



STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

Review Report on the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict



**PARLIAMENT OF THE REPUBLIC OF FIJI
Parliamentary Paper No. 67 of 2020**

August 2020

Table of Contents

Chairperson’s Foreword	3
Acronyms	5
Recommendations	6
1.0 Introduction	7
1.1 Background and Terms of Reference	7
1.2 Committee Remit and Composition	7
1.3 Procedure and Program	8
2.0 Committee Deliberation and Analysis	9
2.1 Committee Findings	9
2.2 Oral and Written Evidence Received	12
3.0 Gender Analysis	13
4.0 Conclusion	13
5.0 Members Signature	14
6.0 Appendices	15

Chairperson's Foreword

I am pleased to present the Review Report on the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

The Committee when reviewing the treaty, heard oral submissions, received written submissions as well as holding virtual online public consultations using the Microsoft Office 365 Teams Application in Suva and Canberra, Australia from relevant stakeholders and general public. This is in line with Government and the Ministry of Health and Medical Services restrictions on physical distancing on the COVID-19 global pandemic.

Fiji signed the Convention on the Rights of the Child ('CRC') on 2 July 1993 and ratified the CRC on 13 August 1993. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict ('Optional Protocol') is an international instrument that States Parties to the CRC may ratify.

The Optional Protocol aims to protect children from recruitment and use in hostilities. It was adopted by the General Assembly on 25 May 2000 and entered into force on 12 February 2002.

The Optional Protocol is a commitment that:

- States will not recruit children under the age of 18 years to send them to the battlefield.
- States will not conscript soldiers under the age of 18 years.
- States should take all possible measures to prevent such recruitment –including legislation to prohibit and criminalise the recruitment of children under the age 18 and involve them in hostilities.
- States will demobilise anyone under the age of 18 years conscripted or used in hostilities and will provide physical, psychological recovery services and help their social reintegration.
- Armed groups distinct from the armed forces of a country should not, under any circumstance, recruit or use in hostilities anyone under the age of 18 years.

As at 26 May 2020, one hundred and seventy (170) countries have ratified the Optional Protocol. There are seventeen (17) countries that have neither signed nor ratified the Optional Protocol and ten (10) countries that have signed but are yet to ratify. Fiji signed the Optional Protocol on 16 September 2005 and has yet to ratify the Optional Protocol.

The Committee is of the opinion that Fiji adopts the straight eighteen (18) years rule when recruiting young people into the Disciplined Service, as well as removing the powers of the Commander RFMF to recruit children between the ages of 16 to 18 under exceptional circumstances.

Various stakeholders in particular Faith Based Organisations also raised concerns over the relevance of Cadet Training and the value of arms in drill in school.

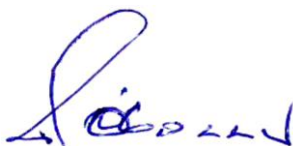
The Committee recommends that the Parliament review the relevance of Cadet Training in Schools.

The Committee therefore recommends that Fiji ratifies without delay.

The Committee commends the contributions by stakeholders that assisted in the preparation of this report.

I take this opportunity to thank members of my Committee including and the Secretariat for compiling this bipartisan report.

On behalf of the Standing Committee on Foreign Affairs and Defence, I submit this report to the Parliament.



Hon. Alexander O'Connