³⁵⁵ *ibid.*

why the Torah insists that parents personally bring their ‘stubborn and rebellious son’ to the court of justice. In this manner, he says, the parents acknowledge that they are to blame for the way in which their son has turned out. No child becomes intractable from one day to the next. The process begins when the child is at a very early age when many parents, unfortunately, tend to view such behaviour as ‘just a phase.’ This is a mistaken notion, and the parents are now asked to face the fact that they failed their child when he was in the greatest need of their guidance.”³⁵⁶

Rabbi Ibn Ezra puts it a little bit stronger placing some of the blame on the parents: “He is not prepared to place the burden of responsibility entirely on the child. The son can be justifiably tried and punished for his behaviour only if the conduct of his parents themselves has been beyond reproach. If they did not provide a good example for him to emulate, they have no right to bring him to court for ‘stubborn and rebellious’ conduct.”³⁵⁷ So what we find is that not only the son is on trial, the parents as well have to demonstrate that they did the right things. If not, no death penalty will ever be inflicted.

In closing this appendix, it has been my goal to broaden the understanding of this particular verse. I hope that this discussion has brought new perspectives to this particular verse. I hope that we will all look underneath the surface of what these texts say and get some other opinions into their meanings. By doing this, we follow the Biblical suggestion to get several witnesses in establishing a Biblical fact.³⁵⁸ This is the least we can do for the next generations ahead of us.

³⁵⁶ *ibid.*, pg. 242

³⁵⁷ *ibid.*

³⁵⁸ II Corinthians 13:1; I Timothy 5:19.



Appendix Two

Punishment: Does it work? A Biblical examination

What is the reason for punishment? Is it revenge? Is it retribution? Is it justice? Is it training? Is it teaching? Why do we punish children? I think that most people would say that we punish children because we want to teach them right from wrong and that by punishing them we give them an experience of what happens in life when one does wrong. But is this idea an accurate picture of what children can expect from life? How does this idea stack up to Biblical evidence? What does the Bible say about doing right and wrong? This is an important question because it bears directly on what sort of lessons we wish to impart to our children. Let us look at the Biblical examples and see how God looks at punishment.

The first example from the Bible in regarding the effectiveness of punishment concerns Noah. Prior to the judgment by water in the time of Noah, the Bible shows that God was very unhappy with the actions of people on the earth. Noah was aware of God's displeasure. The thoughts and actions of humanity at that time were only evil continually.³⁵⁹ Now, God decided to put an end to all life forms on earth at that time.³⁶⁰ This was a serious punishment of humanity for their sins at that time. However, there was one

³⁵⁹ Genesis 6:5-6

³⁶⁰ Genesis 6:7

small family headed by Noah that found favour in God's eyes.³⁶¹ Now, after witnessing the judgment by water that took place, by seeing the rainbow in the sky and by experiencing the divine presence of God in a special way, you would think that this would make a huge difference in the actions of Noah. You would think that seeing this divine punishment take place that it would affect Noah's behaviour? One would think that Noah would now follow a new direction for the new world? However, what took place in the life of Noah just a short time after this punishment? Noah got drunk with wine and found himself uncovered in his tent.³⁶² Did witnessing the judgment of water and seeing all the destruction and death that took place change the behaviour of Noah? If so, the change was only temporary.

Let's go down to the time of the Exodus of the children of Israel from the land of Egypt. Let us rehearse the story. During the time of the Exodus, the Israelites had been living in Israel for several hundred years. They had fallen into a state of slavery under the Egyptians. Now, the Bible says that the Israelites were in a state of national crisis and they cried out to God for relief from the slavery. God heard their prayer and called Moses to help them.³⁶³

After seeing the ten miracles in Egypt and the mighty punishment that God placed on the Egyptians and being taken out of the land by the miracle of Passover, what happened? The Israelites were taken to Mount Sinai. There they witnessed some of the most amazing and extraordinary signs from God. If the ten miracles of punishment in Egypt were not enough, the people now saw the power of God and even heard God's own voice.³⁶⁴ Upon seeing these events, "all the people answered with one voice, and said, all the words which the LORD has said we will do."³⁶⁵

³⁶¹ Genesis 6:8

³⁶² Genesis 9:20-22

³⁶³ Exodus 2-6

³⁶⁴ Deuteronomy 5:4

³⁶⁵ Exodus 24:3

Sounds as if they really took the lesson of this punishment and judgment of Egypt to heart? Or did they? In actual fact, no, the people rebelled against God ten different times within the first year of leaving Egypt!³⁶⁶ God finally got so frustrated with the whole nation that he decided to make a nation out of Moses himself and punish these rebels.³⁶⁷

But wait a minute. What about Moses himself? Even he rebelled against the command of God on one occasion that caused him not to be permitted to pass across the Jordan River into the land of Israel.³⁶⁸ It is amazing to say, but these people who witnessed some of the most incredible miraculous events and divine punishments meted out were constantly referred to as a “stiff-necked people.”³⁶⁹ Maybe these are just a few isolated examples though?

Look at the time just following the Exodus period in the time of Joshua. During that period, there were numerous miracles,³⁷⁰ but did witnessing these miracles and observing the punishment of the people of the land change the hearts of the people for good? If so, it did not last long because the nation of Israel deteriorated to such a barbaric condition that that practically no one in the whole nation knew the God of Israel at all.³⁷¹

Look at the following quote from the Biblical book of Judges: “And it came to pass when the judge was dead, that they relapsed, and became more corrupt than their fathers, in following other gods to serve them, and to bow down to them; they omitted nothing of their practices, nor of their stubborn way.”³⁷²

Look at another example concerning the prophets Elijah and Elisha. Elijah the prophet pronounced several judgments that punished people, but

³⁶⁶ Numbers 14:22

³⁶⁷ Exodus 32:10

³⁶⁸ Deuteronomy 32:48-52

³⁶⁹ Exodus 32:9; 33:3; 33:5; 34:9; Deuteronomy 9:6; 9:13; 10:16; 31:27

³⁷⁰ Joshua 10:10

³⁷¹ Judges 2:10-12

³⁷² Judges 2:19

did these punishments change the behaviour of the people? He prayed that it would not rain.³⁷³ He brought fire down out of heaven three times.³⁷⁴ Did these punishments change people for the good? It doesn't seem so because Elijah himself following these events still felt he was the only person in the whole nation who worshipped the true God.³⁷⁵

What about his successor Elisha? He pronounced several judgments on people that others witnessed. He performed a number of punishments that were miraculous,³⁷⁶ however, the thirteen kings who ruled in the northern Kingdom of Israel from the time of Elijah and Elisha until the captivity of the nation by the Assyrians (almost 200 years later) were those who did "evil in the sight of the Lord."³⁷⁷ The punishments exacted by the special miraculous period of Elijah and Elisha did nothing to correct the nation from the errors of their ways. Indeed, they got worse, and were led into captivity!

What these texts point out is a pattern. The pattern is this: God tells man not to do something. Man proceeds to break God's law and commit sin, God forgives and man is restored into unity with God. It seems that no matter what God does, man ignores Him and just goes his own way.

So, what we can see is that punishment did not work. It did not bring about a change in behaviour. It did not bring repentance.

It is not only the case that man does not respond to punishment to build righteousness and character, he does not respond to blessings either. In

³⁷³ I Kings 17:1

³⁷⁴ I Kings 18:38; II Kings 1:10 and I Kings 1:12

³⁷⁵ I Kings 19:14

³⁷⁶ II Kings 2:24; 5:17; 6:18

³⁷⁷ This phrase is used seven times to describe the actions of the children of Israel in this period. This period is called the period of the "Judges." These "Judges" were sent by God to "reform" the people and bring them back into a close relationship with God. Read this book of the Judges and ask yourself if their actions helped reform the people at all? See Judges 2:11; 3:7; 3:12; 4:1; 6:1; 10:6; 13:1

this regard, let me give just two examples. The first one is from the Old Testament. It concerns King Solomon.

King Solomon was one of the most blessed figures in the Bible. He was given “wisdom and largeness of heart, like the sand that is on the seashore.”³⁷⁸ God gave Solomon peace,³⁷⁹ unimaginable wealth,³⁸⁰ abundant food,³⁸¹ prestige,³⁸² a long life,³⁸³ beautiful women of almost unimaginable numbers,³⁸⁴ miraculous confirmations of God’s presence in his life,³⁸⁵ yet after seeing the life of his father and what happened to King David as well, King Solomon still disobeyed God by marrying inappropriately and worshipping his wives god’s in a variety of ways.³⁸⁶

Now how did Solomon respond to these immense blessings? One would think that he would have been one of the most righteous, God fearing holy men who ever lived, but however, this is not the case at all. Solomon, after seeing all the blessings, wealth, happiness, bounty, peace and wisdom, “did evil in the sight of the Lord, and went not fully after the Lord, as did David his father.”³⁸⁷ God characterized Rehoboam, Solomon’s son as one that did “more evil than all that were before you.”³⁸⁸ Now this is from the Old Testament, but the New Testament gives the same teaching. Let us consider one example.

³⁷⁸ I Kings 5:9

³⁷⁹ I Kings 5:5

³⁸⁰ II Chronicles 1:15

³⁸¹ I Kings 5:2-3

³⁸² I Kings 10 which shows his interaction with numerous foreign dignitaries.

³⁸³ Ecclesiastes 12:2-5 generally attributed to Solomon gives the appraisal of growing old. Solomon is also called “old” in I Kings 11:4. Solomon was born to David and Bathsheba after David became king in Jerusalem (II Samuel 4:5). His reign in Jerusalem encompassed 33 years. If you read the account of Solomon taking power, these are not the actions of a teenager. He must have been in his twenties (I Kings 1-2:13)

³⁸⁴ I Kings 11:4

³⁸⁵ II Chronicles 7:1 records the fire of God coming down from heaven.

³⁸⁶ I Kings 11:1-14

³⁸⁷ I Kings 11:6

³⁸⁸ I Kings 13:9

The New Testament records a number of examples of people who saw the work of God in action. They saw incredible miracles performed by Jesus. They saw him forgiving people for their actions and saw people supposedly changing their lives. But what did they themselves do? Look at the actions of Saint Peter. Here is someone who lived with Christ over a period of several years. He even promised on one occasion to Jesus: “Lord, with you I am ready to both to prison and to death.”³⁸⁹ Jesus then told him: “I tell you, Peter, the rooster shall not crow today, until you have three times denied knowing me.”³⁹⁰ Then what happened? Read Luke 22:55-63 for the answer.

It is absolutely amazing that after seeing all of the incredible healings and watching Christ work miracles and that Peter and bestowing blessing after blessing on others that Peter was so quick to deny Christ.

There is a point in all of these examples. The point is this. Not only do punishments not work to bring about righteous behaviour, but also blessings and miracles do not bring about righteous behaviour either. This is an especially important lesson for parents to learn when it comes to children. Now, the real question that really begs asking is if adults who saw and experienced God in a direct way were sinful and required forgiveness, what about children who do not have any real experience and are relying on us for guidance, how are we to treat them?

Engendering Righteousness: The Biblical Standard

I want to point out one example from the Bible that parents can translate well to child rearing. It has to do with learning by example. It concerns the example set by the greatest prophet in the whole Bible, John the Baptist.³⁹¹ He began his ministry in the wilderness of Judea about 25 miles east of Jerusalem. This region is one of the hottest and most inhospitable on earth,

³⁸⁹ Luke 22:33

³⁹⁰ Luke 22:34

³⁹¹ Luke 7:28

especially in the summer, yet this is where John the Baptist was teaching. He also did not live a life of luxury. He practiced what he preached and people knew it.

If you read all the accounts of his brief ministry, you find him urging people to change their lives, seek God and do righteousness. He also wore a very uncomfortable garment and survived on a diet that most modern people would be hard pressed to even try on a bet.³⁹² But look at the results he attained. The people from all over the region came to him to acknowledge that their lives were not right with God and that they wanted to change. John was out in the wilderness teaching people on numerous different subjects and speaking with individuals and counselling them.

His teaching was extremely effective and when people saw him and his lifestyle, he had an authority that people respected. People recognized that here was someone who they could trust.

He had no agenda other than that of the Lord's. And what happened to him? He was killed for his beliefs. He could have recanted what he said in prison in public and been released from jail, but he believed what he had said and he was willing to bear the consequences. When the chance to deny his beliefs came, he was steadfast and suffered death because of it. Note also what John gave up. There is no mention of him having a wife and children. His life was totally devoted to the service of the Lord as his father was an ordained priest of the line of Aaron. He had a very special mission to call people to change their lives.

Now, how does this compare to raising your children? The point is, children learn by following examples, not by punishment. They also learn the same way we all do. This is by changing our own attitudes and hearts. The best lessons come by admitting we were wrong and changing our ways.

Look at the example of John the Baptist. The people round about the region that came to him learned from his example. They trusted him.

³⁹² See Luke 3, Matthew 2 and Mark 1

They believed him. They wanted to change their ways because they saw him doing the exact things he was telling them to do. They saw him suffering for his beliefs. This is the same example we can give to our children. If don't want them to lie, we should never lie and we should highlight to them how we don't lie. If we don't want them to steal, we should never steal. If you are looking for the same results that John the Baptist got, try some of his techniques. You'll find them extremely effective because they come from a divine source.

The anomalies and unfairness of life

One other aspect of Bible teaching that impacts the smacking argument concerns the contradictory lessons that smacking teaches compared to the fact that life is patently unfair. An illustration of this is helpful. Most Christians spank their children as punishment for sin they commit to train them to be better people. But does this formula always work? Not according to King Solomon, the writer of Ecclesiastes.

Life is not formula based. Something happen that can't be explained and by not preparing children for these anomalies, we do them a disservice. Job is an excellent example of this. He was a righteous man who did everything he was supposed to do, but still problems and tragedies befell him. We have to find ways to communicate these facts of life to our children to prepare them for the patent unfairness in life. Smackings don't address these facts that are outside of a formula driven existence.

In closing, I wish to refer to a quote from Dr. Randall Heskett of the Toronto School of Theology. Dr. Heskett said: "Punishment must never be equated with discipline. True discipline teaches children how to live lives that are rich and full. Training and instruction should be our aim, not punishment."³⁹³ This training and instruction should include teaching directed

³⁹³ Dr. Randall Heskett in *Interpretation Journal* April 2001 article: "Proverbs 23:13-14," pgs. 183

to children that life has elements which can seem unfair and are not mechanically understood.



Appendix Three

The Biblical uses of the word “Sh’ol” and the variances in English translation found in the King James Version

It is important to provide this data to augment the argument laid out in the chapter titled: “Will a smacking save your child from going to Hell?” I provide this information to document the variations on translations offered for this single word in the Hebrew language which has led to untold confusion in applying the teaching in Proverbs 23:13-14. This data is taken from the invaluable and timeless work produced under the leadership of Mr. George Wigram titled: “The Englishman’s Hebrew and Chaldee Concordance of the Old Testament.” The following is taken from page 1220. The word in the various texts below that appears in *italics* is the English word that is translated from the Hebrew original “*sh’ol*.”

Genesis 37:35 I will go down into the *grave*.

Genesis 42:38 my gray hairs with sorrow to the *grave*.

Genesis 44:29 my gray hairs with sorrow to the *grave*.

Genesis 44:31 gray hairs of thy servant...to the *grave*.

Numbers 16:30 they go down quick into the *pit*;

Numbers 16:33 went down alive into the *pit*,

Deuteronomy 32:22 shall burn unto the lowest *bell*,

I Samuel 2:6 he bringeth down to the *grave*,

II Samuel 22:6 The sorrows of *hell* compassed me about;
I Kings 2:6 his hoar head go down to the *grave* in peace.
I Kings 2:9 hoar head bring thou down to the *grave*
Job 7:9 he that goeth down to the *grave*
Job 11:8 deeper than *hell*; what canst thou know?
Job 14:13 wouldest hide me in the *grave*,
Job 17:13 the *grave* is mine house:
Job 17:16 They shall go down to the bars of the *pit*,
Job 21:13 in a moment go down to the *grave*.
Job 24:19 (so doth) the *grave* those which have
Job 26:9 *Hell* (is) naked before him,
Psalm 6:5 in the *grave* who shall give thee
Psalm 9:17 The wicked shall be turned into *hell*
Psalm 16:10 thou wilt not leave my soul in *hell*;
Psalm 18:5 The sorrows of *hell* compassed me
Psalm 30:3 brought up my soul from the *grave*:
Psalm 31:17 let them be silent in the *grave*.
Psalm 49:14 sheep they are laid in the *grave*;
Psalm 49:14 their beauty shall consume in the *grave*
Psalm 49:15 my soul from the power of the *grave*:
Psalm 55:15 let them go down quick into *hell*:
Psalm 86:13 delivered my soul from the lowest *hell*.
Psalm 116:3 the pains of *hell* gat hold of me:
Psalm 139:8 if I make my bed in *hell*,
Psalm 141:7 bones are scattered at the *grave*'s mouth,
Proverbs 1:12 swallow them up alive as the *grave*;
Proverbs 5:5 her steps take hold on *hell*.
Proverbs 7:27 Her house (is) the way to *hell*,
Proverbs 9:18 her guests are in the depths of *hell*.
Proverbs 15:11 *Hell* and destruction (are) before the
Proverbs 15:24 depart from *hell* beneath.

Proverbs 23:14 deliver his soul from *hell*.
 Proverbs 27:20 *Hell* and destruction are never full;
 Proverbs 30:16 The *grave*; and the barren womb;
 Ecclesiastes 9:10 no work, nor device, ... in the *grave*,
 Song of Songs 8:6 jealousy (is) cruel as the *grave*:
 Isaiah 5:14 *hell* hath enlarged herself,
 Isaiah 14:9 *Hell* (marg. or, the *grave*) from beneath is moved for thee
 Isaiah 14:11 Thy pomp is brought down to the *grave*,
 Isaiah 14:15 thou shalt be brought down to *hell*,
 Isaiah 28:15 with *hell* are we at agreement;
 Isaiah 28:18 your agreement with *hell* shall not stand;
 Isaiah 38:10 I shall go to the gates of the *grave*:
 Isaiah 38:18 the *grave* cannot praise thee.
 Isaiah 57:9 didst debase (thyself even) unto *hell*.
 Ezekiel 31:15 he went down to the *grave*
 Ezekiel 31:16 I cast him down to *hell*
 Ezekiel 31:17 They also went down into *hell*
 Ezekiel 32:21 speak to him out of the midst of *hell*
 Ezekiel 32:27 gone down to *hell* with their weapons
 Hosea 13:14 ransom them from the power of the *grave*;
 Hosea 13:14 O *grave*, I will be thy destruction:
 Amos 9:2 Though they dig into *hell*,
 Jonah 2:2 out of the belly of *hell* (marg. or, the *grave*),
 Habakkuk 2:5 enlargeth his desire as *hell*,

It must be pointed out that there is no other word in the Hebrew Bible translated as “hell.” Because of this, one has to ask why it was deemed necessary by the translators of the King James Version to translate this word “hell” in one place and the “grave” or “pit” in another? If you look at the texts, which feature the word “hell”, it is clear that in some cases the translators themselves put the word “grave” as a marginal reference.

See Jonah 2:2 and Isaiah 14:9. The reason for this was that Jonah was obviously not in “hell” when he cried from the belly of the fish. Jonah’s poetical reference here to a type of “hell” cannot be the basis for a serious doctrinal discussion

The point of this data is to show that before making pronouncements about what the Bible says about a particular subject, one should be sure that the texts from which they are speaking are clear and actually say what a person is saying they say and mean what a person says they mean. If we don’t do this, we run the risk of placing ourselves in the unenviable position of having to admit that we have made a serious error. Such errors are clearly having a negative impact on the lives of young children by well-intentioned religious parents, especially those who are advocating smacking children to address issues concerning the ultimate spiritual salvation which, on the surface, seems to be the teaching in Proverbs 23:13,14.



Appendix Four

The Biblical uses of the word “Shehvet” and the variances in English translation found in the King James Version

These data are provided concerning the use of the Biblical word from the Hebrew Language that is translated as “rod.” These data once again are taken from the invaluable and timeless work produced under the leadership of Mr. George Wigram titled: “The Englishman’s Hebrew and Chaldee Concordance of the Old Testament.” The following is taken from page 1225-6. The word in the various texts below that appears in *italics* is the English word that is translated from the Hebrew original “*Shehvet*.” This word appears 181 times in the Hebrew Bible and they are listed below for any interested Bible students.

Genesis 49:10 The *sceptre* shall not depart

Genesis 49:16 as one of the *tribes* of Israel

Genesis 49:28 these are the twelve *tribes* of Israel

Exodus 21:20 if a man smite his servant ... with a *rod*

Exodus 24:4 according to the twelve *tribes* of Israel

Exodus 28:21 they be according to the twelve *tribes*.

Exodus 39:14 his name, according to the twelve *tribes*

Leviticus 27:32 whatsoever passes under the *rod*

Numbers 4:18 the *tribe* of the families of

Numbers 18:2 the *tribe* of thy father,
Numbers 24:2 abiding... according to their *tribes*;
Numbers 24:17 a *Sceptre* shall rise out of Israel,
Numbers 32:33 and unto half the *tribe* of Manasseh
Numbers 36:3 *tribes* of the children of Israel,
Deuteronomy 1:13 and known among your *tribes*,
Deuteronomy 1:15 I took the chief of your *tribes*,
Deuteronomy 1:15 officers among your *tribes*.
Deuteronomy 1:23 twelve men of you, one of a *tribe*:
Deuteronomy 3:13 I unto the half *tribe* of Manasseh;
Deuteronomy 5:23 all the heads of your *tribes*,
Deuteronomy 10:8 the Lord separated the *tribe* of Levi,
Deuteronomy 12:5 choose out of all your *tribes*,
Deuteronomy 12:14 choose in one of thy *tribes*
Deuteronomy 16:18 giveth thee, throughout thy *tribe*
Deuteronomy 18:1 (and) all the *tribe* of Levi, shall have
Deuteronomy 18:5 chosen him out of all thy *tribes*
Deuteronomy 29:8 and to the half *tribe* of Manasseh.
Deuteronomy 29:10 your captains of your *tribes*,
Deuteronomy 29:18 man, or woman, or family or *tribe*,
Deuteronomy 29:21 him unto evil out of all the *tribes* of
Deuteronomy 31:28 all the elders of your *tribes*
Deuteronomy 33:5 the *tribes* of Israel were gathered.
Joshua 1:12 and to half of the *tribe* of Manasseh , spake
Joshua 3:12 twelve men out of the *tribes* of Israel, out of every *tribe* a man
Joshua 4:2 out of every *tribe* a man,
Joshua 4:4 out of every *tribe* a man,
Joshua 4:5 the number of the *tribes* of the children
Joshua 4:8 the number of the *tribes* of the children
Joshua 4:12 and half the *tribe* of Manasseh, passed

Joshua 7:14 according to your *tribes*; and it shall be (that) the *tribe* which the Lord taketh

Joshua 7:16 *tribes*; and the *tribe* of Judah was taken:

Joshua 11:23 according to their divisions by their *tribes*.

Joshua 12:6 and the half *tribe* of Manasseh.

Joshua 12:7 which Joshua gave unto the *tribes* of

Joshua 13:7 nine *tribes*, and the half tribe of Manasseh,

Joshua 13:14 unto the *tribe* of Levi he gave none

Joshua 13:29 (inheritance) unto the half *tribe* of

Joshua 13:33 But unto the *tribe* of Levi Moses gave not

Joshua 18:2 among the children of Israel seven *tribes*,

Joshua 18:4 three men for (each) *tribe*:

Joshua 18:7 and half the *tribe* of Manasseh,

Joshua 21:16 nine cities out of those two *tribes*,

Joshua 22:7 the (one) half of the *tribe* of Manasseh

Joshua 22:9 the half *tribe* of Manasseh

Joshua 22:10 the half *tribe* of Manasseh

Joshua 22:11 the half *tribe* of Manasseh

Joshua 22:13 and to the half *tribe* of Manasseh

Joshua 22:15 and to the half *tribe* of Manasseh

Joshua 22:21 the half *tribe* of Manasseh

Joshua 23:4 an inheritance for your *tribes*,

Joshua 24:1 Joshua gathered all the *tribes* of Israel

Judges 5:14 they that handle the *pen* of the writer.

Judges 18:1 the *tribe* of the Danites

Judges 18:1 fallen unto them among the *tribes* of Israel.

Judges 18:19 a priest unto a *tribe*

Judges 18:30 he and his sons were priests of the *tribe* of

Judges 20:2 (even) of all the *tribes* of Israel,

Judges 20:10 throughout all the *tribes* of Israel,

Judges 20:12 *tribes* of Israel, sent men ... all the *tribes*.

Judges 21:3 one *tribe* lacking in Israel

Judges 21:5 Who (is there) among all the *tribes* of

Judges 21:6 There is one *tribe* cut off

Judges 21:8 What one (is there) of the *tribes* of Israel

Judges 21:15 had made a breach in the *tribes* of Israel.

Judges 21:17 that a *tribe* be not destroyed

Judges 21:24 every man to his *tribe*

I Samuel 2:28 I choose him out of all the *tribes* of Israel

I Samuel 9:21 of the *tribes* of Israel? And my family the least of all the families of the *tribe* of Benjamin

I Samuel 10:19 by your *tribes*, and by your thousands.

I Samuel 10:20 *tribes* of Israel to come near, the *tribe*

I Samuel 10:21 he had caused the *tribe* of Benjamin

I Samuel 15:17 (made) the head of the *tribes* of Israel,

II Samuel 5:1 Then came all the *tribes* of Israel

II Samuel 7:7 of the *tribes* (margin : judges) of Israel,

II Samuel 7:14 I will chasten him with the *rod* of men,

II Samuel 15:2 servant (is) of one of the *tribes* of Israel,

II Samuel 15:10 spies throughout all the *tribes* of Israel,

II Samuel 18:14 he took three *darts* in his hand,

II Samuel 19:9 strife throughout all the *tribes* of Israel,

II Samuel 20:14 he went through all the *tribes* of Israel.

II Samuel 23:21 no city out of all the *tribes* of Israel

II Samuel 24:2 Go now through all the *tribes* of Israel

I Kings 8:16 chose no city out of all the *tribes* of Israel

I Kings 11:13 will give one *tribe* to thy son:

I Kings 11:31 and will give ten *tribes* to thee:

I Kings 11:32 But he shall have one *tribe*

I Kings 11:32 chosen out of all the *tribes* of Israel:

I Kings 11:35 will give it unto thee, (even) ten *tribes*.

I Kings 11:36 unto his son will I give one *tribe*,

I Kings 12:20 but the *tribe* of Judah only.
 I Kings 12:21 house of Judah, with the *tribe* of Benjamin
 I Kings 14:21 did choose out of all the *tribes* of Israel
 I Kings 18:31 the *tribes* of the sons of Jacob,
 II Kings 17:18 there was none left but the *tribe* of Judah
 II Kings 21:7 I have chosen out of all the *tribes* of Israel
 I Chronicles 5:18 and half the *tribe* of Manasseh
 I Chronicles 5:23 children of the half *tribe* of Manasseh
 I Chronicles 5:26 and the half *tribe* of Manasseh
 I Chronicles 11:23 went down to him with a *staff*
 I Chronicles 12:37 and of the half *tribe* of Manasseh
 I Chronicles 23:14 sons were named of the *tribe* of Levi
 I Chronicles 26:32 and the half *tribe* of Manasseh
 I Chronicles 27:16 Furthermore over the *tribes* of Israel
 I Chronicles 27:20 of the half *tribe* of Manasseh, Joel
 I Chronicles 27:22 the princes of the *tribes* of Israel.
 I Chronicles 28:1 the princes of the *tribes*,
 I Chronicles 29:6 and princes of the *tribes* of Israel.
 II Chronicles 6:5 no city among all the *tribes* of Israel
 II Chronicles 11:16 out of all the *tribes* of Israel such
 II Chronicles 12:13 chosen out of all the *tribes* of Israel,
 II Chronicles 33:7 chosen before all the *tribes* of Israel,
 Job 9:34 Let him take his *rod* away
 Job 21:9 neither (is) the *rod* of God upon them.
 Job 37:13 for *correction* (marg. a *rod*), or for his land,
 Psalm 2:9 Thou shalt break them with a *rod* of iron;
 Psalm 23:4 thy *rod* and thy staff they comfort me:
 Psalm 45:6 *sceptre* of thy kingdom (is) a right *sceptre*.
 Psalm 74:2 the *rod* (marg. or, *tribe*) of thine
 Psalm 78:55 made the *tribes* of Israel to dwell
 Psalm 78:67 and chose not the *tribe* of Ephraim:

Psalm 78:68 But chose the *tribe* of Judah,
 Psalm 89:32 will I visit their transgressions with the *rod*,
 Psalm 105:37 not one feeble (person) among their *tribes*,
 Psalm 122:4 Whither the *tribes* go up, the *tribes* of the
 Psalm 125:3 the *rod* of the wicked shall not rest
 Proverbs 10:13 but a *rod* (is) for the back of him that
 Proverbs 13:24 He that spareth his *rod* hateth his son:
 Proverbs 22:8 and the *rod* of his anger shall fail.
 Proverbs 23:13 beatest him with the *rod*,
 Proverbs 23:14 Thou shalt beat him with the *rod*,
 Proverbs 26:3 and a *rod* for the fool's back.
 Proverbs 29:15 The *rod* and reproof give wisdom:
 Isaiah 9:4 the *rod* of his oppressor, as in the day
 Isaiah 10:5 O Assyrian, the *rod* of mine anger,
 Isaiah 10:15 as if the *rod* should shake (itself)
 Isaiah 10:24 he shall smite thee with a *rod*,
 Isaiah 11:4 he shall smite the earth with a *rod* of
 Isaiah 14:5 the *sceptre* of the rulers.
 Isaiah 14:29 the *rod* of him that smote thee
 Isaiah 19:13 the stay of the *tribes*
 Isaiah 28:27 the cumin with a *rod*,
 Isaiah 30:31 the Assyrian...(which) smote with a *rod*.
 Isaiah 49:6 to raise up the *tribes* of Jacob,
 Isaiah 63:17 the *tribes* of thine inheritance:
 Jeremiah 10:16 Israel (is) the *rod* of his inheritance:
 Jeremiah 51:19 and (Israel is) the *rod* of his inheritance:
 Lamentations 3:1 seen affliction by the *rod* of his wrath.
 Ezekiel 19:11 the *sceptres* of them that bare rule,
 Ezekiel 19:14 no strong *rod* (to be) a *sceptre* to rule.
 Ezekiel 20:37 I will cause you to pass under the *rod*,
 Ezekiel 21:10 the *rod* of my son,

Ezekiel 21:13 if (the sword) condemn even the *rod*?
Ezekiel 37:19 and the *tribes* of Israel his fellows,
Ezekiel 45:8 of Israel according to their *tribes*.
Ezekiel 47:13 according to the twelve *tribes* of Israel:
Ezekiel 47:21 unto you according to the *tribes* of Israel.
Ezekiel 47:22 among the *tribes* of Israel.
Ezekiel 47:23 in what *tribe* the stranger sojourneth,
Ezekiel 48:1 the names of the *tribes*.
Ezekiel 48:19 serve it out of all the *tribes* of Israel.
Ezekiel 48:23 the rest of the *tribes*,
Ezekiel 48:29 divide by lot unto the *tribes* of Israel
Ezekiel 48:31 after the names of the *tribes* of Israel:
Hosea 5:9 among the *tribes* of Israel have I made
Amos 1:5 him that holdeth the *sceptre*
Amos 1:8 him that holdeth the *sceptre*
Micah 5:1 they shall smite the judge of Israel with a *rod*
Micah 7:14 Feed thy people with thy *rod*,
Zechariah 9:1 as of all the *tribes* of Israel,
Zechariah 10:11 and the *sceptre* of Egypt shall depart



Appendix Five

The order of the Hebrew Bible books versus the order found in Protestant Bible versions

As mentioned in chapter four, the order of the books of the Hebrew Bible is different than that of the modern Protestant Bible versions. Let us be clear and exact when we understand without any ambiguity, that only the order is different. We are not talking about different or fewer or more books, we are only speaking about the arrangement of the books and how they were organized in ancient times (the order of which has been preserved today in Hebrew Bible versions).

This information is referred to exactly by Jesus in Luke 24:44,45 when he mentioned the reference to “the Law, the Prophets and the Psalms.” Let us look at this order. It is most instructive because it represents the divinely inspired order transmitted from antiquity.

The Law

| <u>Protestant Bible Version Order</u> | <u>Hebrew Bible Order</u> |
|---------------------------------------|---------------------------|
| Genesis | Genesis |
| Exodus | Exodus |
| Leviticus | Leviticus |
| Numbers | Numbers |
| Deuteronomy | Deuteronomy |

The Prophets

| <u>Protestant Bible Version Order</u> | <u>Hebrew Bible Order</u> |
|---------------------------------------|------------------------------|
| Joshua | Joshua/Judges |
| Judges | I & II Samuel & I & II Kings |
| I Samuel | Isaiah |
| II Samuel | Jeremiah |
| I Kings | Ezekiel |
| II Kings | The Twelve Minor Prophets |
| I Chronicles | (From Hosea to Malachi as in |
| II Chronicles | Protestant Bible Versions) |
| Ezra | |
| Nehemiah | |
| Esther | |
| Job | |
| Psalms | |
| Proverbs | |
| Ecclesiastes | |
| Song of Songs | |


Note: In the original Hebrew versions of the Bible, the books Joshua and Judges were originally reckoned as only one book as were the books I & II Samuel and I & II Kings. The same is the case for twelve Minor prophets from Hosea to Malachi.

The Psalms - (or Holy Writings as they are also called)

| <u>Protestant Bible Version Order</u> | <u>Hebrew Bible Order</u> |
|---------------------------------------|---------------------------|
| Isaiah | Psalms |
| Jeremiah | Proverbs |
| Lamentations | Job |
| Ezekiel | Song of Songs |
| Daniel | Ruth |
| Hosea | Lamentations |
| Joel | Ecclesiastes |
| Amos | Esther |
| Obadiah | Daniel |
| Jonah | Ezra/Nehemiah |
| Micah | I & II Chronicles |
| Nahum | |
| Habakkuk | |
| Zephaniah | |
| Haggai | |
| Zechariah | |
| Malachi | |

Note: In the original Hebrew versions of the Bible, the books of Ezra and Nehemiah were originally reckoned as only one book as were I & II Chronicles.

In the original order of the books and the proper divisions spoken of by Christ in Luke 24:24,45 and maintained by Hebrew versions today, the information provided in chapter four comes through when one takes into consideration the inspired order of the Hebrew Bible. This interpretation cannot make sense utilizing the Protestant Bible versions and the chronological order adopted over the last 1,600 years.



Appendix Six

St. Augustine on corporal punishment

St. Augustine (354-430) was born in North Africa of a Christian mother and he is recognized as one of the great scholars of the Christian faith. He has some very interesting comments to make concerning early childhood, including expressing his view on corporal punishment.

According to Professor Martha Ellen Stortz, Augustine was a highly sensitive and careful student of children in all phases of life. Augustine's classification of the stages of life is similar to that outlined by Edersheim referenced earlier in this book.³⁹⁴ He saw six phases of human life of which infancy was the first. Infancy was from birth to the time where language was acquired. "Augustine watched infants closely and attempted to put into words this world without language."³⁹⁵

"Augustine described tenderly the smiles of sleep and the comfort of nursing, but juxtaposed these occasions of serenity with a newborn's jealous rage when, even after it had been fed, it saw another infant at a nurse's breast."³⁹⁶

While children in this age of life can exhibit temper tantrums and extreme acts which many modern Christian smacking advocates have urged parents to repress with corporal punishment, Augustine gave no such advice.

³⁹⁴ See pages 15-32

³⁹⁵ Stortz, *The Child in Christian Thought*, art. "Where or When Was Your Servant Innocent?", pg. 83

³⁹⁶ Stortz, *The Child in Christian Thought*, art. "Where or When Was Your Servant Innocent?", pg. 84

On the contrary, he “judged the tantrum that followed unworthy of punishment: without language the infant could not understand the rebuke.”³⁹⁷ To Augustine, “Language introduced the difference between obedience and disobedience, for which a child was accountable.”³⁹⁸

Stortz then goes on to show Augustine’s attitude toward corporal punishment that “despite this increasing accountability, Augustine could not condone the many beatings he had received as a child. He archly observed that both adults and children played games, yet children were the ones who got punished for playing them! That basic inequity between children and adults marked his childhood: ‘The schoolmaster who caned me was behaving no better than I was.’ Though childhood was full of reprehensible actions, Augustine did not favour punishing children as severely as adults. Hopefully with maturity ‘reason begins to take hold,’ and rationale behind the rules becomes clearer, making willing obedience a possibility.”³⁹⁹

It is important to note, Augustine does not appeal to the book of Proverbs and the texts advocating smacking children. His line of thinking is remarkably similar to that advocated by early Jewish scholars showing that young children should never be smacked because “young children simply couldn’t understand intellectually why they are being punished and what punishment is meant to do for them.”⁴⁰⁰

³⁹⁷ *ibid.*, Stortz here quotes Colin Starnes, *Augustine’s Conversion: A Guide to the Argument of Confessions I-IX* (Waterloo, Ont.: Wilfrid Laurier Univ. Press 1990), p. 10

³⁹⁸ *ibid.*

³⁹⁹ *ibid.*

⁴⁰⁰ See page 44 of this volume



About the Author

Samuel Martin was born in England and is the youngest child of Dr. Ernest L. and Helen R. Martin, who are both Americans. He lived in the UK for the first seven years of his life before moving to the USA with his family. He lived in the USA until 2001 when he married a native Israeli and relocated to live in Jerusalem.

He and his wife, Sonia, have two daughters.

His experience with biblical scholarship began at an early age. His father lead a program in conjunction with Hebrew University and the late Professor Benjamin Mazar, where over a five year period, some 450 college students came to work on an archaeological excavation in Jerusalem starting in 1969.

Since that first trip, Samuel has visited Israel on 14 different occasions living more than 19 years of his life in the country. He has toured all areas of Israel as well as worked in several archaeological excavations.

He writes regularly on biblical subjects with a particular interest in children, families, nature, science, the Bible, and gender in the Biblical context.

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REVIEWS

"I've had a chance to read through your manuscript and I find it very interesting! I think you've made an important contribution, especially to contextualizing biblical ideas about childrearing. I hope you will find a publisher for this book. I'm sure many others would benefit from learning of your research."

Dr. Dawn Devries

Professor of Systematic Theology

Union Theological Seminary

Contributor to the book, *"The Child in Christian Thought"* (Eerdmans: 2000)

"Thank you very much for your manuscript ... I found some of your passages very, very interesting,... It would be of great interest to parents..."

Fr. Lawrence Boadt

CSP, Publisher, Paulist Press

"Many thanks for sending me a copy of your book. Since I, like so many, cannot read Hebrew, I found your analysis of language fascinating and persuasive. Your exploration of these complex issues is thorough and convincing."

Dr. Philip Greven,

Professor Emeritus, Rutgers University,

Author of *"Spare the Child: The Religious Roots of Punishment and the Psychological Impact of Physical Abuse"* (Random House, 1992)

"This is not an easy read, but it is one any Christian who desires to be true to the Bible in the first instance should take time to read....In my view this study is a definitive reading of the biblical texts for Christians and non-Christians alike."

Rev. Alistair McBride,

Scots Presbyterian Church, Hamilton, New Zealand

(see www.repeal59.blogspot.com - July 25 2006)

"I want to take my hat off to Samuel Martin and say, Thanks! When I think about Samuel Martin, what comes to mind is a contemporary and contextualized, this-world version of William Wilberforce. He certainly

has Wilberforce blood running through his veins. He is a Christian living in Jerusalem with an interest in connecting to the rest of the world in ways that are helpful and strategic about how to live out ones faith. Check his website: <http://samuelmartin.blogspot.com/>. You will find interesting discussions about various biblical subjects.

In addition to being a blogger, Samuel is an author. I just finished reading his book *Thy Rod and Thy Staff They Comfort Me: Christians and the Spanking Controversy...*

Unlike more academic books that I tend to write, which can often be inaccessible to average readers (!), Samuel Martin does a good job of writing with an easy-to-understand touch. For me the greatest benefit in reading his book was to see how a movement towards an anti-spanking position can be developed through Jewish sources and readings of Scripture (as well as Christian ones). He comes to similar conclusions that I do regarding the spanking controversy but his path through the biblical material is quite different, fascinating read.

Blogger, author and, most importantly, activist! My third thanks to Samuel is that he has reminded me of my own need to be at least to some extent . . . an activist. He has not done this by way of harassment. No, he has shown me this through his own life and example. He would be happy to know that recently I have broken out of my insulated scholarly circles and actually done a handful of radio interviews. Now that is a stretch for a stuffy, old professor of New Testament. Through his own activist work, quite extensive as I have watched from afar, he is changing the world one person at a time. He does so often by putting people together in ways that help to bring influence on those who perhaps would otherwise not listen. Samuel has reminded me of something that is easily forgotten in the ivory towers of academia, namely, that ideas only work to the degree that there are people willing to influence (other) people about those ideas. So, on three accounts my hat is off to Samuel Martin, blogger, author and activist.”

Professor William Webb

Adjunct Professor of Biblical Studies

In addition to conference speaking ministry, he has published several articles and books, including *Returning Home* (Sheffield Press, 1993), *Slaves, Women, and Homosexuals* (InterVarsity, 2001), *Discovering Biblical Equality* (two chapters; InterVarsity, 2005), *Four Views on Moving from the Bible to Theology* (one view and responses; Zondervan, 2009), *Corporal Punishment in the Bible: A Redemptive Hermeneutic for Troubling Texts* (InterVarsity, 2011).

“A thoughtful and fulsome refutation of widely-held ideas that perpetuate violence against children. A very important intellectual contribution to an often-emotional debate.”

Professor Joan Durrant
Professor of Community Health Sciences
University of Manitoba

“Wonderful resource both for advocates/researchers who want to counter “the Bible tells me so” argument about spanking.”

Professor Elizabeth Gershoff
Professor of Human Development and Family Sciences
University of Texas at Austin

“I am pleased to endorse Samuel Martin’s book *Thy Rod and they Staff They Comfort Me: Christians and the Smacking Controversy*. The book provides a very readable, thoughtful, balanced, scholarly, and thorough analysis of the Biblical basis of corporal punishment of children. I have frequently recommended it to others who seek to learn more about Biblical references to smacking. In fact, it is a must-read for anyone who wants to become more informed about the topic.”

Professor George Holden
Professor of Psychology
Southern Methodist University
He is a noted expert on parenting, discipline and family violence.

“Your work on kids, . . . , occupies a critical position on the frontlines in the fight against brutality in Christianity. Kids don’t need to have their sinful nature beaten out of them.”

Professor Curtis Hutt
Judaic Studies
University of Nebraska at Omaha.

“These and other verses, as well as the overall teaching about disciplining children in the Bible is ably discussed by Jerusalem-based Christian biblical scholar Samuel Martin, who has produced a wonderful book, *Thy Rod and Thy Staff They Comfort Me: Christians and the Spanking Controversy*, . . . Martin has been joined by a significant number of other informed Christian scholars and commentators who are questioning the both the traditional translation and interpretation of these overly quoted verses from the book of Proverbs, see for example, *Christians Have No Moral Rationale for Spanking Children*. I recommend Martin’s work for those biblically oriented folk out there who

have wondered about what the Bible really says regarding using corporeal punishment of any kind to discipline children—or for that matter anyone who wants to be more informed on this controversial topic.”

James D. Tabor

Professor of ancient Judaism and early Christianity
Chair (2004-2014) of the Department of Religious Studies

University of North Carolina

Previously he held positions at the University of Notre Dame and the College of William and Mary. He received his Ph.D. from the University of Chicago in 1981 in Ancient Mediterranean Religions.

Other books by Samuel Martin

THY ROD and THY STAFF *They Comfort Me* BOOK II

14 years in the making, Samuel Martin returns with his second volume in the series, "Thy Rod and Thy Staff, They Comfort Me," further strengthening an already compelling case against corporal punishment in this new book, focused on the New Testament book of Hebrews chapter 12:5-11, which is a key text quoted by many Christians today in their belief in corporal punishment.

FEATURES OF THIS NEW BOOK ARE:

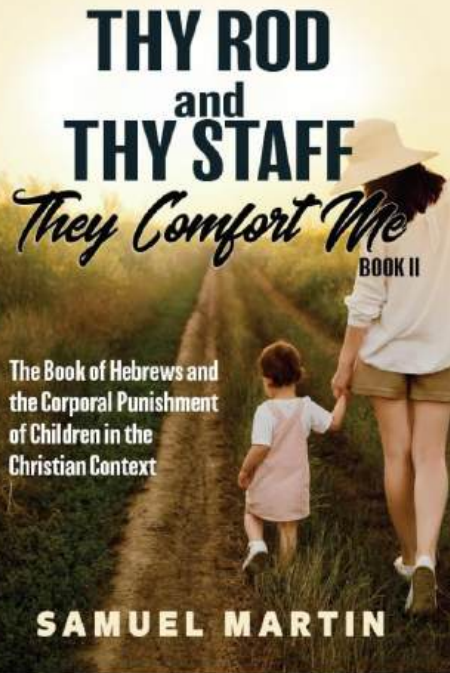
- The original manuscript order of Hebrews and its importance?
- Who wrote Hebrews and why that is important?
- If Paul wrote Hebrews, why did he not identify himself openly?
- What geographical region was Hebrews written to?
- When was the book of Hebrews written?
- What is the main subject of the book of Hebrews?
- Who is the book of Hebrews relevant for today?
- How does this survey of Hebrews link to our understanding of the debate concerning spanking children in the 21st century?



The first book in the series, "Thy Rod and Thy Staff, They Comfort Me: Christians and the Spanking Controversy," (published in 2006) was not sold, but has been available as a free download on numerous sites on the web and through www.biblechild.com. A printed version is now also available for purchase through Amazon.

THY ROD and THY STAFF
They Comfort Me BOOK II

SAMUEL MARTIN



Thy Rod and Thy Staff, They Comfort Me: Book II – The Book of Hebrews and the Corporal Punishment of Children in the Christian Context – Available on Amazon in hard copy.

https://www.amazon.com/Samuel-Martin/e/B00HP94ZZA/ref=dp_byline_cont_pop_book_1

Reviews of the book

Thy Rod and Thy Staff, They Comfort Me:

Book II

The Book of Hebrews and the Corporal

Punishment of Children in the Christian

Context

"Samuel Martin does a good job of writing with an easy-to-understand touch ... He comes to similar conclusions that I do regarding the spanking controversy."

- Professor William Webb, Adjunct Professor of Biblical Studies, Tyndale Seminary, Canada and author of the book "Corporal Punishment in the Bible: A Redemptive Movement Hermeneutic for 'Troubling Texts'" (InterVarsity, 2011)

"I think you present a well-crafted argument."

Pastor Crystal Lutton, author of "Biblical Parenting"

"a very provocative and stimulating perspective of Hebrews."

Clay Clarkson, author of "Heartfelt Discipline: Following God's Path of Life to the Heart of Your Child."

Other books by Samuel Martin

THY ROD and THY STAFF

They Comfort Me BOOK III

10 years in the making, Samuel Martin returns with his third volume in the series, "Thy Rod and Thy Staff, They Comfort Me," responding to an urgent need in Christ's Body to address the falsehoods Christian mothers have been told with regard to their God-given maternal intuition.

Christian mothers have been told:



- You are flawed
- You are dirty and need to be cleaned up
- Your heart is full of evil and needs to be ignored and suppressed
- There is nothing good inside you
- You cannot trust yourself and your God-given intuition and maternal leadings
- you are "too sensitive" and that is bad
- What you think you "just know" is wrong and almost certainly not from God
- Do not ever trust your feelings. They are wrong and against God. If you listen to your own feelings, you will be embracing evil

This book seeks to support Christian mothers as they reconnect with their holy God-given intuition to help them feel at peace in their body, heart, and soul.

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The first books in the series, "Thy Rod and Thy Staff, They Comfort Me" saves

THY ROD and THY STAFF

They Comfort Me

BOOK III



A Biblical Study on
Maternal Intuition
and its link to the
Issue of Spanking
Children

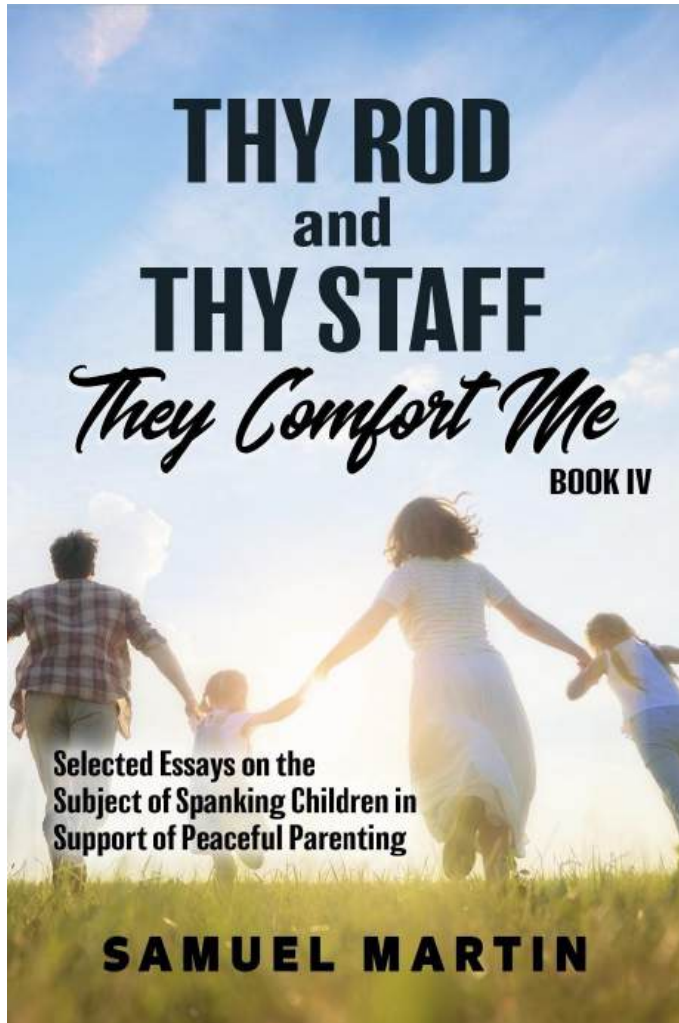
SAMUEL MARTIN

THY ROD and THY STAFF *They Comfort Me* BOOK IIISAMUEL MARTIN

Thy Rod and Thy Staff, They Comfort Me: Book III – A Biblical Study on Maternal Intuition and its link to the Issue of Spanking Children – Available on Amazon in hard copy.

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Other books by Samuel Martin



*Thy Rod and Thy Staff, They Comfort Me: Book IV –
Selected Essays on the Subject of Spanking Children in Support of Peaceful Parenting*
Available on Amazon in hard copy.

https://www.amazon.com/gp/product/0978533984/ref=dbs_a_def_rwt_bibl_vppi_i6

Reviews of the book

Thy Rod and Thy Staff, They Comfort Me:

Book III

A Biblical Study on Maternal Intuition and its link to the Issue of Spanking Children

"Samuel Martin has been so helpful - breaking down scripture and historical context as it applies to living and mothering today, so in spite of my biases, I picked up this next book from him.

The reason for this book is the reason I was hesitant. I, too, was raised to never trust my own intuition or instincts. Having read this book, I see now how flawed that teaching is. Does Christ not redeem the whole person?

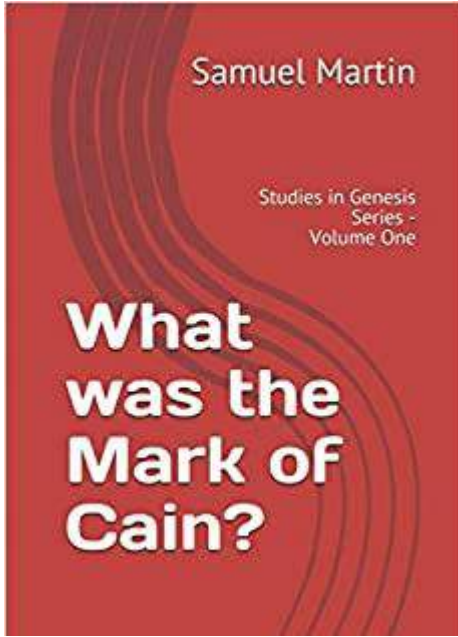
For me, this book has been very affirming and healing. Ignoring my intuition as "always flawed" has landed me in some very dangerous situations. I wish I had read this long ago. But I'm grateful for it now.

Not only for this affirmation and deeper understanding of what scripture says, but also for being built up spiritually - maturing and being able to parse the teaching of men from the teaching of scripture." – Christina Dronen, <https://gentlechristianparenting.com/>

“Samuel Martin's first Thy Rod and thy Staff book was the first gentle parenting book I read and it was like a breath of fresh air. I've always felt like there was something wrong with so many Christians using scriptures to say that the Bible tells us to spank. When I came across that book everything made so much sense. Samuel Martin is very thorough and explains things from a biblical perspective in great detail. This book has been a huge blessing

as well and it has made me feel more confident in following those God given instincts as a wife and mother. May God bless the Author and may God bless others with the teachings in this book!” – Debbie Donisa, Amazon Review

Other books by Samuel Martin



What was the Mark of Cain? Scholars and lay people alike have been asking this question for centuries. In this new book, Samuel Martin proposes a new idea to help answer this age-old question. This new book stresses the following points in seeking to identify what was the Mark of Cain:

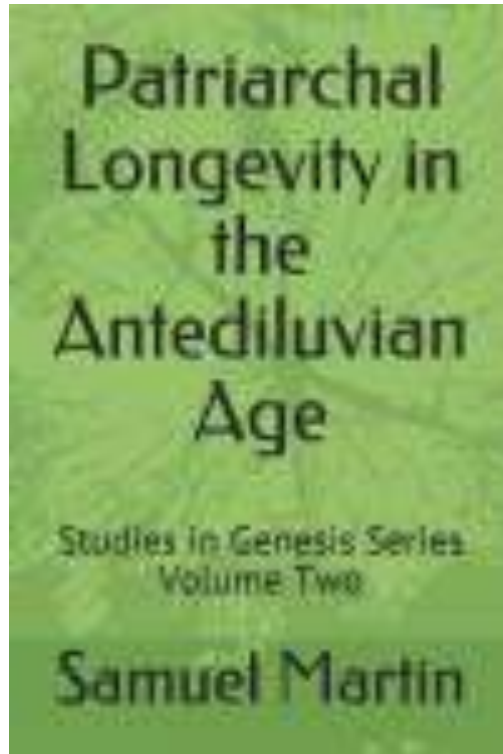
- ✓ The early narratives in Genesis cannot be understood properly without an appreciation of the fact that these narratives have very strong symbolic teachings associated with them relating to the Holy Temple
- ✓ Solid comparative studies of the specific texts in Genesis relating to this story with other Biblical passages will pay great dividends in helping to understand what the Mark of Cain was
- ✓ In this book, we propose a number of interesting and thought provoking suggestions about Cain and Abel age's at the time when Abel died
- ✓ A new proposal concerning the Biblical translation of the "Land of Nod."

This book is available on Amazon at the following link:

www.amazon.com/Samuel-

[Martin/e/B00HP94ZZA/ref=dp_byline_cont_pop_book_1](http://www.amazon.com/Samuel-Martin/e/B00HP94ZZA/ref=dp_byline_cont_pop_book_1)

Other books by Samuel Martin

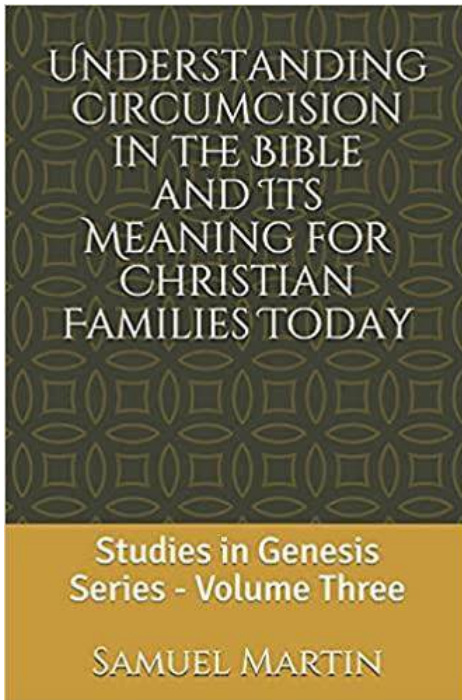


One of the most interesting aspects to the early history of human kind concerns the Biblical data showing that certain individuals are identified as having lived lives reaching up to almost 1,000 years of age. We today look at these Biblical texts and wonder if they are true or if they just represent ancient myths that primitive mankind believed in.

In this new publication, we are going to explore this question with a view to illuminating difficult passages of the Holy Scripture. We believe that the LORD has given us all the information that we need within the Scriptures themselves to answer all the questions that we may have on most subjects. Understanding how the Patriarchs in the Antediluvian Age lived to be so old is no exception.

https://www.amazon.com/Samuel-Martin/e/B00HP94ZZA/ref=dp_byline_cont_pop_book_1

Other books by Samuel Martin



The third in the Studies in Genesis series, Samuel Martin tackles the deeply controversial subject of Circumcision in the Christian context. This book is addressed to American Christians where the incidence of Circumcision remains high. This book follows in a long standing tradition of Samuel Martin addressing difficult topics (like Spanking Children) with the end result being understanding of the Biblical teachings advanced and being better understood.

https://www.amazon.com/gp/product/097853395X/ref=dbs_a_def_rwt_bibl_vppi_i4

Testimonies from Christian moms about the book

Thy Rod and Thy Staff, They Comfort Me: Christians and the Spanking Controversy

“Wow! I'm so glad that you have been able to give this book out to so many. [over 400 in the last 12 months] I still am so grateful that I discovered it. It has helped us to parent each of our children with love and respect. We have recently become foster parents and I was so proud to be able to say that we were Christians who don't spank. They make foster parents sign a contract to not spank foster children if they use corporal punishment with their own children. They are so used to Christians spanking their own children and seemed surprised that we didn't. Blessing to you and all the work that you do.”

"I would very much appreciate a PDF copy of your book “Thy Rod and Thy Staff, They Comfort Me; Christians and the Spanking Controversy”.

“Well since then I married and brought up two daughters. In the [mentions denomination] culture of the time, under pressure from the ministry, I did apply a limited amount of spanking with my elder daughter for a very few years, but by the time my second daughter was born I had come to the view that this was not a Christian way to bring up a child, and neither daughter was spanked from then on.

My daughters are now two fine, loving adult ladies. My eldest daughter is now married, and has a two-year-old son, and a three-week-old daughter.

She too is now concerned to bring up her children in a correct way, but is also aware of some pressure on her to apply spanking, which she has thus far resisted.”

“Hello, I am a Christian, expecting my first child in August. I am floored by the willingness of many Christians to twist the Word of God so horribly. I look forward to having this book as a tool to back up what I already believe about parenting with the grace God parents us.”

“I am a new mom to a beautiful baby girl and have recently found your blog! I was hoping to get a copy of your book, Thy Rod and Thy Staff, They Comfort Me. I was spanked as a child and always thought that was what God wanted but THANK JESUS for the many revelations I have had recently about parenting! I just feel so genuinely excited about raising my daughter now...thinking God expected / wanted me to hit my kids to teach them right always felt wrong to me but I was prepared to do it because I really believed that to be what God wanted. I'm so grateful my eyes have been opened. And so looking forward to educating myself more on this issue. Thank you for what you do!!! You are a blessing.”

“Hello! I am so excited about your book. The biblical spanking issue is one I feel God has put on my heart since childhood, as I was spanked and have vivid memories of it. Where many have forgotten the child's perspective with spankings, I remember them well and with much pain.”

“I'd love to read a copy of your book. My husband and I were both abused and while we choose not to spank, we have hit our children in anger in the past. As we have worked on our abuse issues and grown closer to God, it has gotten easier to take a moment and not react out of anger.

Our children's guidance counselor gave a class on Love and Logic and that also really helped.

One of my friends shared your status on Facebook today. I shared it after reading the discussion left in the comments of that status. I thought you'd be interested in what I posted:

This is great. I think it's pretty sad that people are using this status to argue that hitting a child is necessary. How else do you discipline? Consequences, removal, distraction...all depending on the situation and age of the child.

We get disciplined at work and in society without hitting. In fact, we're told hitting and bullying is wrong. Yet we think kids are too stupid to learn without hitting...while being smart enough to understand that hitting from a caregiver is different?"

"I am in full support and am still so extremely thankful for your book. It has given me such resolve and a sense of peace in what I am doing with my daughter. I am indeed treading in new water, as far as my own family is concerned, but I'm also blazing a path to be seen, and hopefully, someday emulated by fellow family, as I go. My family will be the evidence that it can be done by someone with little experience in gentle rearing, but a determination given and confirmed by God Himself. I want to thank you so much for your work. I plan on passing it on to anyone who will listen."

"Yes, thanks. I was tremendously blessed [by your book]. I even went through it with my Pastor, who of course, is old school and is moderately pro-spanking, like most Christians. It challenged him, but did not convince him completely. It's really hard to get through to people who are so ingrained to spanking. But it did make him think and question many things, so I'm

going to continue to work on him, and hopefully the Holy Spirit will enlighten him.

It's amazing to see what a strong hold "tradition" has on people because exegetically and logically, I don't see the proof for spanking. My Pastor was even a little taken back because he couldn't find exegeses from any of his commentaries on the "spanking" passages. It seems like it's just been taken for granted over all these years. Thanks for you all your hard work!"

Hon Ratu Rakuita Vakalalabure
Chairperson Standing Committee on Justice, Law and Human Rights
Parliament of the Republic of Fiji
Government Buildings
Suva, Fiji.

Dear Hon Ratu Rakuita Vakalalabure,

Re: Submission on the Education Bill 2025 (Bill No. 34 of 2025) – Focus on Home Schooling Provisions.

Ni sa bula vinaka saka,

I am writing to you in my capacity as a concerned citizen and parent deeply invested in the future of education in Fiji. My name is Joeli Naleca Rokodaveta a policy officer/ analyst under the Ministry of Policing and Communication and currently on study leave in Japan. I have closely followed the development of the Education Bill 2025 and I appreciate the opportunity provided by the Parliamentary process to submit feedback on this important legislation, which seeks to modernize and strengthen our education system in alignment with constitutional principles and international standards.

I commend the drafters and the Committee for producing a comprehensive Bill that upholds the right to education under section 31 of the Constitution of the Republic of Fiji and reflects commitments to the United Nations Convention on the Rights of the Child (CRC). The inclusion of home schooling as a recognized form of education (sections 38(d) and 40(1)(f)) is a positive step, acknowledging parental choice and diverse educational needs. This demonstrates a thoughtful approach to balancing state oversight with family autonomy. However, as a parent committed to providing a values-driven education for my children, I respectfully submit the following analysis and recommendations to enhance the Bill's provisions on home schooling. My aim is to ensure these sections robustly protect the civil and religious freedoms of parents and children, while maintaining consistency with law and order and preventing any potential for extremes.

This submission is based on a careful cross-check of the Bill's home-schooling provisions against its stated principles (section 4), objectives (section 5), and broader legal frameworks. I believe these suggestions will contribute to a more equitable and effective law that serves all Fijian families.

In addition, the Bill integrates home schooling thoughtfully within Fiji's education framework, defining it as an arrangement for providing education at home or an approved location (section 2). Key elements include the approval process (section 58), curriculum standards (section 23(2)), reporting requirements (section 12(2)), and mechanisms for stopping operations if necessary

(section 60). These provisions provide a solid foundation for regulation, emphasizing the child's best interests (sections 4(e) and 35) and aligning with the state's duty to ensure quality education.

Positively, the Bill respects parental responsibility (section 4(d)) by allowing exemptions from compulsory school attendance (section 11) and permitting religious instruction with consent (section 34). This supports families who choose home schooling for reasons such as personalized learning or integration of family values. The oversight mechanisms, including inspections (section 65) and health/safety requirements (section 63), help ensure compliance with law and order, preventing substandard or harmful practices.

However, while sufficient in broad terms, the provisions could be strengthened to more explicitly safeguard civil and religious freedoms. For instance, vague terms like "best interests," "detrimental to welfare," and "prejudicial to peace, good order or good government" (sections 58(1)(b), 60(a)-(b)) may lead to inconsistent application, potentially infringing on legitimate parental choices. Similarly, the "prescribed minimum threshold" for curriculum (section 23(2)) defers details to regulations, which could inadvertently restrict faith-based instructional principles if not carefully crafted. These gaps might allow for overreach, affecting families' rights under section 22 (freedom of religion) and section 26 (equality and freedom from discrimination) of the Constitution, as well as CRC Articles 14 (freedom of thought, conscience, and religion) and 5 (respect for parental rights).

In my view, the Bill effectively promotes law and order through approval and reporting, but enhancements are needed to prevent extremes such as ideologically rigid or neglectful environments while protecting valid educational diversity. Drawing from international best practices, such as those in Australia (where states like New South Wales require registration but accommodate diverse pedagogies through flexible plans), New Zealand (where home education is supported under the Education and Training Act 2020 with exemptions emphasizing parental rights), Canada (eg Ontario's policy allowing religious integration in home schooling under the Education Act), and the United Kingdom (where the Education Act 1996 permits elective home education with light-touch monitoring focused on welfare), Fiji could refine its approach for greater clarity and balance. These models demonstrate how robust safeguards can coexist with freedoms, ensuring high-quality outcomes for children.

Specific Feedback on Protections for Parents and Children.

The Bill's emphasis on the child's best interests and parental primacy is commendable, fostering an environment where home schooling can thrive responsibly. Civil freedoms, such as the right to choose educational methods without undue interference, are implicitly supported through the appeal processes (sections 61-62). Religious freedoms are addressed in section 34(3), which

prohibits compulsion against one's beliefs, and section 34(4)-(5), requiring consent for instruction provisions that could extend to home settings to allow integration of religious principles without fear of reprisal.

That said, parents and children would benefit from stronger safeguards. For parents, the approval fees and conditions (section 58) could burden low-resource families, potentially discriminating on economic grounds contrary to constitutional equality. For children, while welfare protections exist (section 60), the lack of defined "extremes" might either overlook risks (eg isolation from social development) or overregulate benign practices. Ensuring consistency with law and order is well-handled via curriculum thresholds and stopping powers, but explicit guidelines would prevent misuse.

Recommendations.

To address these areas, I respectfully recommend the following amendments, each justified by legal narratives grounded in Fiji's Constitution, the UN Convention on the Rights of the Child (CRC), and international best practices. These suggestions aim to enhance protections without imposing undue burdens on the state, while ensuring clarity, fairness, and respect for parental rights and child welfare.

1. Proposed change to Section 23(2)- Allowing religious and cultural elements in home school curricula.

Explanation and legal basis: To protect religious freedoms under section 22 of the Constitution and CRC Article 14 (freedom of thought, conscience, and religion), while ensuring educational quality, amend section 23(2) to explicitly allow faith-integrated curricula that meet or exceed the minimum threshold, provided they align with national values such as tolerance and civic responsibility (as per section 23(3)(b)). This approach mirrors New Zealand's Education and Training Act 2020, which permits home education exemptions that accommodate religious and cultural integration while requiring basic educational standards, as supported by the New Zealand Bill of Rights Act 1990. Similarly, in Ontario, Canada, the Education Act allows parents to tailor home schooling curricula to reflect religious or cultural beliefs, provided core competencies are achieved. In the United States, Missouri's homeschooling statute (Revised Statutes § 167.031) expressly includes "religious-based instruction" as a valid component, subject to minimum standards. These models demonstrate how permissive language can safeguard freedoms without compromising quality.

Proposed wording: "A private school and a home school must meet a prescribed minimum threshold for the curriculum, assessment and educational standards

developed, designed and approved by the Authority, and may integrate religious or cultural elements consistent with constitutional freedoms."

2. Proposed change to Section 58- Approval process for home schools.

Explanation and legal basis: Amend section 58(1) to include consideration of "the religious or cultural basis of the home schooling arrangement" among the approval criteria, drawing from CRC Article 5 (respect for the responsibilities, rights and duties of parents to provide direction and guidance in the exercise of the child's rights) and Constitution section 26 (equality and freedom from discrimination). This would reinforce section 4(d) of the Bill (primary responsibility of parents) and prevent indirect discrimination against families choosing values-based education. In Australia, New South Wales' Education Act 1990 requires registration of home schooling but accommodates diverse pedagogical approaches including religious ones through individualized registration plans that respect family circumstances. The United Kingdom's Elective Home Education Guidelines (2019, updated 2023) similarly instruct local authorities to approve arrangements that reflect parental philosophy, including religious beliefs, provided the child's education is suitable. Adding fee waivers for low-income families would further uphold equality.

Proposed wording (integrated into section 58(1)): The Permanent Secretary may only approve a home school if:

- (a) the proposed site of the school is suitable and adequate for the education of a student;
- (b) the proposed home school will be in the best interests of the student;
- (c) there are not enough adequate schools already available in the proposed area to cater to the type of school proposed;
- (d) the proposed parent or person providing instruction to the student is not prohibited or not likely to be prohibited from carrying out that role under section 166; and
- (e) the school meets any other prescribed requirements **and any religious or cultural considerations that support the child's best interests.**

3. Proposed change to Section 60- Stopping home schools.

Explanation and legal basis: To safeguard against extremes while protecting freedoms, amend section 60(1) to require "evidence-based findings of substantial harm" before issuing a stop order, with mandatory parental consultation and detailed reasons. This is

justified by CRC Article 3 (best interests of the child as primary consideration) and Constitution section 11 (protection from arbitrary or unreasonable interference). Australian state education acts (eg Victoria's Education and Training Reform Act 2006) adopt proportionate intervention, requiring clear evidence of failure to provide an adequate education before cancellation, while respecting parental rights unless harm is demonstrated. In the United Kingdom, the Education Act 1996 and associated guidance limit local authority intervention to cases of proven unsuitability, with parents given opportunity to respond balancing oversight with due process. Defining "extremes" narrowly in regulations (under section 175) as practices promoting violence, discrimination, or neglect while excluding protected religious teachings would prevent misuse.

Proposed wording (new subsection): (1A) An order under subsection (1) must be based on documented evidence of substantial harm to the student, must include detailed reasons for the decision, and must provide the responsible person (parent or instructor) with a reasonable opportunity to respond before the order takes effect.

4. Proposed change to Sections 61–62, Appeals process.

Explanation and legal basis: Enhance appeals by allowing escalation to an independent tribunal (similar to section 150 for higher education), ensuring impartiality as required by Constitution section 15 (access to courts and tribunals) and CRC Article 12 (right of the child to be heard in matters affecting them). In New Zealand, appeals concerning home education exemptions under the Education and Training Act 2020 can involve independent review processes, protecting against administrative bias in sensitive cases involving religious or cultural matters, consistent with the Human Rights Act 1993. In Alberta, Canada, the Education Act provides for appeals to an independent board when home schooling approvals are refused or revoked, offering a fair and transparent mechanism. This addition would build greater trust in the system for families exercising their rights.

Proposed wording (amended section 62(4)): (4) The decision of the Minister on the appeal is final **unless the decision relates to the refusal to approve or the stopping of a home school, in which case the decision may be appealed to an independent Education Appeals Tribunal established under regulations made under section 175.**

5. Proposed new regulation-making power under Section 175- Guidelines for home schooling oversight.

Explanation and legal basis: Empower the Minister to prescribe regulations mandating training for inspectors and officials on cultural and religious sensitivity, aligned with Constitution section 22 (freedom of religion) and CRC Article 30 (right of the child to enjoy his or her own culture and to profess and practice his or her own religion). Australian best practices under the National Principles for Child Safe Organizations require authorities to provide guidelines and training that distinguish legitimate cultural/religious diversity from genuine risks, ensuring proportionate and informed oversight. In the United Kingdom, Department for Education guidance (2023) mandates that local authorities and inspectors receive training on religious and cultural awareness when assessing home education, promoting inclusive regulation while maintaining child protection standards. This would help prevent overreach and ensure law and order through evidence-based, respectful implementation.

Proposed wording (added to the list in section 175): **prescribing guidelines for identifying and responding to extremes in home schooling while respecting religious and cultural freedoms under the Constitution and the Convention on the Rights of the Child.**

6. Proposed change to Section 11, Exemptions from compulsory education for home schooling.

Explanation and legal basis: Amend section 11 to explicitly recognize religious or cultural reasons as valid "prescribed reasons" for exemptions, supporting families who choose home schooling to integrate family values in alignment with CRC Article 18 (parents' primary responsibility for upbringing) and Constitution section 22 (freedom of religion). This would prevent indirect barriers to home schooling and ensure consistency with section 4(d) (parental responsibility). In New Zealand, the Education and Training Act 2020 allows exemptions for home education based on philosophical or religious grounds, with simple declarations of suitability, fostering inclusivity. Similarly, in the United States, many states (eg California's Education Code § 48222) grant exemptions for private home-based education with affidavits affirming cultural/religious fit, provided basic standards are met. This addition would protect against extremes by tying exemptions to welfare checks, while upholding freedoms.

Proposed wording (amended section 11(3)): (3) The Minister may, by notice in the Gazette and subject to such terms and conditions as the Minister considers necessary, exempt any child of compulsory school age or class of children of compulsory school age if he or she is satisfied that the application is supported by a prescribed reason , **including religious or cultural considerations that align with the child's best interests and constitutional freedoms.**

7. Proposed change to Section 65- Inspections of home schools.

Explanation and legal basis: Amend section 65 to require reasonable notice for non-urgent inspections and allow parental presence, safeguarding civil freedoms under Constitution section 11 (protection from arbitrary searches) and CRC Article 16 (protection from arbitrary interference with privacy and family). This would balance oversight with respect for home environments, preventing intrusive actions that could deter faith-based home schooling. In Australia, Victoria's Education and Training Reform Act 2006 mandates advance notice for home education reviews unless immediate welfare concerns exist, with parents involved to explain their approach. The United Kingdom's Elective Home Education Guidance (2023) similarly requires local authorities to give notice and consider family circumstances, including religious practices, during assessments. Defining "reasonable notice" (like 7 days) in regulations would prevent extremes like neglect while respecting privacy.

Proposed wording (new subsection after s65(3)): **(3A) For inspections of home schools under subsection (2) or (3), the authorised officer must provide reasonable notice to the responsible person (parent or instructor) unless there is an immediate concern for the student's health or safety, and must allow the responsible person to be present during the inspection to ensure respect for privacy and family freedoms.**

8. Proposed change to Section 72- Counselling for students in home schools.

Explanation and legal basis: Amend section 72 to make counselling optional or parent-provided for home schools, allowing integration of values-based support consistent with CRC Article 5 (parental guidance) and Constitution section 22 (religious freedom). This avoids mandating external services that might conflict with family beliefs, while still promoting child well-being. In Canada, British Columbia's Education Act permits home educators to provide or arrange counselling aligned with family values, with state options available but not required. New Zealand's guidelines under the Education and Training Act 2020 encourage but do not enforce external counselling for exempted home-schooled children, respecting parental discretion. This flexibility would prevent

extremes like unaddressed mental health issues by requiring evidence of well-being in reports (s12(2)), without overreach.

Proposed wording (new subsection): (1A) For home schools, the requirement under subsection (1) may be met through parent-provided counselling or access to qualified services that respect the family's religious or cultural values, with the Permanent Secretary empowered to prescribe flexible arrangements under regulations.

9. Proposed change to Section 93- Exemption from teacher registration for home school parents.

Explanation and legal basis: Amend section 93 to explicitly exempt parents or family members providing home schooling from teacher registration requirements, recognizing their role under section 4(d) (primary parental responsibility) and avoiding undue burdens that could infringe on Constitution section 26 (freedom from discrimination) or CRC Article 5 (parental guidance). This would prevent parents from facing penalties under s170 (unregistered teaching offences) while maintaining standards through existing approvals (s58). In Australia, Queensland's Education (General Provisions) Act 2006 exempts parents from formal teaching qualifications for registered home education, focusing instead on curriculum plans. Similarly, in the United States, Texas's homeschooling laws (as interpreted by the Texas Education Agency) treat parents as non-teachers, requiring only basic affidavits without registration. This exemption would uphold law and order by cross-referencing home school approvals, without restricting freedoms.

Proposed wording (new subsection): (3) Subsection (1) does not apply to a parent or family member providing instruction in an approved home school under section 58, provided they comply with curriculum thresholds and reporting requirements under this Act.

10. Proposed new regulation-making power under Section 175- Socialization and support for home-schooled children.

Explanation and legal basis: Add a power to prescribe optional guidelines or resources for socialization in home schools, addressing potential extremes like isolation while respecting parental choice under CRC Article 29 (education for full development of personality and respect for others) and Constitution section 31 (right to education). This would promote holistic well-being without mandates, aligning with section 72

(counselling). New Zealand's Education and Training Act 2020 guidelines encourage (but do not require) home educators to facilitate social opportunities, with state-provided resources like community networks. In Canada, Manitoba's Education Administration Act offers voluntary support programs for home-schooled students, including access to extracurriculars, to prevent isolation. This would enhance child protections through encouragement, not compulsion.

Proposed wording (added to the list in section 175): **prescribing optional guidelines and resources to support socialization and well-being for home-schooled children, while respecting family freedoms and preventing isolation.**

Thank you once again for the opportunity to contribute to this important legislative process. I am deeply grateful to the Standing Committee on Justice, Law and Human Rights for its careful consideration of the Education Bill 2025 and for inviting public input to help shape a law that truly serves all Fijian families and children. The recommendations I have respectfully submitted seek only to strengthen the Bill's balance between ensuring high-quality education, protecting the child's best interests, upholding law and order, and safeguarding the fundamental civil and religious freedoms guaranteed by our Constitution and international commitments. I firmly believe that with these modest refinements, the home schooling provisions can become a model of inclusive, proportionate, and rights-respecting regulation that supports diverse family choices while preventing any form of neglect or extremes.

Furthermore, I am available for further discussions and can be reached via email at joeli.rokodaveta93@gmail.com or by phone at +679 9402800 (Viber and WhatsApp).

Vinaka vakalevu.

Sincerely,



Joeli Naleca Rokodaveta (Mr).

6th February 2026.

EDUCATION BILL 2025
(BILL NO. 34 OF 2025)

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SCHEDULE—OTHER PROVISIONS OF THE FIJI TEACHERS
REGISTRATION BOARD

BILL NO. 34 OF 2025**A BILL**

FOR AN ACT TO GIVE EFFECT TO THE CONSTITUTIONAL RIGHT TO EDUCATION, TO ESTABLISH THE EDUCATION ADVISORY COUNCIL, TO ESTABLISH THE NATIONAL CURRICULUM AND ASSESSMENT AUTHORITY, TO PROVIDE FOR THE RECOGNITION AND REGISTRATION OF SCHOOLS, TO PROVIDE FOR EARLY CHILDHOOD EDUCATION, PRIMARY EDUCATION, SECONDARY EDUCATION AND TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING, TO PROVIDE FOR SPECIAL AND INCLUSIVE EDUCATION, TO ESTABLISH THE FIJI TEACHERS REGISTRATION AUTHORITY AND CONTINUE THE FIJI TEACHERS REGISTRATION BOARD, TO PROVIDE FOR THE REGISTRATION OF TEACHERS, TO CONTINUE THE HIGHER EDUCATION COMMISSION, TO PROVIDE FOR THE REGISTRATION OF HIGHER EDUCATION INSTITUTIONS, TO PROVIDE FOR HIGHER EDUCATION, AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY*Short title and commencement*

- 1.—(1) This Act may be cited as the Education Act 2025.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

*Interpretation***2.** In this Act, unless the context otherwise requires—

“Act” means this Act and the regulations made under it;

“Appeals Board” means the Teachers’ Appeals Board established under section 108;

“auditing standards” means—

(a) international auditing standards applicable to supreme audit institutions, subject to such modifications as the Auditor-General considers appropriate and notifies in the Gazette; or

(b) any other relevant standards that the Auditor-General considers appropriate and notifies in the Gazette;

“Auditor-General” means the person appointed as the Auditor-General under section 151(2) of the Constitution or a person appointed to act as the Auditor-General under section 151(3) of the Constitution;

“authorised officer” means a person who is authorised by the Permanent Secretary to perform a function under this Act;

“Authority” means the National Curriculum and Assessment Authority established under section 24;

“Board” means the Fiji Teachers Registration Board established under section 4(1) of the Fiji Teachers Registration Act 2008 and continued under section 84;

“boarding school” means a government school or government-aided school that provides boarding and accommodation to students who are enrolled at the school;

“child” means a person who has not reached the age of 18 years;

“citizen of Fiji” means a person who has acquired citizenship of Fiji in accordance with the Citizenship of Fiji Act 2009;

“Commission” means the Higher Education Commission established under section 5(1) of the Higher Education Act 2008 and continued under section 128;

“compulsory school age” means an age within the age range prescribed by the Minister for the purpose of compulsory education;

“Consolidated Fund” means the Consolidated Fund continued under section 9 of the Financial Management Act 2004;

“Constitution” means the Constitution of the Republic of Fiji;

“Convention” means the Convention on the Rights of the Child adopted by the United Nations General Assembly by its resolution 44/25 of 20 November 1989;

“Council” means the Education Advisory Council established under section 13;

 “Fiji National University” means the Fiji National University established under section 4(1) of the Fiji National University Act 2009;

“foreign student” means a student who is not—

- (a) a citizen of Fiji; and
- (b) the child of a citizen of Fiji;

“FTRA” means the Fiji Teachers Registration Authority established under section 84;

“Government” means the Government of the Republic of Fiji;

“government-aided school” means a school that is—

- (a) not owned by the Government;
- (b) maintained out of public funds; and
- (c) controlled by the Ministry;

“government school” means a school that is—

- (a) owned by the Government;
- (b) maintained out of public funds; and
- (c) controlled by the Ministry;

“higher education institution” means an educational institution in or operating in Fiji that provides award-conferring post-secondary education or provides educational support services for students of other higher education institutions including overseas institutions, and includes—

- (a) technical and vocational education and training centres;
- (b) information technology centres;
- (c) secretarial schools;
- (d) language schools;
- (e) hospitality training centres;
- (f) educational agencies;
- (g) caregiving training providers;
- (h) performing arts and sports academies;
- (i) religious educational institutions;

(j) colleges; and

(k) universities;

“home school” means an arrangement to provide an education to a student at any home or other approved location, not including at a government school, government-aided school or private school;

“manager” means the person who is registered by the Permanent Secretary as the manager of a government-aided school or private school;

“member” means a member of the Authority, Board, Commission or Council, as the case may be, including the chairperson of the Authority, Board, Commission or Council;

“Minister” means the minister responsible for education;

“Ministry” means the ministry responsible for education;

“parent”, in relation to a child, includes a legal guardian of the child;

“Permanent Secretary” means the permanent secretary responsible for education;

“practising teacher” means a registered teacher who is part of the teaching staff of a school;

“practising teacher educator” means a registered teacher who is part of the teaching staff of a college of education or other institution that provides teacher education and training;

“primary school” means a school that provides primary education;

“public education” means education that is provided by the Government;

“recognised school” means a school that has been granted a certificate of recognition under section 54;

“registered school” means a school that has been granted a certificate of registration under section 54;

“registered teacher” means a person—

(a) who is registered or provisionally registered under Part 12; and

(b) whose name appears on the Register;

“repealed Acts” means the Acts repealed under section 176;

“secondary school” means a school that provides secondary education;

“student” means a person who is enrolled at a school and includes—

(a) a person who is above the age of 18 years; and

(b) a prospective student;

“supreme audit institution” means an independent and external institution that audits the national public sectors’ financial operations;

“teacher” means a person registered to teach students in a school, including a teacher-trainee;

“teacher-trainee” means a person who is—

(a) training to become a teacher, including a person with a limited authority to teach under section 106; and

(b) is not registered as a teacher;

“University of Fiji” means The University of Fiji established under section 4(1) of the University of Fiji Act 2011; and

“University of the South Pacific” means the University of the South Pacific referred to in clause 1 of the University of the South Pacific Charter.

Meaning of school

3.—(1) In this Act, unless the context otherwise requires, a school is an institution that provides regular instruction to students, whether in person or by electronic means, and includes—

(a) a type of school under section 38;

(b) a classification of school under section 39; and

(c) a school providing a category of education under section 40.

(2) Despite subsection (1), an institution in the following list is not a school—

(a) an institution that provides instruction which is wholly or mainly of a religious character;

(b) an institution that provides instruction which is wholly or mainly in relation to extracurricular activities, including hobbies, games or sports; and

(c) an institution that has been exempted from subsection (1) by the Minister by an order in the Gazette.

Principles

4. This Act is to be construed with the following principles—

(a) every person has the right to education;

(b) it is the responsibility of the Government to provide public education;

(c) it is the responsibility of the State to ensure that every child receives an education of the highest quality;

(d) the education of a child is primarily the responsibility of the child’s parents; and

(e) the best interests of a child are the primary consideration in every matter concerning the child.

Objectives

5. The objectives of this Act are to—

- (a) give effect to the right to education under section 31 of the Constitution;
- (b) establish the Education Advisory Council;
- (c) establish the National Curriculum and Assessment Authority;
- (d) provide for the recognition and registration of government schools, government-aided schools and private schools;
- (e) provide for early childhood education, primary education, secondary education and technical and vocational education and training;
- (f) provide for special and inclusive education;
- (g) establish the Fiji Teachers Registration Authority, continue the Fiji Teachers Registration Board and provide for the registration of teachers;
- (h) continue the Higher Education Commission and provide for the registration of higher education institutions; and
- (i) provide for higher education.

Act binds the State

6. This Act binds the State.

PART 2—ACCESS TO EDUCATION

Right to education

7. A person has the right to—

- (a) early childhood education;
- (b) primary education;
- (c) secondary education; and
- (d) higher education.

Free education

8.—(1) For the purposes of section 31(2)(a) of the Constitution and article 28(1)(a) of the Convention, the State must ensure that primary education is provided free of charge in a government school and government-aided school.

(2) For the purposes of section 31(2)(a) of the Constitution and article 28(1)(b) of the Convention, and where the State has the available resources to provide secondary education free of charge, the State must take reasonable measures to ensure that secondary education is provided free of charge in a government school and government-aided school.

(3) For the purposes of section 31(2)(a) of the Constitution and article 28(1)(c) of the Convention, and where the State has the available resources to provide higher education free of charge, the State must take reasonable measures to ensure that higher education is provided free of charge.

(4) For the purposes of section 31(5) of the Constitution, and where the State claims that it does not have the resources to provide secondary education or higher education free of charge, the State must show that the resources are not available.

(5) For the avoidance of doubt, an education is provided free of charge to a student if the student is not required to pay a tuition fee.

Education for mature students

9.—(1) In this section, “mature student” means a person who is 19 years of age or older.

(2) For the purposes of section 31(2) of the Constitution, if the State has the available resources to provide education for mature students who are unable to complete primary education and secondary education, the Permanent Secretary must take reasonable measures to ensure that the education is made available by—

- (a) establishing or designating a government school to provide education to mature students only;
- (b) supporting the expansion or establishment of a government-aided school to provide education to mature students only; or
- (c) developing or implementing education programmes to provide education to mature students in a government school or government-aided school.

(3) If a programme is developed and implemented under subsection (2)(c), the mature student must be educated separately from the students who are children.

PART 3—COMPULSORY EDUCATION

Compulsory education

10.—(1) In this section—

“regularly attend” means to attend school on each school day as a student, unless there is a reasonable excuse for the student to not attend school; and

“school day” means a day on which a student is required to attend school, and does not include a Saturday, Sunday or public holiday.

(2) A child who is of compulsory school age must—

- (a) be enrolled at a school; and
- (b) regularly attend the school as a student.

(3) If a child of compulsory school age is not enrolled at a school—

- (a) the Permanent Secretary must take reasonable measures to make reasonable inquiries into the matter; and
- (b) if the Permanent Secretary is not satisfied with the reason for the non-compliance, the Permanent Secretary must direct either parent, or both parents, of the child to immediately enrol the child at a school.

(4) If a child of compulsory school age is enrolled at a school and fails to regularly attend the school as a student—

- (a) the Permanent Secretary must take reasonable measures to make reasonable inquiries into the matter; and
- (b) if the Permanent Secretary is not satisfied with the reason for the non-compliance, **must direct** either parent, or both parents, of the child to ensure that the child regularly attends the school.

(5) The Permanent Secretary must apply to a **magistrate** for a compulsory education order if—

- (a) a directive has been issued to either parent, or both parents, of the child under subsection (3) or (4); and
- (b) despite the directive, the child—
 - (i) is still not enrolled at a school; or
 - (ii) still fails to regularly attend the school.

(6) A compulsory education order has the effect of any or all of the following—

- (a) to direct a parent, or both parents, of the child to comply with subsection (2);
- (b) to direct a parent, or both parents, of the child to take reasonable measures to ensure compliance with subsection (2) within a specified period of time;
- (c) to direct the Permanent Secretary to monitor compliance with subsection (2); or
- (d) to direct a parent, or both parents, of the child to attend a counselling session.

(7) A person who contravenes a compulsory education order commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding 12 months or both.

(8) This section does not apply to a child of compulsory school age—

- (a) if a parent of the child presents, within a reasonable time, a prescribed reason to the Permanent Secretary's satisfaction for the child's non-enrolment or absence at the school; or
- (b) if the child is exempted under section 11.

Exemption

11.—(1) A person may apply to the Minister for an **exemption** from the requirements of section 10.

(2) The application must be made in the prescribed manner and form.

(3) The Minister may, by notice in the Gazette and subject to such terms and conditions as the Minister considers necessary, exempt any child of compulsory school age or class of children of compulsory school age if he or she is satisfied that the application is supported by a prescribed reason.

Reporting

12.—(1) The head of a school, other than a home school, must report any non-compliance with section 10 to the Permanent Secretary.

(2) A parent or any other person providing instruction in a home school must provide regular attendance reports to the Permanent Secretary in the prescribed form and manner.

PART 4—EDUCATION ADVISORY COUNCIL

Establishment of Education Advisory Council

13. This section establishes the Education Advisory Council.

Membership of Council

14.—(1) The Council consists of the following members—

- (a) the Permanent Secretary, as the chairperson;
- (b) the head of the Fiji Head Teachers Association;
- (c) the head of the Fiji Principals Association;
- (d) the head of the School Management Association of Fiji;
- (e) a representative of the Fiji Teachers Union;
- (f) a representative of the Fijian Teachers Association;
- (g) 2 representatives of higher education institutions on a rotational basis, provided that at least one representative is always from a private higher education institution;
- (h) a representative of the technical and vocational education and training institutions;
- (i) a maximum of 10 representatives comprising at least—
 - (i) one representative each of women’s rights groups, persons with disabilities, parent associations within schools and school student bodies; and
 - (ii) persons with expertise in mental health, digital literacy, library services and curriculum development; and
- (j) 10 representatives of controlling authorities with proportionate representation from religious and cultural institutions, and communities that operate schools and, as far as practicable, representation across rural, maritime and urban schools.

(2) The Permanent Secretary, the head of the Fiji Head Teachers Association, the head of the Fiji Principals Association and the head of the School Management Association of Fiji are *ex officio* members of the Council.

(3) The Minister appoints the representatives under subsection (1)(e) to (j) as members of the Council.

(4) The Minister may only appoint a representative of school student bodies under subsection (1)(i)(i) as a member of the Council if the representative is at least 18 years of age.

Term of office

15.—(1) A member of the Council, other than an *ex officio* member, holds office for a term of 2 years.

(2) A member of the Council, other than an *ex officio* member, is eligible for reappointment if the member retains the status which qualifies him or her for membership.

Vacancy

16.—(1) A member of the Council may resign from his or her office at any time by giving written notice of the resignation to the Minister.

(2) The Minister may remove a member of the Council, other than an *ex officio* member, at any time on the basis of incapacity, non-performance, bankruptcy, neglect of duty or misconduct proved to the satisfaction of the Minister.

(3) Where a vacancy in the membership of the Council exists, the Minister must take all reasonable measures to appoint a representative under section 14(1)(e) to (j), as the case may be, as a new member of the Council.

(4) The powers of the Council are not affected by any vacancy in its membership.

Remuneration and allowances

17. The Minister determines the remuneration of, and allowances for, the members of the Council.

Functions of Council

18. The Council must perform the following functions—

- (a) provide advice and recommendations to the Minister on any education-related matter, including any education-related matter raised and submitted by a member to the Council;
- (b) provide strategic guidance on various matters to assist the Minister in making informed and effective decisions;
- (c) assist the Minister with policy and law reforms by ensuring that the reforms consider the interests of the persons or classes of persons that the members represent;
- (d) assist the Minister to address and resolve education-related issues on behalf of the persons or classes of persons that the members represent;

- (e) perform any other function conferred on the Council by any other written law; and
- (f) perform any other prescribed function.

Powers of Council

19.—(1) The Council has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

(2) Without limiting subsection (1), the Council has the power to appoint committees and subcommittees to advise the Council on any matter, and may determine the membership, purpose and procedures of the committees or subcommittees.

Meetings of Council

20.—(1) The Council must meet—

- (a) at least once in every 4 months; and
- (b) at such times and places as the chairperson may determine.

(2) Subject to subsection (3), the chairperson must preside at each meeting of the Council.

(3) The quorum required for a meeting of the Council is two-thirds of the membership of the Council.

(4) Where a question arises at a meeting of the Council, a majority of the votes of the members of the Council present at the meeting determines the question.

(5) At a meeting of the Council, the chairperson and any other member of the Council has a deliberative vote, and where there is a tie in the number of opposing votes, the chairperson has a casting vote.

(6) A written resolution of the Council that is signed or assented to by a majority of the members of the Council, whether through physical or electronic means, is valid and deemed to have been approved at a meeting of the Council.

(7) Subject to this Act, the Council may regulate its own procedures.

(8) A defect or irregularity in, or in connection with, the appointment of a member of the Council, or in the case of an acting appointment, the occasion for acting had not arisen or had ceased, the defect or irregularity does not invalidate an act or decision of the Council.

Annual report of Council

21. Without limiting the right of the Council to report at any time, the Council must, as soon as practicable after the end of each financial year—

- (a) publish an annual report on the performance of the functions of the Council under this Act during the year; and
- (b) submit a copy of the annual report to the Minister, who must table the annual report in Parliament as soon as reasonably practicable.

Protection from liability

22.—(1) No civil or criminal proceedings lie against the Council for any thing the Council does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Council, unless it is shown that the Council did not act in good faith or with reasonable care.

(2) No civil or criminal proceedings lie personally against any member of the Council for any thing the member does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Council, unless it is shown that the member did not act in good faith or with reasonable care.

PART 5—CURRICULUM DEVELOPMENT AND ASSESSMENT

*Division 1—National Curriculum and Assessment Authority**Curriculum to be used in schools*

23.—(1) A registered school and a recognised school must meet the curriculum, assessment and educational standards developed, designed and approved by the Authority.

(2) A private school and a home school must meet a prescribed minimum threshold for the curriculum, assessment and educational standards developed, designed and approved by the Authority.

(3) The Authority must ensure that the curriculum in addition to the standard subjects taught in Fiji also covers the following thematic areas—

- (a) digital literacy and learning, including artificial intelligence;
- (b) civic responsibility, morality and discipline;
- (c) the formal learning of *Vosa Vaka Viti* and Hindi;
- (d) health and nutrition;
- (e) physical education and sports;
- (f) music and the arts;
- (g) practical life skills;
- (h) climate change and sustainability; and
- (i) the cultures and customs of the indigenous people and local communities of Fiji.

Establishment of National Curriculum and Assessment Authority

24. This section establishes the National Curriculum and Assessment Authority.

Membership of Authority

25.—(1) The Authority consists of the following members—

- (a) the Permanent Secretary, as the chairperson;
- (b) the permanent secretary responsible for employment;

- (c) the director of the Commission;
- (d) a qualified and experienced curriculum specialist;
- (e) a qualified and experienced assessment specialist;
- (f) 2 representatives of higher education institutions selected on a rotational basis, provided that at least one representative must always be a private university;
- (g) 2 representatives from teacher training institutions; and
- (h) a representative of the Fiji Commerce and Employers Federation.

(2) The Permanent Secretary, the permanent secretary responsible for employment and the director of the Commission are *ex officio* members of the Authority.

(3) The Minister appoints the specialists and representatives under subsection (1)(d) to (h) as members of the Authority.

Term of office

26.—(1) A member of the Authority, other than an *ex officio* member, holds office for a term of 3 years.

(2) A member of the Authority, other than an *ex officio* member, is eligible for reappointment.

Vacancy

27.—(1) A member of the Authority may resign from his or her office at any time by giving written notice of the resignation to the Minister.

(2) The Minister may remove a member of the Authority, other than an *ex officio* member, at any time on the basis of incapacity, non-performance, bankruptcy, neglect of duty or misconduct proved to the satisfaction of the Minister.

(3) Where a vacancy in the member of the Authority exists, the Minister must take all reasonable measures to appoint a specialist or representative under section 25(1)(d) to (h), as the case may be, as a new member of the Authority.

(4) The powers of the Authority are not affected by any vacancy in its membership.

Remuneration and allowances

28. The Minister determines the remuneration of, and allowances for, the members of the Authority.

Functions of Authority

29. The Authority has the following functions—

- (a) to advise the Minister on matters relating to curriculum, assessment, and educational standards;
- (b) to develop, review, approve and implement the national curriculum frameworks, syllabi, and learning standards for all educational levels prescribed by the Minister;

- (c) to review the curriculum framework at least once every 3 years;
- (d) to design, develop, administer and manage national examinations and other forms of assessment for all educational levels prescribed by the Minister;
- (e) to establish and maintain a system for the certification of educational achievement based on national assessments and examinations;
- (f) to conduct or commission research on best practices in curriculum development, pedagogy, and assessment, both nationally and internationally;
- (g) to provide guidance, resources and support to schools and educators on the effective implementation of the national curriculum and assessment practices;
- (h) to collaborate with relevant stakeholders, including educators, parents, community groups, industry, and higher education institutions, in the performance of its functions;
- (i) to publish and disseminate information related to curriculum, assessment frameworks, and examination results; and
- (j) to perform any other functions as may be conferred on it by this Act or any other written law.

Powers of Authority

30. The Authority has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

Meetings of Authority

31.—(1) The Authority must meet—

- (a) at least once in every 4 months; and
- (b) at such times and places as the chairperson may determine.

(2) Subject to subsection (3), the chairperson must preside at each meeting of the Authority.

(3) The quorum required for a meeting of the Authority is 6.

(4) Where a question arises at a meeting of the Authority, a majority of the votes of the members of the Authority present at the meeting determine the question.

(5) At a meeting of the Authority, the chairperson and any other member of the Authority has a deliberative vote, and where there is a tie in the number of opposing votes, the chairperson has a casting vote.

(6) A written resolution of the Authority that is signed or assented to by a majority of the members of the Authority, whether in person or through electronic means, is valid and deemed to have been approved at a meeting of the Authority.

(7) Subject to this Act, the Authority may regulate its own procedures.

(8) A defect or irregularity in, or in connection with, the appointment of a member of the Authority, or in the case of an acting appointment, the occasion for acting had not arisen or had ceased, the defect or irregularity does not invalidate an act or decision of the Authority.

Annual report of Authority

32. Without limiting the right of the Authority to report at any time, the Authority must, as soon as practicable after the end of each financial year—

- (a) publish an annual report on the performance of the Authority’s functions under this Act during the year; and
- (b) submit a copy of the annual report to the Minister, who must table the annual report in Parliament as soon as reasonably practicable.

Protection from liability

33.—(1) No civil or criminal proceedings lie against the Authority for anything the Authority does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Authority, unless it is shown that the Authority did not act in good faith or with reasonable care.

(2) No civil or criminal proceedings lie personally against any member of the Authority for anything the member does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Authority, unless it is shown that the member did not act in good faith or with reasonable care.

Division 2—Religious Instruction

Religious instruction in schools

34.—(1) In this section, “teacher” includes a person who is employed or engaged by a school whether or not the person provides instruction at the school.

(2) A government-aided school may provide religious instruction as part of the education that it provides, whether or not the school receives financial assistance from the Government for the provision of the instruction.

(3) A teacher or student at any school must not be compelled to act in any manner that is contrary to his or her religion or belief.

(4) A student who is a child must not receive religious instruction unless his or her parent consents to it.

(5) A student who is not a child must not receive religious instruction unless he or she consents to it.

Primary consideration

35. Despite any other provision in this Act or any other written law, and where the student is a child, the best interests of the student are the primary consideration.

*Division 3—Career Education and Guidance**Head of school to ensure career education and guidance are provided*

36. The head of a school must take all reasonable measures to ensure that students in a prescribed year and above are provided with appropriate career education and guidance to prepare the students to join the workforce or undertake further education or training.

Commission to provide careers information service

37. The Commission must provide a publicly available careers information service that includes a database of information in respect of occupations and higher education and training.

PART 6—SCHOOLS

*Division 1—Types and classifications of schools and categories of education**Types of schools*

38. A school may be, according to the mode of ownership or funding of the school, one of the following types—

- (a) government school;
- (b) government-aided school;
- (c) private school; or
- (d) home school.

Classifications of schools

39. A school may be, according to the age range of the students, classified as—

- (a) an early childhood education school;
- (b) a primary school;
- (c) a secondary school;
- (d) a school providing education for mature students.

Categories of education

40.—(1) A school may provide the following categories of education—

- (a) early childhood education;
- (b) primary education;
- (c) secondary education;
- (d) technical and vocational education and training;
- (e) special and inclusive education;
- (f) a home schooling education.

(2) The Minister may, by regulations, amend the categories of education under subsection (1).

Register of Schools

41.—(1) This section establishes the Register of Schools.

(2) The Permanent Secretary must keep and maintain the Register of Schools.

(3) The Register must contain a list of all schools approved, registered or recognised under this Act including all schools that are no longer approved, registered or recognised under this Act or that have closed.

(4) The Register of Schools may be in either or both of the following forms—

(a) in physical form, kept and maintained at the main office of the Ministry; or

(b) in electronic form, kept and maintained on the Ministry’s website.

(5) Further particulars of the Register of Schools may be prescribed by regulations.

Division 2—Government Schools

Establishment of government schools

42. The Minister may, with the approval of Cabinet, establish a government school in any locality, provided that due consideration is given to the existing schools in the locality.

Control of government schools

43. The Permanent Secretary has control of all government schools.

Board of Governors

44.—(1) A government school must have a Board of Governors to be appointed by the Minister with such functions and powers as the Minister may prescribe.

(2) The Board of Governors of a government school may regulate its own procedures.

Division 3—Government-Aided Schools

Control of government-aided schools

45. The controlling authority of a government-aided school has control of the government-aided school.

Manager

46.—(1) The controlling authority of a government-aided school must—

(a) appoint a manager of the school; and

(b) submit the prescribed details of the proposed manager to the Permanent Secretary for registration.

(2) The Permanent Secretary may—

(a) register the proposed manager as the manager of the school; or

(b) refuse to register the proposed manager as the manager of the school if he or she—

(i) has been convicted of any offence involving dishonesty, fraud, violence or immorality; or

(ii) is undischarged bankrupt.

*Division 4—Private Schools**Control of private schools*

47. The controlling authority of a private school has control of the private school.

Manager

48.—(1) The controlling authority of a private school must—

- (a) appoint a manager of the school; and
- (b) submit the prescribed details of the proposed manager to the Permanent Secretary for registration.

(2) The Permanent Secretary may—

- (a) register the proposed manager as the manager of the school; or
- (b) refuse to register the proposed manager as the manager of the school if he or she—
 - (i) has been convicted of any offence involving dishonesty, fraud, violence or immorality; or
 - (ii) is an undischarged bankrupt.

PART 7—ESTABLISHING AND CLOSING SCHOOLS*Division 1—Establishing Schools**Requirement to be registered or recognised*

49. A person must not establish or operate a school unless it is, in accordance with this Act—

- (a) approved by the Permanent Secretary or by the Minister after an appeal; and
- (b) registered or recognised by the Permanent Secretary or by the Minister after an appeal.

Establishing government schools

50. The Permanent Secretary may establish a government school and upon establishment the school is taken to be registered under this Act.

Use of the term “school”

51. For the purposes of sections 52 to 57, “school” means a government-aided and private school but does not mean a home school.

Approval to register or recognise a school

52.—(1) The Permanent Secretary may grant approval to register or recognise a school if he or she is satisfied that the school meets the requirements for approval under section 53.

(2) A person **that** intends to establish and operate a school must first apply to the Permanent Secretary for approval to register or recognise the school.

(3) The application must be in writing and accompanied by the prescribed fee.

(4) The Permanent Secretary may impose conditions together with the approval of an application and the applicant must comply with those conditions.

(5) To avoid doubt, even if a school is already registered or recognised under written law, the following changes require a new application for approval—

- (a) changing the nature or form of education that the school provides;
- (b) changing the school's classification;
- (c) reopening the school after it has been closed for 6 months or more; or
- (d) transferring the school to a new location.

Requirements for approval

53.—(1) The Permanent Secretary may only grant approval if the following requirements are met—

- (a) there is a sufficient number of potential students in the proposed area where the school is to be located;
- (b) the proposed site of the school is suitable and adequate for the type of school proposed;
- (c) the proposed school would be in the best interests of education;
- (d) for a government-aided school, establishing the proposed school would be a suitable and reasonable use of public funds;
- (e) there are not enough adequate schools already available in the proposed area to cater to the type of school proposed; or
- (f) the proposed manager or a person assisting in the management of the school is not prohibited or not likely to be prohibited from carrying out that role under section 166.

(2) The Permanent Secretary must notify the applicant in writing of—

- (a) the decision to approve or refuse the application; and
- (b) in the case of refusal, the applicant's right to appeal the decision under section 61.

Application for certificate of registration or recognition

54.—(1) If the Permanent Secretary, or the Minister after an appeal, approves the registration or recognition of a school, the Permanent Secretary or Minister, as the case may be, may grant the applicant a certificate of registration or recognition in accordance with this Division.

(2) After receiving the Permanent Secretary's notice of approval under section 53(2), the person seeking to establish the school must apply for a prescribed certificate of registration or recognition.

(3) To avoid doubt, even if a school is already registered or recognised under written law, the following changes require a new application for registration or recognition after an approval under section 52 has been granted—

- (a) changing the nature or form of education that the school provides;
- (b) changing the school's classification;
- (c) reopening the school after it has been closed for 6 months or more; or
- (d) transferring the school to a new location.

(4) The Permanent Secretary may refuse an application for a certificate of registration or recognition if, in his or her opinion, there has been a breach of—

- (a) any prescribed condition of registration or recognition; or
- (b) any condition imposed by the Permanent Secretary when approving the application under section 52(4).

(5) The Permanent Secretary may, when issuing a certificate of registration or recognition—

- (a) classify the school in a category which restricts the highest form or type of education which may be provided by the school; and
- (b) impose conditions that the Permanent Secretary considers appropriate.

(6) The Permanent Secretary may amend or revoke any condition imposed under subsection (5)(b).

Cancellation of certificate of registration or recognition

55.—(1) The Permanent Secretary may cancel the certificate of registration or recognition of a school if he or she is satisfied that the school has been closed for a period of 6 consecutive months.

(2) The Permanent Secretary may, at any time, cancel the certificate of registration or recognition of a school which has ceased or failed to conform to the conditions prescribed, or imposed by the Permanent Secretary, for the school.

(3) If the Permanent Secretary cancels a certificate of registration he or she may, in accordance with the regulations, issue a certificate of recognition in its place.

Changes to controlling authority

56.—(1) The Permanent Secretary must specify the controlling authority of any registered or recognised school in the certificate of registration or recognition of the school.

(2) The controlling authority of a school must, within 3 months of a change to or of the controlling authority, notify the Permanent Secretary in writing of the change and, as an attachment to the notice, return the certificate for endorsement of the change.

(3) Subsection (2) is deemed to be a prescribed condition of any certificate of registration or recognition.

Power to request return of certificates

57.—(1) The Permanent Secretary may request in writing that a controlling authority or manager of a school return the school’s certificate of registration or recognition to him or her so the Permanent Secretary may make an endorsement on the certificate of the exercise of any of the Permanent Secretary’s powers under this Part.

(2) The reference to the Permanent Secretary’s powers under subsection (1) includes the power to—

- (a) impose, amend or remove conditions; and
- (b) amend or cancel a certificate and, if the Permanent Secretary deems appropriate, replace it with a new certificate of either registration or recognition.

(3) The controlling authority or manager that receives the request under subsection (1) must, within 14 days of receiving the request, return the certificate of registration or recognition.

(4) Subsection (3) is deemed to be a condition of the certificate of registration or recognition.

Approving home schools

58.—(1) The Permanent Secretary may only approve a home school if—

- (a) the proposed site of the school is suitable and adequate for the education of a student;
- (b) the proposed home school will be in the best interests of the student;
- (c) there are not enough adequate schools already available in the proposed area to cater to the type of school proposed;
- (d) the proposed parent or person providing instruction to the student is not prohibited or not likely to be prohibited from carrying out that role under section 166; and
- (e) the school meets any other prescribed requirements.

(2) A person that intends to set up a home school must apply to the Permanent Secretary for approval.

(3) The application must be in writing and accompanied by the prescribed fee.

(4) The Permanent Secretary may impose conditions together with the approval of an application and the applicant must comply with those conditions.

(5) The Permanent Secretary must notify the applicant in writing of—

- (a) the Permanent Secretary’s decision to approve or refuse the application; and
- (b) in the case of refusal, the applicant’s right to appeal the decision under section 61.

*Division 2—Closing of Schools**Closing government-aided and private schools*

59.—(1) The Permanent Secretary may order the manager of a school to close the school if the Permanent Secretary is satisfied that—

- (a) the school is conducted in a manner which is calculated to be detrimental to the physical, mental or moral welfare of its students;
- (b) the education or instruction given to the students is prejudicial to the peace, good order or good government of Fiji;
- (c) the premises of the school do not and cannot at reasonable expense be made to meet the prescribed requirements relating to health and safety;
- (d) the school persistently and materially teaches a curriculum that does not comply with the basic curriculum set by the Authority;
- (e) the school, after a publication has been declared unsuitable for use in schools by the Permanent Secretary, knowingly uses or refers to the publication, or any copy, or extract of it, as part of the instruction provided in the school;
- (f) the school is not registered or recognised under and in accordance with this Part and does not have a valid certificate of registration or recognition;
- (g) any person managing or assisting in the management of the school has been prohibited from serving in that capacity under section 166; or
- (h) it is not in the best interests of education in relation to the best use of Government funds, or otherwise to keep any school open.

(2) The Permanent Secretary may order the manager of a school to close the school if the controlling authority of the school requests that the school be closed.

(3) A school closed under this section for less than 6 months may be reopened at the discretion of the Permanent Secretary.

Stopping home schools

60.—(1) The Permanent Secretary may order a responsible person to stop the home school if the Permanent Secretary is satisfied that—

- (a) the school is conducted in a manner which is calculated to be detrimental to the physical, mental or moral welfare of its students;
- (b) the education or instruction given to a student is prejudicial to the peace, good order or good government of Fiji;
- (c) the premises of the school do not and cannot at reasonable expense be made to meet the prescribed requirements relating to health and safety;
- (d) the school persistently and materially teaches a curriculum that does not comply with the basic curriculum set by the Authority that applies to the school;

- (e) the school, after a publication has been declared unsuitable for use in schools by the Permanent Secretary, knowingly uses or refers to the publication, or any copy, or extract of it, as part of the instruction provided in the school;
- (f) the school is not approved under and in accordance with this Part; or
- (g) any person providing instruction in the school has been prohibited from serving in that capacity under section 170.

(2) A home school that is stopped under this section for less than 6 months may recommence at the discretion of the Permanent Secretary.

(3) In this section, “responsible person” means a parent or person that administers or oversees a home-schooling education.

Division 3—Appeals

Appeals against refusal to approve

61.—(1) If the Permanent Secretary refuses to approve an application under sections 52 or 58, the applicant may appeal to the Minister in writing.

(2) The appeal must be—

- (a) made within 30 days of the notification under section 54(2); and
- (b) accompanied by the prescribed fee.

(3) The decision of the Minister on the appeal is final.

Appeals against closing

62.—(1) The manager of a school closed under section 59 or stopped under section 60 may appeal the order to close or stop to the Minister in writing.

(2) The appeal must be—

- (a) made within 30 days of the date the order is received by the manager; and
- (b) accompanied by the prescribed fee.

(3) The Permanent Secretary may, at his or her discretion, permit a school subject to the appeal to remain open pending the determination of the appeal.

(4) The decision of the Minister on the appeal is final.

PART 8—SCHOOL REGULATION

Division 1—Health and Safety

Health and safety requirements

63.—(1) A school must comply with—

- (a) the prescribed health and safety requirements; and
- (b) any applicable health and safety requirements set out in any other written law.

(2) Subject to section 64, if it appears to the Permanent Secretary that a school does not comply with subsection (1), he or she may order the manager or the Board of Governors of the school to execute within a reasonable period to be stated in the order, such specified works as are necessary to secure compliance.

(3) Subject to section 64, if the Permanent Secretary is satisfied that an order has not been carried out, he or she may order the manager or the Board of Governors to close the school.

Waiver

64. If, after having regard to the nature of the site of a school, any existing building and other circumstances affecting the school premises, the Permanent Secretary is satisfied that it is unreasonable to require the school to comply with the prescribed health and safety requirements, he or she may waive any of the prescribed requirements.

Division 2—Inspections

Inspection of schools

65.—(1) In this section, “school” includes any part of the school, and any building used in connection with the school, including any workshop, dormitory, kitchen, sanatorium, hostel and ancillary building.

(2) An authorised officer must, at least once in every 12 months and with prior notice, visit a school and conduct an inspection of the school.

(3) Despite subsection (2), an authorised officer may, at any time and without prior notice, visit a school and conduct an inspection of the school.

(4) The authorised officer who conducts an inspection must—

- (a) prepare a report in the prescribed manner and form;
- (b) outline his or her findings from the inspection; and
- (c) submit the report to the Permanent Secretary within the prescribed period.

Medical inspection and treatment

66.—(1) In this section—

“health professional” means a prescribed health professional who is authorised by the Ministry responsible for health and the Ministry to conduct the medical inspection and treatment; and

“medical inspection and treatment” includes dental inspection and treatment.

(2) A student may undergo a medical inspection and treatment by a health professional at the school he or she is enrolled in if a parent of the child consents to the inspection and treatment.

PART 9—ADMINISTRATION

Division 1—General

Admission of students

67.—(1) A government school or government-aided school must not admit a student to the school after the first two weeks in the first term of any year has lapsed.

(2) Despite subsection (1), the Permanent Secretary may approve the admission of a student for prescribed reasons.

School hours

68.—(1) The Minister may prescribe the school hours for teachers and students.

(2) The school hours applicable to a government school and a government-aided school prior to the commencement of this Act continue until such time the Minister prescribes different school hours under subsection (1).

Teacher-student ratio

69.—(1) The head of school must not assign or permit a teacher to be in charge of a class that has more than the prescribed number of students.

(2) Despite subsection (1), the Permanent Secretary may authorise the manager of a school to assign or permit a teacher to be in charge of a class that has more than the prescribed number of students if the Permanent Secretary is satisfied that the reason provided is a prescribed reason.

Division 2—School Zoning

Prohibition on school zoning

70.—(1) School zoning is prohibited.

(2) Subject to the requirements set out by a government school or government-aided school in relation to enrolment, a parent may enrol his or her child as a student at a school of the parent's own preference.

Division 3—Boarding

Criteria for enrolment to be prescribed

71.—(1) A boarding school must enrol a student at the school in accordance with the prescribed criteria for enrolment.

(2) The criteria for enrolment must consider—

- (a) the distance between the student's residence and the boarding school; and
- (b) whether the student resides in a rural, maritime or any other remote area where schools are not easily accessible.

PART 10—STUDENT BEHAVIOUR AND WELL-BEING

Counselling for students

72.—(1) Subject to subsection (3), a school must employ or engage a qualified and trained school counsellor to provide counselling services to students enrolled at the school.

(2) For the purposes of subsection (3), the Ministry must employ or engage a qualified and trained school counsellor to provide counselling services to students.

(3) Where a government school or government-aided school is unable to employ or engage a qualified and trained school counsellor, the school must take all reasonable measures to ensure that students enrolled at the school have access to—

- (a) a qualified and trained school counsellor employed or engaged by the Ministry for counselling services; or
- (b) any other qualified and trained school counsellor.

(4) The requirement under subsection (1) is a deemed condition of registration or recognition of a school.

Prohibition on corporal punishment

73.—(1) In this section—

“corporal or physical punishment” means any punishment in which physical force is used and intended to cause some degree of pain or discomfort, whether or not the pain or discomfort is light;

“cruel, inhumane, degrading or disproportionately severe treatment or punishment” includes any treatment or punishment that belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules a student; and

“person” includes a teacher and any other person who is employed or engaged by a school.

(2) Corporal or physical punishment of students is prohibited.

(3) A person must not—

- (a) administer any form of cruel, inhumane, degrading or disproportionately severe treatment or punishment to any student;
- (b) cause any form of violence to any student; or
- (c) cause any kind of **torture**, whether physical, mental or emotional, to any student.

PART 11—FINANCING AND ACCOUNTABILITY

Division 1—Fees and Levies

Tuition fees

74.—(1) A government school and government-aided school must not charge **any fee** for the provision of primary education or secondary education to any student enrolled at the school.

(2) Subsection (1) does not apply to a student who is a foreign student.

Boarding fees

75.—(1) A boarding school may charge the prescribed boarding fee, or a fee not more than the prescribed boarding fee, for the provision of boarding and accommodation to any student enrolled at the school.

(2) A boarding school may refuse to enrol or re-enrol a student at the school if the student—

- (a) has not paid the boarding fee to the school at the time the fee is due; or
- (b) is owing the boarding fee to the school.

Levies

76.—(1) Subject to subsections (2) and (3), a government school and government-aided school may charge a levy to the students enrolled at the schools for any of the following purposes—

- (a) the development or improvement of the school's infrastructure;
- (b) the maintenance of the school;
- (c) the purchase of books and other supplies that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (d) the purchase of equipment that is likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (e) the funding of educational excursions and extracurricular activities that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students; and
- (f) any other purpose authorised by the Permanent Secretary.

(2) A government school and government-aided school must apply to the Permanent Secretary in the prescribed manner and form for approval of the amount of levy to be charged.

(3) The Permanent Secretary must ensure that the amount of levy to be charged is—

- (a) reasonable and equitable; and
- (b) not excessive or burdensome to any parent.

(4) This section applies despite section 8.

Fees to be paid into Consolidated Fund etc

77. All fees charged and payable to a government school under this Division are to be accounted for and paid into the Consolidated Fund or a fund established by the Minister in the regulations.

*Division 2—Fundraising**Fundraising by schools*

78.—(1) A government school and government-aided school may organise and conduct a fundraising activity or event to raise monies for any of the following purposes—

- (a) the development or improvement of the school’s infrastructure;
- (b) the maintenance of the school;
- (c) the purchase of books and other supplies that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (d) the purchase of equipment that is likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (e) the funding of educational excursions and extracurricular activities that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students; or
- (f) any other purpose authorised by the Permanent Secretary.

(2) A government school or government-aided school must not force, compel, coerce, intimidate or apply **pressure to a teacher**, student or parent to participate in, or contribute to, a fundraising activity or event that is organised and conducted by the school.

*Division 3—Financial transparency**Responsible financial management*

79. A government school and government-aided school must manage and use any public funds provided to the school, including for the education of students, in a responsible and prudent manner.

Financial records

80.—(1) A government school and government-aided school must keep written financial records that—

- (a) correctly outline and explain the transactions of the school;
- (b) correctly outline and explain the financial position and performance of the school;
- (c) enable financial statements to be prepared and audited; and
- (d) enable other reports to be prepared as required by this Act.

(2) The financial records required under subsection (1)—

- (a) must be kept for at least 7 years after the dates of the transaction to which they relate;

- (b) must be kept at the school; and
- (c) may be kept in electronic form if they are readily retrievable and convertible into a physical form.

Financial statements

81.—(1) A government school and government-aided school must ensure that the financial statements for the school for each financial year are prepared.

(2) The financial statements must include all the information that is necessary to ensure that the financial statements give a true and fair view of the financial position and performance of the school.

(3) Without limiting subsection (2), the financial statements must consist of—

- (a) a balance sheet, profit and loss statement and other financial reports for the financial year as required by and consistent with applicable accounting standards; and
- (b) notes to the financial statements as required by applicable accounting standards.

Division 4—Audit and reporting

Audit

82. A government school and government-aided school must cause the accounts and financial statements of the school to be audited by an auditor authorised by the Auditor-General, in accordance with auditing standards.

Annual report

83. A government school and government-aided school must prepare and submit an annual report to the Permanent Secretary in the prescribed manner and form.

PART 12—TEACHER REGISTRATION

Division 1—The FTRA and Board

Establishment of FTRA and continuation of Board

84.—(1) This section establishes the Fiji Teacher Registration Authority which comprises the Fiji Teachers Registration Board established under the Fiji Teachers Registration Act 2008.

(2) The FTRA—

- (a) is a body corporate with perpetual succession;
- (b) must have a common seal;
- (c) may acquire, hold and dispose of real property; and
- (d) may sue and be sued in its corporate name.

(3) The common seal of the FTRA is to be kept as the Board directs and must not be used except as authorised by the Board.

Membership of Board

85.—(1) The members of the Board comprise a chairperson and 8 other members appointed by the Minister.

(2) The members must be persons who, in the opinion of the Minister, have adequate qualifications, skills, expertise and knowledge to contribute to the functions of the Board under this Act, and in particular for the development of the teaching profession, education standards, and general administration and financial management of the Board.

(3) The Minister has the power to co-opt other persons as members to facilitate the work of the Board, subject to terms and conditions the Minister determines.

(4) A member may be appointed for a term of up to 3 years and is eligible for reappointment.

(5) The Board has the power to elect one of its members as its deputy chairperson, to perform the functions and powers of the chairperson when the chairperson is absent or unable to perform the functions and powers.

(6) The Schedule sets out other provisions relating to the Board.

Functions of Board

86. The functions of the Board are—

- (a) to be responsible to the Minister for the registration of persons qualified to be registered as teachers under this Act;
- (b) to keep teacher registration in Fiji under continuous review and to make reports and recommendations to the Minister concerning this function;
- (c) to oversee, undertake and implement the disciplinary measures outlined in Division 4 of this Part;
- (d) to confer and collaborate with employing authorities, teacher education institutions, the teaching profession, teacher organisations and the general community in relation to standards of courses of teacher education acceptable for the purpose of teacher registration and to advise the Minister accordingly;
- (e) to undertake relevant review and research projects for the purpose of this Act, as requested in writing by the Minister;
- (f) to promote the teaching profession;
- (g) to develop, formulate and improve professional teaching standards attuned to the needs of students and of a professional work force;
- (h) to develop, formulate and maintain a code of professional ethics for the teaching profession; and
- (i) to make recommendations to the Minister with respect to special projects not inconsistent with its other functions, including funding required to undertake such projects.

Powers of Board

87.—(1) In addition to the powers conferred upon it under this Act or any other written law, the Board has the following powers—

- (a) to collect prescribed fees for the purpose of this Act;
- (b) to investigate complaints and institute disciplinary action under this Part;
- (c) to produce materials in the performance of its functions; and
- (d) to exercise other powers conferred upon it under this Act or any other written law.

(2) For material produced by it, the Board may—

- (a) charge for advertising in the material;
- (b) sell the material; or
- (c) enter into an agreement with any person to sell the material.

Delegation of powers

88.—(1) The Board may delegate, in writing, its powers, functions or duties under this Act to any member of the Board or to an employee of the FTRA either generally or, as specified in the delegation, for a period, purpose or area within Fiji and may revoke or vary the delegation.

(2) To avoid doubt, the Board may continue to exercise any power and carry out any function and duty delegated under this section.

Committees

89. The Board may establish the following committees consisting of its members and other persons it considers appropriate to assist it to perform its functions—

- (a) Teacher Registration Committee;
- (b) Teacher Education Committee;
- (c) Code of Professional Ethics Committee;
- (d) Professional Teaching Standards Committee;
- (e) Finance and Management Committee;
- (f) Disciplinary Committee; and
- (g) any other committee, it considers necessary for the purposes of this Act.

Directions

90.—(1) The Minister may give the Board or a person exercising a delegated authority of the Board a written policy direction in relation to its powers and functions if the Minister is satisfied that it is necessary to do so in the public interest.

(2) The Board or person must comply with the directions given under subsection (1).

Employment of staff

91.—(1) The Board may appoint employees for the efficient performance of its functions and terminate or suspend the employment of an employee in accordance with the Employment Relations Act 2007.

(2) The qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit.

(3) The Ministry must provide sufficient public officers as required for the administration of the Board.

Chief Executive Officer

92.—(1) The Board may appoint a Chief Executive Officer on the terms and conditions as the Board may determine and at a salary approved by the Board.

(2) The Chief Executive Officer—

(a) is responsible to the Board for the proper administration and management of the operations and affairs of the FTRA in accordance with the policies or policy instructions of the Board and this Act; and

(b) must perform a function delegated by the Board.

(3) To avoid doubt, section 91 applies to the Chief Executive Officer.

*Division 2—Registration of Teachers**Must register to teach*

93.—(1) A person must not teach at a school in Fiji unless the person is a holder of a certificate of registration under section 99 or authorisation under section 106 permitting the person to teach or practice teaching at a school in Fiji.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction—

(a) for a first offence, to a fine not exceeding \$5,000; and

(b) for a second or subsequent offence, to a fine not exceeding \$20,000.

Power to register

94.—(1) The Board may grant the registration of a person as a teacher under this Act.

(2) The Board may also—

(a) refuse to grant, renew or vary registration;

(b) suspend or cancel registration; or

(c) impose, vary, suspend or remove conditions of registration.

Application for registration

95.—(1) A person qualified to be registered as a teacher may, in the prescribed form and accompanied by the prescribed fee, apply to the Board for registration.

(2) The Board may require a person to provide any further information it considers necessary to consider the application.

Criteria for registration

96.—(1) The Board must not register a person as a teacher unless it is satisfied that—

- (a) the person—
 - (i) has successfully completed an approved course and qualification relating to teacher education and training from a recognised institution, and at least one year of full-time teaching to the satisfaction of the Board;
 - (ii) has contributed to educational practice and has the qualification and experience that, in the opinion of the Board, are sufficient to warrant registration; or
 - (iii) has complied with any requirements of the Board during any period of provisional registration;
- (b) the person is of good character; and
- (c) the person is fit to be a teacher (which may include requiring the person to be certified by a registered medical practitioner as medically fit to be a teacher).

(2) In determining whether an applicant is of good character, the Board must consider any—

- (a) conviction of, or charge made against, the applicant; and
- (b) behaviour of the applicant that—
 - (i) does not satisfy a standard of behaviour generally expected of a teacher;
 - (ii) is otherwise disgraceful or improper;
 - (iii) shows that the applicant is unfit to be a teacher; or
 - (iv) it considers relevant even if the matter happened in another country.

(3) If the Board takes into account any matter under subsection (2), the Board must give the applicant an opportunity to respond, in writing or orally, to such matter.

(4) The applicant may appear before the Board with or without a representative.

Notice of Board's decision

97.—(1) The Board must, within 14 days after the date of its decision on an application, notify the applicant in writing about its decision, including the reasons for refusal if the application is refused.

(2) The notice given under subsection (1) must also state the right of appeal and the period of appeal under section 110.

- (3) For an approval for **provisional registration**, the notice must also state—
- (a) the additional qualification or experience required for full registration; and
 - (b) the time within which the applicant must obtain or complete the stated additional qualification or experience.

Registration fee

98.—(1) A person who is registered, or whose registration is renewed (including provisional registration and limited authority), must pay an annual prescribed registration fee for each year, excluding the first year, for which the registration is granted or renewed.

(2) The fee is to be paid on or before 31 December in each year during the period of the registration, and if the fee is not paid the registration lapses.

(3) A person must pay the prescribed late penalty fee if their registration lapses under subsection (2).

(4) Despite subsections (1) and (2), the Board may determine a biennial or triennial fee payment plan that is specific to the type of registration.

Certificate of registration

99.—(1) If an application for registration (including renewals of or provisional registration) is granted by the Board, the Board must issue a certificate of registration in the prescribed form.

(2) If a certificate of registration is lost or destroyed, the Board may, on payment of the prescribed fee, issue a replacement certificate.

Duration of registration

100.—(1) The period of registration is up to 3 years starting on the date the registration is granted and ending on 31 December in the year that the registration expires.

(2) The Minister may make regulations to prescribe the term for each category of registration.

Renewal of registration

101.—(1) A person whose registration expires, or lapses under section 98(2), may apply to the Board for renewal of registration.

(2) The application must be in the approved form and accompanied by the prescribed fee.

- (3) The application must also be accompanied by **satisfactory evidence of—**
- (a) **ongoing competence; and**
 - (b) **professional development undertaken in the 12 months before the date of the application.**

(4) The Board must not renew the registration of a person unless it is satisfied—

- (a) that the person continues to be of good character; and

(b) with the evidence referred to in subsection (3).

(5) The Board may renew the registration for a period not exceeding 3 years, subject to this Act and regulations made under it and payment of the prescribed registration fees.

Restoration of registration

102.—(1) A person whose registration was cancelled or suspended or has expired may, in the prescribed form and accompanied by the prescribed fee, apply to the Board for restoration of such registration.

(2) Section 96 applies to an application under this section.

Provisional registration

103.—(1) The Board may, subject to conditions it deems appropriate, grant a provisional registration to a person who has applied for full or provisional registration if the Board is satisfied that the person—

- (a) has not complied with the qualifications and experience required for full registration but has the qualifications and experience the Board determines, as necessary for the requirement for provisional registration or is able to obtain the qualifications and experience required for full registration; and
- (b) is of good character.

(2) A person may, in the prescribed form and accompanied by the prescribed fee, apply to the Board for provisional registration.

(3) The period of provisional registration is one year and may be renewed twice for a period of one year for each renewal.

(4) A person seeking renewal under this section must apply to the Board in the approved form and be accompanied by the prescribed fee.

(5) The application must also be accompanied by satisfactory evidence of—

- (a) ongoing competence; and
- (b) professional development undertaken in the 12 months before the date of the application.

(6) The Board must not renew the registration of a person unless it is satisfied—

- (a) that the person continues to be of good character; and
- (b) with the evidence referred to in subsection (5).

Reports from employers on provisional registrants

104.—(1) The Board may require a person who has been granted a provisional registration to submit a report in an approved form from the person's employer with respect to—

- (a) the manner in which the person has performed teaching duties; and
- (b) any recommendations as to the person's suitability for full registration.

(2) A recommendation for full registration of a person granted provisional registration may only be made by the employer of the person after the person has completed one year of teaching.

Cancellation of provisional registration

105. The Board may cancel the provisional registration of a person—

- (a) if the person fails to comply with a condition of the registration; or
- (b) for any other good reason the Board determines.

Limited authority to teach

106.—(1) A person must not be allowed to practise teaching as a teacher trainee at a school, unless the person has a written authorisation under this section to undertake practical teaching at a school.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$2,000.

(3) The Board has the power to grant limited authority to a person, in the prescribed form and subject to conditions the Board deems appropriate, to teach at a school in a specified subject if the Board is satisfied that the person is of good character and—

- (a) does not meet the requirements for full registration or provisional registration but has the appropriate skill or experience that is not attained by a registered teacher;
- (b) is a teacher trainee recommended by a recognised teacher education college or by the Permanent Secretary; or
- (c) meets the special registration requirements.

(4) A person meets the special registration requirements if the person—

- (a) provides instruction in religion or culture on behalf of a recognised faith or cultural institution; and
- (b) possesses specialised knowledge or skills in religion or culture as verified and recommended by the recognised faith or cultural institution.

(5) Except for a person registered under subsection (3)(c), the period of limited authority is up to 2 years as determined by the Board and may be extended for a further period for up to 2 years.

(6) Registration under subsection (3)(c) is not limited to a period and is valid until or unless surrendered, suspended or cancelled.

Cancellation of limited authority

107. The Board has the power to cancel or suspend the limited authority issued to a person if—

- (a) the person is convicted of an offence in Fiji or in another country; or

- (b) the Board considers it appropriate to do so.

Division 3—Appeals

Continuation of Appeals Board

108. This section continues the Teachers’ Appeals Board established under the Fiji Teachers Registration Act 2008 consisting of the following members appointed by the Minister—

- (a) a legal practitioner who has at least 7 years of legal practice, as the chairperson; and
- (b) 2 other members.

Powers of Appeals Board

109.—(1) The power of the Appeals Board is to hear and determine an appeal under this Act.

(2) The Appeals Board has the power to confirm or vary the decision of the Registration Board or to quash the decision and make a new decision.

(3) In determining an appeal, the Appeals Board may take into consideration any evidence or statement relating to the character, academic and general suitability of the appellant.

Right of appeal

110.—(1) A person who is aggrieved by a decision of the Board given under Division 2 or 4 has the right to appeal to the Appeals Board.

(2) An appeal must be lodged with the Appeals Board within 30 days from the date of the notice given under section 97.

Appeals to High Court on question of law

111. A person who is aggrieved by the decision of the Appeals Board may appeal the decision to the High Court on a question of law.

Rules of Appeals Board

112. The Minister may make rules regulating the procedures for appeals.

Secretary to Appeals Board

113. The Permanent Secretary has the power to designate a senior staff of the Ministry to be the secretary to the Appeals Board.

Division 4—Teacher Discipline and Inquiries

Disciplinary action on conviction

114.—(1) If a registered teacher is convicted of an offence in Fiji, the Commissioner of Police or the Director of Public Prosecutions must cause to be sent to the Board a written notice stating the name of the registered teacher, the nature of the offence and the penalty imposed by the court.

(2) A registered teacher who is convicted of an offence in another country must, within 28 days after conviction notify the Board, in writing, of—

- (a) that conviction; and
- (b) the circumstances in which the offence was committed.

(3) When the Board receives a notice under subsection (1) or (2), the Board may—

- (a) caution the teacher; or
- (b) if it is of the opinion that the circumstances of the offence render the teacher unfit to teach—
 - (i) suspend the teacher’s registration for any period, and subject to any conditions, it considers appropriate; or
 - (ii) cancel the teacher’s registration.

(4) The Board, on suspending the registration of a teacher under subsection (3)(b)(i), may substitute provisional registration for any period, and subject to any conditions, the Board considers appropriate.

Complaints

115.—(1) A person (“the complainant”) has the right to complain, by notice in writing to the Board, about the professional conduct of a registered teacher (“the respondent”).

(2) The Board may dismiss a complaint if it is frivolous or vexatious and must notify the complainant of the dismissal.

(3) The Board must send a copy of the complaint to the—

- (a) respondent; and
- (b) employer of the respondent, if the employer contact details are stated in the complaint.

Inquiries

116.—(1) The Board has the power to hold an inquiry on—

- (a) a matter relating to the registration of a person under this Act; and
- (b) any complaint made under section 115.

(2) For the purposes of subsection (1), the Board may appoint a committee of inquiry to hold the inquiry and make recommendations to the Board.

(3) The Board may also hold an inquiry in respect of a registered teacher if it reasonably believes that—

- (a) the person is incompetent in teaching and has been dismissed from employment or has resigned in circumstances that, in the opinion of the person’s employer, call into question the person’s competency to teach;
- (b) the person’s registration to teach in another country has been cancelled or suspended;

- (c) the person's employment in another country to teach has been terminated because the person's employer was reasonably satisfied the person was not competent or fit to teach;
- (d) the person was registered on the basis of false or misleading information;
- (e) the person is no longer of good character; or
- (f) the person is convicted of an offence in Fiji or another country.

(4) The Board may hold an inquiry in respect of a person only if reasonably satisfied that it is in the public interest to do so.

Committee of inquiry

117.—(1) The Board may appoint a committee of inquiry consisting of—

- (a) 2 persons who are members of the Board; and
- (b) 3 other persons 2 of whom are registered teachers.

(2) A committee of inquiry must hold an inquiry subject to this Act and in accordance with any directions of the Board.

Conduct of inquiry

118.—(1) If the Board determines that an inquiry is to be held in respect of a person who is or was a registered teacher, the Board must serve the person with a notice of the proposed inquiry stating the following—

- (a) the nature and details of any matter of the proposed inquiry;
- (b) the date on which and the time and place at which it is to be held;
- (c) whether the inquiry is to be held by the Board or a committee of inquiry;
- (d) the full names of the members of the committee of inquiry;
- (e) that the person may submit to the Board within 14 days of service of the notice; and
- (f) a statement in writing—
 - (i) admitting to, or refuting, the substance of any matter to be inquired into; or
 - (ii) notifying the Board of the intention to appear in person.

(2) A person may be represented by any other person at an inquiry.

Committee to report to Board

119. When an inquiry is completed, the committee must prepare and submit to the Board a report including its findings and recommendations.

Decision of Board on inquiry

120. When making any decision in relation to the inquiry, the Board must take into account any findings and recommendations of the committee of inquiry, and may make any of the following decisions as a result of an inquiry—

- (a) caution the person;
- (b) suspend the registration for any period, subject to conditions;
- (c) cancel the registration; or
- (d) dismiss the complaint or matter being inquired into.

*Division 5—Miscellaneous**Register of teachers*

121.—(1) The Board must establish, keep and maintain a register of persons who are registered under this Act, containing the following information—

- (a) the full name and address of the registered person;
- (b) the type of registration (full or provisional);
- (c) particulars of the qualifications and experience by which the person is registered;
- (d) the date of making of the entry; and
- (e) any other prescribed particulars.

(2) The register must be kept at the Board's office and other office it determines, and the register may be open for inspection during office hours by any person on payment of the prescribed fee.

(3) The Board must—

- (a) when a person is registered as a teacher, enter in the register the details set out in subsection (1) about that person;
- (b) when the registration of a person has been suspended or cancelled or has expired, make necessary notations on the register; and
- (c) enter other matters on the register, as it considers appropriate.

Removal of name from register

122. The Board may remove the name of a person from the register if—

- (a) the person has died;
- (b) the person requests that his or her name be removed from the register if the person is no longer employed as a teacher;
- (c) the registration is cancelled under section 94, 105, 107 or 120;
- (d) the person has not applied for renewal of registration under section 101; or
- (e) the person has not paid the relevant prescribed annual registration fee by the due date.

Duties of employers

123. Where a duty is imposed under this Act on an employer, the duty may be performed on behalf of the employer—

- (a) for any kindergarten, by the director or head of the kindergarten;
- (b) for any primary school, the head teacher or the manager or head of the school management; or
- (c) for any secondary school, the principal, manager or head of the school management.

Annual returns

124. The employer or a person so authorised by the employer must, on or before June each year, provide the Board with a return in the prescribed form of all persons teaching at the school as at 1 May that year.

Annual report and audit report

125.—(1) The Board is to submit an annual report to the Minister by 30 March the following year on its activities for the last financial year and the Minister must table the annual report in Parliament as soon as reasonably practicable.

(2) A copy of the certified audit statement is to be attached to the annual report.

(3) The Board is to—

- (a) keep proper accounts and records in relation to all its operations including fees collected;
- (b) ensure all payments made by it are correctly made and properly authorised; and
- (c) ensure that adequate control is maintained over—
 - (i) any assets in its custody; and
 - (ii) the incurring of liabilities.

(4) The accounts and financial records of the Board are subject to the Financial Management Act 2004, and the Audit Act 1969.

(5) The Board, on or before 31 August in each year, must—

- (a) prepare financial statements with respect to the preceding financial year in the form, and containing the information, determined by the Auditor-General; and
- (b) provide the Auditor-General with the financial statements.

PART 13—HIGHER EDUCATION

Division 1—Preliminary

Application

126. This Part applies to all higher education institutions.

Interpretation

127. In this Part, unless the context otherwise requires—

“accreditation”, in relation to a programme of study that leads to a higher education award, means the recognition that the standard of the programme of study and the way of delivering it, are appropriate to the award;

“degree awarding institute of technology” means an educational institution providing post-secondary education which specialises in technical education and training and awards qualifications up to degree level;

“higher education award” means the following qualifications—

- (a) a degree or higher degree;
- (b) a postgraduate diploma;
- (c) a postgraduate certificate;
- (d) a certificate, diploma, advanced diploma, associate degree if the programme of study relating to the diploma or certificate or associate degree is classified as higher education in the Higher Education Register; or
- (e) any other award, if the programme of study relating to the award is generally understood to be higher education;

“operating”, means conducting any form of activity in any medium to promote or in support of fee-paying or non-fee-paying higher education and training that is sourced externally, or within Fiji or both;

“other higher education institutions” means higher education institutions that are neither universities nor degree awarding institutes of technology;

“overseas institution” means an overseas higher educational institution that—

- (a) is established and operates primarily in another country; and
- (b) offers a programme of study leading to an award recognised as a higher education award by the entity responsible for recognising higher education awards in that country;

“registration” means registration of an institution by provision of a certificate of registration under section 144, and includes renewal of registration; and

“Tribunal” means the Higher Education Appeals Tribunal established under section 150.

*Division 2—Higher Education Commission**Continuation of Higher Education Commission*

128.—(1) The Higher Education Commission established under section 5(1) of the Higher Education Act 2008 continues in existence under this Act.

- (2) The Commission is a body corporate with perpetual succession and a common seal.
- (3) The Commission may—
- (a) enter into contracts;
 - (b) sue and be sued;
 - (c) acquire and dispose of real and personal property; and
 - (d) perform any other act that a body corporate may by law perform.
- (4) The use of the common seal of the Commission must be authenticated by the signature of—
- (a) the chairperson; and
 - (b) a member authorised by the Commission to do so.

(5) All documents, other than those required by any written law to be under the common seal, prepared by, and all decisions of, the Commission may be signified under the hand of the chairperson, or any member or officer authorised by the Commission to act in that behalf.

(6) All cheques and other negotiable instruments, and all receipts for money paid to the Commission, must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Commission may determine, provided that at least 2 persons are to be authorised to sign the cheques and other negotiable instruments.

Membership of Commission

- 129.**—(1) The Commission consists of the chairperson and 5 other members.
- (2) The Minister appoints the members of the Commission and determines the terms and conditions of the appointment.
- (3) When appointing the members of the Commission, the Minister must consider persons who possess—
- (a) independence and integrity;
 - (b) a balanced combination of postgraduate qualification and experience;
 - (c) knowledge and experience of higher education academic affairs;
 - (d) knowledge and experience in governance and management of higher education institutions;
 - (e) knowledge and experience in the design, development and delivery of higher education courses; and
 - (f) research and publication experience in any academic field.
- (4) Subject to this Act, the Commission may regulate its own procedures.

Functions of Commission

130. The functions of the Commission are to—

- (a) register and regulate higher education institutions in accordance with this Part;
- (b) foster and safeguard the national interest, the interests of students and parents, and also of local higher education providers;
- (c) establish national standards for different qualifications;
- (d) oversee the review process of higher education institutions;
- (e) provide assurances that the programmes developed by the higher education institutions meet national standards;
- (f) promote the development of Fiji as a knowledge society;
- (g) allocate government funds marked for higher education annually to higher education institutions according to a transparent and well-publicised criteria for allocation;
- (h) foster cooperation among higher education institutions and linkages between higher education institutions and industry;
- (i) maintain a database of higher education information;
- (j) develop or cause to be developed an academic broadband facility for use by higher education institutions; and
- (k) make recommendations to the Minister with respect to issues consistent with its functions, including special projects.

Powers of Commission

131. The Commission has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

Committees to assist Commission

132. The Commission may establish committees consisting of its members and other persons employed or engaged by the Commission as it considers appropriate, to assist the Commission in the performance of its functions.

Review Committee

133.—(1) The Commission must establish a Review Committee consisting of 4 members appointed by the Commission, who are not members of the Commission and committees established under section 132.

(2) The Review Committee must conduct a review of the operation of existing and new higher education institutions according to the criteria and guidelines set out by the Commission.

(3) The annual reports of higher education institutions must be submitted to the Review Committee for consideration in the review process.

(4) In exceptional cases, the Review Committee may undertake a special audit of a higher education institution as directed by the Commission.

Directions

134.—(1) The Minister may give the Commission written policy directions in relation to the powers and functions of the Commission if the Minister is satisfied that it is necessary to do so in the public interest.

(2) The Commission must comply with the Minister’s directions given under subsection (1).

Register of higher education institutions

135. The Commission must keep and maintain a register of higher education institutions that are established under this Act.

Appointment of Director and other staff

136.—(1) The Commission must, with the approval of the Minister, appoint a director on the terms and conditions as the Commission may determine.

(2) The director is responsible to the Commission for the proper administration and management of the functions and affairs of the Commission in accordance with any policy laid down by the Commission.

(3) If the director is temporarily unavailable or incapacitated by reason of illness or for any other reason temporarily unable to perform his or her duties, the Commission may appoint another person to act in the place of the director during the period of absence or disability.

(4) The Commission may appoint such other officers, employees, consultants, agents or other personnel as it considers appropriate for the effective performance of its functions.

Division 3—Establishment and Registration of Higher Education Institutions

Restriction on operation

137.—(1) A person must not establish or operate a university or degree awarding institute of technology unless the institution is established and registered under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$250,000 or imprisonment for a term not exceeding 12 years in the case of a director of the body corporate or both.

(3) Any person who operates a higher education institution, that is neither a university nor a degree awarding institute of technology, in contravention of subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$20,000 or imprisonment for a term not exceeding 5 years or both; or

- (b) in the case of a body corporate, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years in the case of a director of the body corporate or both.

Restriction on name

138.—(1) A person must not use the term “Fiji”, “National” and “State” in the naming of a higher education institution unless its use is approved by the Minister.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$20,000 or imprisonment for a term not exceeding 5 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years in the case of a director of the body corporate or both.

Restriction on use of title “university”

139.—(1) A person must not—

- (a) use the title “university” in naming an educational institution unless the institution is a higher education institution approved as a university by the Commission;
- (b) use the title “university” in a business or corporation name unless approved by the Commission or unless the business is that of an approved university;
- (c) operate or purport to operate an establishment as a university or part of a university unless approved by the Commission;
- (d) operate or purport to operate as a university or part of a university from Fiji, through the Internet or any other telecommunications device unless approved by the Commission; or
- (e) advertise as a university, offer a course as a university, or issue an award as a university unless approved by the Commission.

(2) The Commission may grant approval to a person under subsection (1) with or without conditions.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$250,000 or imprisonment for a term not exceeding 12 years in the case of a director of the body corporate or both.

Application for registration

140.—(1) An application for registration as a higher education institution must be made in writing to the Commission and accompanied by the prescribed fee.

(2) The Minister must prescribe the process for assessing applications for registration as a higher education institution.

Consideration of application for registration by Commission

141.—(1) When assessing an application for registration as a higher education institution, the Commission must consider the following—

- (a) an indication, on the basis of written material and discussion with the higher education institution, that the institution will comply with the relevant guidelines;
- (b) an assessment of senior or high-level executives, including administrative and academic staff;
- (c) an inspection of existing facilities, plans of facilities and delivery modes for programmes the institution proposes to offer to ensure that the national standards are met;
- (d) an evaluation of the financial capacity of the institution to deliver its proposed programmes and to sustain the programmes appropriately; and
- (e) willingness of the institution or person to participate in periodic review processes, including national quality assurance processes.

(2) When considering an application, the Commission may consider other information not contained in the application provided that the information is brought to the notice of the applicant.

Approval for registration

142.—(1) The Commission may approve the registration of a university or a degree awarding institute of technology that satisfies the requirements of section 141 or conforms to the prescribed schedule of criteria.

(2) If the Commission approves an application for registration with conditions, the Commission must, as soon as practicable, notify the applicant of the conditions of the approval and the reasons for imposing the conditions.

(3) An applicant who is granted conditional approval may, in writing, make representations to the Commission concerning the conditions, within 3 months after receiving notification from the Commission.

(4) The Commission must, as soon as practicable, notify an applicant of the outcome of its representation.

Enactment of a university Act

143.—(1) If the Commission grants approval for registration as a university, the Commission must cause a Bill for an Act to establish that university to be submitted to the Minister who is to table it in Parliament for enactment.

(2) The Commission may, while the enactment of an Act under subsection (1) is pending, allow a university to begin operations as soon as it is notified of the Commission's approval for registration and related fees have been paid.

Certificate of registration

144.—(1) The Commission must issue a certificate of registration to a higher education institution that has been granted an approval for, or renewal of, registration.

(2) If a certificate of registration is lost or destroyed, the Commission may, upon receipt of the prescribed fee, issue a replacement certificate.

Duration of registration

145. A registration remains in force for a period of 5 years.

Registration fee

146. The Minister may prescribe the fees relating to the registration of higher education institutions.

Revocation of registration

147.—(1) The Commission may—

- (a) after receiving a report from the Review Committee, invite and consider submissions from a higher education institution or person; and
- (b) revoke or suspend the registration or impose any condition on the registration of a higher education institution.

(2) A person may appeal against the decision of the Commission made under subsection (1) to the Tribunal.

Application for accreditation

148.—(1) An application for accreditation as a higher education institution must be made in writing to the Commission and accompanied by the prescribed fee.

(2) The Minister must prescribe the process for assessing applications for accreditation of courses and programmes in universities or degree awarding institutes of technology.

Authorisation to confer higher education award

149.—(1) A higher education institution must not confer a higher education award unless the institution is registered by the Commission under this Part.

(2) An award must not be recognised as a higher education award unless the institution conferring the award is a registered higher education institution under this Part.

(3) A higher education award, other than an honorary award, must not be conferred on a person unless the person has successfully completed a programme of study relating to the award.

(4) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$20,000 or imprisonment for a term not exceeding 5 years or both; or

- (b) in the case of a body corporate, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years in the case of a director of the body corporate or both.

Division 4—Appeals

Higher Education Appeals Tribunal

150.—(1) This section establishes the Higher Education Appeals Tribunal consisting of—

- (a) the chairperson, who must be a person qualified to be appointed as a Judge or is a retired Judge; and
- (b) two other members who are of standing in the community.

(2) The members of the Tribunal are to be appointed by the Minister for a term of 3 years, either on a full-time or part-time basis and are eligible for reappointment.

Review of decisions

151.—(1) Subject to subsection (2), a higher education institution that is aggrieved by a decision of the Commission and has exhausted the means prescribed under this Act for review by the Commission of its decision, may apply to the Tribunal for a review of the decision.

(2) The Tribunal has jurisdiction to review only the Commission’s decisions relating to—

- (a) a refusal of an institution’s application for registration, or for accreditation of a programme or course of study;
- (b) the imposing of conditions on an institution’s registration, or accreditation of a programme or course of study; and
- (c) the suspension or cancellation of an institution’s registration, or accreditation of a programme or course of study.

Determination of appeals

152.—(1) In determining an appeal, the Tribunal may—

- (a) confirm the original decision;
- (b) amend the original decision;
- (c) substitute another decision for the original decision; or
- (d) set aside the original decision and return the matter to the Commission with any direction it considers appropriate.

(2) The Tribunal must determine an appeal in accordance with the prescribed procedures.

Division 5—Finance

Financial year

153. The financial year of the Commission is from 1 August to 31 July of each year.

Annual estimates

154.—(1) The Commission must, in each financial year, prepare or cause to be prepared and must adopt annual estimates of income and expenditure of the Commission for the ensuing financial year.

(2) The Commission may adopt supplementary estimates at any of its meetings.

(3) The Commission must submit a copy of all annual and supplementary estimates to the Minister.

Funds of Commission

155.—(1) The funds of the Commission consist of—

(a) moneys received by the Commission by way of grants or subsidies;

(b) gifts, donations and contributions to the Commission;

(c) fees, charges, rents, interests, dividends and other income accruing to the Commission;

(d) moneys recovered or collected by the Commission or any of the Commission's officers or employees (including sums collected for the composition of offences) under this Act or any other written law administered by the Commission; and

(e) other moneys lawfully received by the Commission for the purposes of the Commission.

(2) The funds of the Commission are subject to the financial management and procedures of the Ministry responsible for finance.

(3) The members of the Commission, Tribunal and Review Committee are to receive allowances in accordance with the conditions determined by the Minister.

Grants

156.—(1) For the purpose of enabling the Commission to carry out its functions under this Act, the Minister must allocate annual grants to the Commission of such sums as the Minister may determine out of moneys to be provided by Parliament.

(2) The Commission must account annually to the Government through the Minister all revenues it collects under section 155.

(3) The accounts of the Commission must be audited by the Auditor-General.

*Division 6—Reporting**Annual reports of higher education institutions*

157.—(1) A higher education institution must, on or before 30 June each year, provide the Commission with an annual report for the period from 1 January to 31 December of the previous year, containing the matters relating to annual reports set out by the Commission, including, where required, audited financial reports.

(2) The annual report of a higher education institution must be available for public examination, free of charge, at locations where the institution operates.

Annual report for Parliament

158. At the end of each financial year, the Commission must submit an annual report, which must include an audited financial report, to the Minister on or before 30 April the following year and the Minister must cause a copy of the report to be tabled in Parliament as soon as reasonably practicable.

Division 7—Miscellaneous

Power of Commission to access

159.—(1) The Commission may require a higher education institution to provide such information relating to any aspect of the institution’s operation, as may be required.

(2) In gathering the requisite information under subsection (1), the Commission may utilise such means as it considers necessary to acquire the information.

Winding up of institutions

160.—(1) A higher education institution intending to wind up its operations must inform the Commission in writing at least 12 months before the intended date of closure.

(2) For the purposes of subsection (1), an institution must ensure that the future of the education and training of its students is not affected.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$250,000 or imprisonment for a term not exceeding 12 years in the case of a director of the body corporate or both.

PART 14—GENERAL POWERS

Ministerial directions

161.—(1) The Minister may give directions, not inconsistent with the provisions of this Act, as to the exercise of any of the Permanent Secretary’s powers and functions under the provisions of this Act.

(2) The Permanent Secretary must—

- (a) as soon as practicable, notify the Minister of the exercise of the Permanent Secretary’s powers under this Act; and
- (b) comply with a direction given under this section.

Minister not bound by advice etc

162. Where the Minister is empowered or obliged to act with the advice of the Council, he or she must consult the Council but is not bound by its advice or recommendations.

Permanent Secretary may relocate students

163. Despite any other provision in this Act or any other written law, the Permanent Secretary may relocate a student from the school that he or she is enrolled in, to any other school if the Permanent Secretary is satisfied that—

- (a) the student has severe disciplinary issues at the school;
- (b) the relocation of the student is for the student’s health or safety;
- (c) the prescribed teacher-student ratio at the school cannot be maintained;
- (d) the state of the school or any of its educational facilities is such that it warrants the relocation of the student; or
- (e) a prescribed reason warrants the relocation of the student.

PART 15—OFFENCES AND PENALTIES

*Division 1—Offences in relation to schools**Offence in relation to operating schools*

164. A person who establishes a school without approval under Part 7 and operates, manages or assists in the management of a school that is not registered or recognised and does not have a valid certificate of registration or recognition under Part 7, commits an offence and is liable on conviction to a fine not exceeding \$5,000 and in default of payment to imprisonment for a period not exceeding 6 months and to a further fine not exceeding \$20 for each day on which the offence continues after conviction.

Offence in relation to unsuitable publication

165.—(1) A person who manages or assists in the management of a school that to his or her knowledge uses an unsuitable publication or periodical publication or any copy of, or extract from, the publication, as part of the instruction, commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

(2) In this section, “unsuitable publication” means a publication that is not appropriate for student educational purposes as prescribed.

Offence to manage a school without being registered as a manager etc

166.—(1) A person who is not registered as a manager of a school or approved to open or operate a home school, and manages or assists in the management or operation of the school, commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

(2) A person who is prohibited from being a manager of a school and continues to manage or assist in the management of a school, commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

Offence to mislead type of school etc

167. A manager of a school who, with intent to mislead, wilfully publishes any written matter or wilfully causes any matter to be broadcast suggesting that the school is of a type or classification other than that in which it is registered in accordance with this Act commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

Offence to keep open or reopen a closed school etc

168. A person who keeps open or reopens a school ordered to be closed under this Act or manages or assists in the management of the school, other than in accordance with this Act commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

Offence to insult or abuse teacher etc

169.—(1) A person who **insults or harasses a teacher** commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.

(2) A person who assaults a teacher or a student commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.

(3) A person who maliciously disturbs any school programme in the presence or hearing of the students assembled in the school or in the school premises commits an offence and is liable to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.

*Division 2—Offences in relation to teacher registration**Unregistered persons not to be employed*

170.—(1) A person who employs a person not being registered or authorised under this Act to teach at a school as a teacher commits an offence and is liable on conviction to—

- (a) for a first offence, a fine not exceeding \$50,000; and
- (b) for a second or subsequent offence, a fine not exceeding \$150,000.

(2) A person not being a registered teacher who enters a school to supervise or assess the work of a practising teacher or of a trainee teacher without being authorised to do so by the Board commits an offence and is liable on conviction to—

- (a) for a first offence, a fine not exceeding \$20,000; or
- (b) for a second or subsequent offence, a fine not exceeding \$50,000.

Duty of registered teacher whose registration is cancelled

171.—(1) A registered teacher must give written notice to the Board about any of the following events within 14 days after the occurrence of the event—

- (a) if the teacher was registered in another country, the cancellation or suspension (however described) of the person's registration in that other country as a teacher; or

- (b) if the teacher was employed in another country that does not register teachers, the termination of the teacher's employment as a teacher in the other country because the teacher's employer was reasonably satisfied the teacher was not competent or fit to be employed as a teacher in that other country.

(2) A teacher who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for first offence, a fine not exceeding \$5,000; or
- (b) for second or subsequent offence, a fine not exceeding \$20,000.

Notification on sexual allegations

172.—(1) If there is a sexual allegation involving a student and a teacher and the employing authority has undertaken measures that resulted in the dismissal or resignation of the teacher, the employing authority must, within 7 days of making such decision or receiving the resignation, notify the Board of the matters set out in subsection (2).

(2) The notice must include the following—

- (a) the name of the employing authority;
- (b) if the name of the authority is different to the name of the school, the name of the school;
- (c) the name of the relevant teacher;
- (d) the date the employing authority gave notice to the relevant teacher of the dismissal or the employing authority was given notice of the resignation, and the date of effect of the dismissal or resignation;
- (e) the sexual allegation, particulars of the sexual allegation and any other relevant information; and
- (f) the reasons given by the employing authority for the dismissal or by the relevant teacher for resigning.

(3) The employer that fails to comply with the notice requirements under this section commits an offence and is liable on conviction—

- (a) for a first offence, to a fine not exceeding \$1,000; or
- (b) for a second or subsequent offence, to a fine not exceeding \$5,000.

False or misleading information or document

173. A person who gives the Board or a committee of inquiry any information that the person knows is false or misleading in a material particular or any document containing information the person knows is false, incomplete or misleading in a material particular, commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years.

PART 16—MISCELLANEOUS

Review of Act

174. This Act must be reviewed every 5 years from the commencement date.

Regulations

175.—(1) The Minister may, following consultation with the Council, make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act, including—

- (a) prescribing procedures, requirements, and other matters, not inconsistent with this Act;
- (b) requiring any applications, requests, or notices under this Act to be made or given in a prescribed manner;
- (c) providing for the procedure to be followed in connection with any application, request, or notice under this Act;
- (d) regulating the making of applications, requests, or notices under this Act;
- (e) prescribing fees and penalties to be paid, or the means by which those fees and penalties may be calculated or ascertained, for any matter under this Act or the regulations;
- (f) prescribing penalties exceeding a fine of \$400 or imprisonment for a term exceeding 6 months or both;
- (g) prescribing the teacher-student ratio;
- (h) prescribing procedures, requirements and other matters related to compulsory education;
- (i) prescribing procedures, requirements and other matters related to early education;
- (j) prescribing procedures, requirements and other matters related to primary education;
- (k) prescribing procedures, requirements and other matters related to secondary education;
- (l) prescribing procedures, requirements and other matters related to higher education;
- (m) prescribing procedures, requirements and other matters related to technical and vocational education and training;
- (n) prescribing procedures, requirements and other matters related to special and inclusive education;
- (o) prescribing procedures, requirements and other matters related to education for mature students;

- (p) prescribing procedures, requirements and other matters related to boarding, including the enrolment criteria for boarding and fees;
- (q) prescribing the procedures, requirements and other matters related to home schools;
- (r) prescribing procedures, requirements and other matters related to sports and other extracurricular activities;
- (s) prescribing procedures, requirements and other matters related to children in conflict with the law;
- (t) prescribing procedures, requirements and other matters related to on-the-spot inspections;
- (u) prescribing health and safety requirements;
- (v) prescribing procedures, requirements and other matters related to inspections of schools, and medical inspections and treatments;
- (w) prescribing procedures, requirements and other matters related to counselling;
- (x) prescribing procedures, requirements and other matters related to digital and financial literacy;
- (y) prescribing reasons that are required or permitted by this Act; and
- (z) regulating artificial intelligence in relation to education.

(2) The power to make regulations under subsection (1) to prescribe the manner in which a thing is done includes the power to—

- (a) prescribe when, where and how the thing is to be done;
- (b) prescribe the form that is to be used in connection with doing the thing;
- (c) prescribe the information to be provided or other evidence or documents to be provided in connection with the thing;
- (d) prescribe requirements with which information, evidence, or documents that are provided in connection with the thing are to comply;
- (e) prescribe the electronic or other delivery method that is to be used in connection with the thing;
- (f) provide for the Permanent Secretary to determine any of the matters in paragraphs (a) to (e); and
- (g) prescribe that fees are to be paid in connection with doing the thing.

(3) In relation to Part 12, the Minister may, following consultation with the Board, make regulations to regulate—

- (a) procedures and requirements for application for registration, provisional registration and limited authority;

- (b) forms for the purpose of this Act;
- (c) fees, charges and other costs for the purpose of this Act;
- (d) other procedures and rules relating to the conduct of inquiry or investigation;
- (e) inspection or entry in the register; and
- (f) other services provided by the Board,

and to prescribe penalties not exceeding \$2,000 or to imprisonment not exceeding 2 years, for offences created under such regulations.

Repeal

176.—(1) The following Acts are repealed—

- (a) the Education Act 1966;
- (b) the Fiji Teachers Registration Act 2008; and
- (c) the Higher Education Act 2008.

(2) All subsidiary legislation made under the repealed Acts are revoked.

Transitional and savings

177.—(1) This section applies despite the repeal of the Education Act 1966, the Fiji Teachers Registration Act 2008 and the Higher Education Act 2008.

(2) A person who, immediately prior to the commencement of this Act, is a member of the Education Forum continues in office until the members of the Council are appointed under this Act.

(3) A government school that exists immediately prior to the commencement of this Act continues as a government school until the Permanent Secretary closes the school under this Act.

(4) A school, other than a government school, that is recognised or registered under the Education Act 1966 continues to be recognised or registered until the Permanent Secretary, under this Act—

- (a) cancels the school's certificate of recognition or registration; or
- (b) closes the school.

(5) A Board of Governors for a government school that exists immediately prior to the commencement of this Act continues as the Board of Governors for the government school until such time the term of the Board of Governors expires, or until such time the appointment of the members of the Board of Governors expires or is revoked, whichever is earlier.

(6) Any curriculum, assessment and educational standards and frameworks approved for use, and used, in schools immediately prior to the commencement of this Act continues to be used in schools until such time new curriculum, assessment and educational standards and frameworks are developed for use by the Authority.

(7) A higher education institution that is registered under the Higher Education Act 2008 continues to be registered until such time the certification of registration expires or is revoked or suspended under this Act.

(8) An accreditation or authorisation that is issued to a higher education institution under the Higher Education Act 2008 continues to be valid under, and is subject to, this Act.

(9) A teacher who is registered under the Fiji Teachers Registration Act 2008 immediately prior to the commencement of this Act continues to be registered until such time his or her registration expires or is revoked.

(10) A person who, immediately prior to the commencement of this Act, is a member, officer, employee, agent or any other personnel of the Board or the Commission continues in office, employment or engagement on the terms on which he or she was appointed as a member, officer, employee, consultant or any other personnel.

(11) The school hours for teachers and students that exist immediately prior to the commencement of this Act continue until the school hours are prescribed under this Act.

SCHEDULE
(Section 85(6))

OTHER PROVISIONS OF THE FIJI TEACHERS REGISTRATION BOARD

Interpretation

1. In this Schedule, “member” means a member of the Board.

Conditions of appointment

2.—(1) A member is entitled to be paid any allowances the Minister determines.

(2) A member holds office on other terms and conditions specified in the letter of appointment.

Holding other office

3. The holder of an office who is required under any Act to devote the whole time to the duties of that office is not disqualified from—

- (a) holding that office in conjunction with the office of a member; or
- (b) accepting any allowances payable to a member.

Resignation

4. A member may resign by signed notice given to the Minister.

Removal of member

5. The Minister may remove a member from office—

- (a) if the member is convicted of a serious offence under this Act or any other written law;
- (b) if the member is convicted in another country of an offence which, if committed in Fiji, would be a serious offence;
- (c) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors;
- (d) if the Minister considers that the member is unable to perform adequately or competently the functions of the member’s office;
- (e) if the member has been absent for 3 consecutive meetings of the Board without the permission of the Board; or
- (f) for any other just cause or excuse.

Filling of vacancies

6.—(1) A member vacates office if the member—

- (a) dies;
- (b) resigns; or
- (c) is removed from office under clause 5.

(2) If the office of a member becomes vacant, the Minister may appoint to the vacant office for the remainder of that member's term of office a person who is nominated by the same body or association as that member.

Convening of meetings

7. The chairperson must convene meetings of the Board, which must be convened at least once every 4 months.

Presiding at meetings

8.—(1) The chairperson of the Board presides at all meetings of the Board at which he or she is present.

(2) If the chairperson of the Board is not present at a meeting of the Board, the deputy chairperson is to preside.

Quorum and voting at meetings

9.—(1) A quorum at any duly convened meeting of the Board is 51% of the current members.

(2) At a meeting of the Board—

- (a) the member presiding does not have an ordinary vote but only has a deliberative vote; and
- (b) a question is decided—
 - (i) by a majority of votes of the members present and voting; or
 - (ii) in the negative if there is an equality of votes of the members present and voting.

November 2025

EDUCATION BILL 2025

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Education Act 1966 (**‘Act’**) is the foundational law for pre-tertiary education in Fiji and since its promulgation in 1966, the Act has only been amended seven times.
- 1.2 Given that the Act had not undergone a comprehensive review since its inception, it became imperative that such integral legislation be reviewed and reformed to update it to modern standards and best practices, and to also address the since developed and ever developing issues and concerns within the education system.
- 1.3 The Minister for Education, Honourable Aseri Radrodro, appointed a review committee to facilitate the review project, in March 2025. The work of the committee was also supported by the Fiji Law Reform Commission, with funding assistance from the Global Partnership for Education and the United Nations International Children’s Emergency Fund (UNICEF).
- 1.4 The Education Bill 2025 (**‘Bill’**) seeks to repeal and replace the Education Act 1966. It also seeks to repeal the Higher Education Act 2008 and the Fiji Teachers Registration Act 2008 to bring higher education and teacher registration matters under a single education umbrella legislation.

2.0 PARTS

- 2.1 Part 1 of the Bill covers preliminary matters, including the short title and commencement date, which allows the Act to be cited as the Education Act 2025 and specifies when it comes into force.
- 2.2 Part 1 also includes an interpretation section, which defines key terms used throughout the Bill. These definitions are crucial for understanding the provisions and ensuring consistency in its application. For example, the Bill defines terms such as “auditing standards”, “Authority”, “Board”, “child”, “Council”, “Minister”, “Permanent Secretary” and many others.

- 2.3 Additionally, Part 1 outlines principles and objectives that guide its implementation. These principles emphasise the right to education, the role of parents in their children's education, the State's responsibility to ensure quality education for all children, and the provision of public education. The objectives of the Bill include giving effect to the right to education, establishing an advisory council, an independent curriculum development and assessment body, and registration processes for schools and teachers, as well as providing for early childhood, primary, secondary, technical and vocational, and higher education.
- 2.4 Furthermore, Part 1 specifies that the new legislation will bind the State, meaning that the government is obligated to comply with its provisions.
- 2.5 Part 2 of the Bill outlines the right to education, stating that every person has the right to early childhood education, primary education, secondary education, and higher education. It also emphasises the provision of free education, where primary education must be provided free of charge in government and government-aided schools, and secondary and higher education should be provided free of charge if resources are available. Additionally, Part 2 provides for education for mature students, defining them as individuals of or over the age of 19 years. It outlines measures that should be taken to provide education for mature students, including establishing separate government schools, supporting government-aided schools, or implementing education programmes specifically for mature students, ensuring they are educated separately from children.
- 2.6 Part 3 of the Bill covers compulsory education. Compulsory education requires children within a prescribed age range to be enrolled in a school and attend school regularly. The Permanent Secretary is responsible for ensuring compliance and may issue directives to parents (including legal guardians) if a child is not enrolled or attending school. Failure to comply may result in a compulsory education order, with penalties for non-compliance. Exemptions may be granted by the Minister for valid reasons. School heads are required to report any non-compliance to the Permanent Secretary.
- 2.7 Part 4 of the Bill establishes the Education Advisory Council ('**Council**'). The Council is established with various members including representatives from education trade unions and associations, higher education institutions, women's rights groups, student bodies and other relevant groups. The Council advises the Minister on education-related matters, provides strategic guidance, and assists with policy and law reforms. The Council has the power to appoint committees, hold meetings, and must publish an annual report. Members of the Council are protected from liability if they act in good faith and with reasonable care.

- 2.8 Part 5 of the Bill outlines the establishment of the National Curriculum and Assessment Authority (**‘Authority’**), including its membership, functions, powers, and meetings. The Authority is responsible for advising the Minister on curriculum, assessment, and educational standards, developing national curriculum frameworks, conducting research, and collaborating with stakeholders. The Authority must publish an annual report on its performance, and members are protected from liability unless acting in bad faith. It also addresses the provision of religious instruction in schools and the importance of career education and guidance for students. Religious instruction in schools is allowed with consent, and career education and guidance must be provided to students to prepare them for the workforce or further education. The Higher Education Commission (**‘Commission’**) must provide a careers information service.
- 2.9 Part 6 of the Bill outlines the different types of schools, including government schools, government-aided schools, private schools and home schools. It also discusses the categories of education that schools may provide, such as early childhood education, primary education, secondary education, and technical and vocational education and training. The establishment, control, and governance of government schools, government-aided schools, and private schools are also detailed, including the appointment of managers and the registration process for managers.
- 2.10 Part 7 of the Bill outlines the requirements for establishing and closing schools in Fiji. It includes the process for registering or recognising schools, the approval process, conditions for approval, appeals against refusal, application for certificates of registration or recognition, cancellation of certificates, changes to controlling authority, and the register of schools. It also covers offences related to operating schools, the closing of schools, appeals against closure, health and safety requirements, waivers, inspections of schools, and medical inspection and treatment for students.
- 2.11 Part 8 of the Bill provides for the regulation of schools, including health and safety requirements, school inspections and medical inspections.
- 2.12 Part 9 of the Bill provides for the administration of schools in relation to admission of students, school hours, teacher-student ratio, school zoning, and criteria for enrolment in boarding schools. It specifies that schools cannot admit students after the first two weeks of the first term, the Minister may prescribe school hours, teacher-student ratio must not exceed a prescribed number, school zoning is prohibited, and the criteria for enrolment in boarding schools must consider factors such as distance and accessibility.

- 2.13 Part 10 of the Bill addresses student behaviour and provides for well-being in schools. It states that schools must provide counselling services to students through qualified and trained school counsellors, with the Ministry also employing such counsellors. If a school cannot provide a counsellor, they must ensure students have access to counselling services. The Part also prohibits corporal punishment and any form of cruel, inhumane, degrading, or disproportionately severe treatment or punishment of students by anyone employed or engaged by the school.
- 2.14 Part 11 of the Bill outlines the framework regarding fees, levies, fundraising, financial transparency, audit, and reporting for government schools and government-aided schools. It specifies that tuition fees cannot be charged for primary and secondary education, but boarding fees and levies for specific purposes are allowed. Schools can also conduct fundraising activities for approved purposes. Financial management, record-keeping, and reporting requirements are outlined, including the need for financial statements to be prepared and audited annually. The accounts and financial statements of the schools must be audited by an authorised auditor, and an annual report must be submitted to the Permanent Secretary.
- 2.15 Part 12 of the Bill outlines the establishment and functions of the Fiji Teachers Registration Authority (**'FTRA'**). The Bill seeks to establish the FTRA as a body corporate with various powers, including the ability to collect fees, investigate complaints, and produce materials for its functions. The Fiji Teachers Registration Board (**'Board'**) is responsible for registering qualified teachers, overseeing disciplinary measures, collaborating with relevant stakeholders, and developing professional teaching standards and ethics. The Board may delegate its powers, establish committees, and appoint a Chief Executive Officer. The Part also covers the registration of teachers, criteria for registration, renewal, restoration, and cancellation of registration, as well as disciplinary actions, inquiries, appeals, and offences and penalties related to teacher registration and conduct. Additionally, it addresses the establishment of a register of teachers, duties of employers, and reporting requirements of the Board.
- 2.16 Part 13 of the Bill outlines the regulations and requirements for higher education institutions in Fiji. It covers the establishment, registration, and accreditation of universities and other higher education institutions, as well as the functions and powers of the Commission. It also includes provisions for appeals, financial management, reporting, and winding up of institutions. The Commission has the authority to regulate and oversee higher education institutions to ensure they meet national standards and provide quality education.

- 2.17 Part 14 of the Bill sets out the general powers of the Minister and the Permanent Secretary. This Part allows the Minister to give directions to the Permanent Secretary on how to exercise their powers and functions under the Act. The Minister is not bound by the advice of the Council but must consult with them. The Permanent Secretary has the authority to relocate students to another school under certain conditions such as disciplinary issues, health or safety concerns, teacher-student ratios, school conditions, or other prescribed reasons.
- 2.18 Part 15 of the Bill outlines the various offences and penalties—
- (a) offence in relation to establishment or opening of schools: It is an offence to establish or maintain a school without the necessary approval, registration, or recognition under the Act. Using unsuitable publications in instruction is also prohibited. The penalty for these offences is a fine not exceeding \$2,000 or imprisonment for up to one year, or both;
 - (b) offence to manage a school without being registered as a manager or approved to operate a home school: It is an offence to manage or assist in the management of a school or to operate a home school without being registered as a manager or approved by the Permanent Secretary. The penalty for this offence is a fine not exceeding \$2,000 or imprisonment for up to one year, or both. Continuing to do so when prohibited from doing so also incurs the same penalty;
 - (c) offence to mislead type of school etc. It is an offence for a school manager to wilfully mislead by publishing or broadcasting information suggesting the school is of a different type or classification than registered. The penalty for this offence is a fine not exceeding \$2,000 or imprisonment for up to one year, or both;
 - (d) offence to keep open or reopen a closed school: It is an offence to keep open or reopen a school that has been ordered to be closed under the Act. Managing or assisting in the management of such a school in violation of the Act is also an offence. The penalty for these offences is a fine not exceeding \$2,000 or imprisonment for up to one year, or both; and
 - (e) offence to insult or abuse teacher etc. Insulting or harassing a teacher, assaulting a teacher or student, or maliciously disturbing a school program in the presence of students are all offences under the Act. The penalty for these offences is a fine not exceeding \$5,000 or imprisonment for up to one year, or both.
- 2.19 Part 16 covers miscellaneous provisions. It outlines the regulations-making powers conferred on the Minister. It also includes provisions for the mandatory review of the Act every 5 years, the repeal of the Act, the Higher Education Act 2008 and the Fiji Teachers Registration Act 2008, as well as necessary transitional and savings arrangements.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Act comes under the responsibility of the Minister responsible for education.

S. D. TURAGA
Acting Attorney-General

Education Reform in Fiji

From the Education Act 1966 to the Education Bill 2025



Background



- **Education Act 1966:** Focused mainly on primary & secondary education.
- Established **Education Forum** to advise the Minister.
- Amended 7 times (1968-2016).
- Limited scope for higher education, TVET, and modern challenges.

Why Reform?

- Outdated framework (pre-digital era).
- Weak governance and accountability mechanisms.
- No clear provisions for **TVET growth** or private sector participation.
- Limited recognition of **mature learners** and lifelong education.
- Ambiguity in higher education regulation.

Education Bill 2025: Key Principles

- Right to education at all levels.
- Free primary education; conditional free secondary & higher education.
- Stronger governance through **Education Advisory Council**.
- Establishment of **National Curriculum & Assessment Authority**.
- Continuation of **Higher Education Commission**.

Governance & Accountability

- Strengthened oversight of schools and higher education institutions.
- Clearer roles for Ministry of Education & Higher Education Commission.
- Annual reports, audits, and financial transparency requirements.
- Protection from liability for council members acting in good faith.

Mature Students

- Defined as **19 years or older**.
- State must provide education if resources allow.
- Options include:
 1. Dedicated government schools for mature students.
 2. Expansion of government-aided schools.
 3. Special programmes within schools.
- Addresses **skills shortages, unemployment, and social issues** (e.g., drugs, HIV)

Higher Education

- Registration & regulation of higher education institutions.
- Accreditation and authority to confer awards.
- Establishment of **Review Committee** for oversight.
- Annual reporting obligations.
- Minister must appoint members with:
 1. Integrity, postgraduate qualifications, governance experience, research background.

TVET & Skills Development

- Current Bill does not clearly distinguish **TVET roles** between secondary schools and tertiary providers.
- Pacific Polytech recommendations:
 1. Secondary schools train up to **Level 2**.
 2. Dedicated **TVET regulatory framework**.
 3. Introduce **TVET Trainer Licensing Category**.
 4. Provide grants for rural/undererved campuses.

Curriculum Flexibility

- Concern: Centralized curriculum may limit responsiveness to industry needs.
- Recommendations:
 1. Co-develop curriculum with industry partners.
 2. Fast-track approval for high-demand programmes.
 3. Cross-credit TVET into higher qualifications.
 4. Embed emerging sectors: digital skills, climate resilience, agriculture, aviation, maritime.

Quality Assurance

- Issue: Duplication between Ministry (TSLs) & Higher Education Commission.
- Recommendations:
 1. Designate **HEC as lead agency** for TVET QA.
 2. Streamline reporting into one compliance framework.
 3. Grant **self-accrediting status** to larger Higher Education Institutes (HEIs).

Student Protection & Fees

- Ensure transparency in:
 1. Fee payments & refund policies.
 2. Programme delivery standards.
- TSLS funding for all approved TVET institutions.
- Stronger safeguards against unregulated providers.

Public–Private Partnerships

Encourage private sector participation through:

1. PPP training delivery models.
2. Industry-sponsored programmes.
3. Shared training facilities.
4. Industry partnerships for practical training.

Digital & Flexible Learning

- Recognize online and blended learning.
- Establish **digital accreditation standards**.
- Promote hybrid TVET delivery and industry-based training.

Strategic Alignment

Align reforms to:

- 1. National Development Plan (NDP).**
2. Skills for employment & economic growth.
3. Regional labour mobility (Australia/NZ pathways).

Expected Impact

- Increased private investment in TVET.
- Improved graduate employability.
- Reduced skills shortages in key sectors.
- Strengthened quality & accountability.
- Support for economic growth & resilience.

Conclusion

- Education Bill 2025 modernizes Fiji's education framework.
- Stronger governance, accountability, and inclusivity.
- Clearer pathways for mature students and higher education.
- Need for **TVET-specific provisions** to fully realize national development goals.

*Thank
you!*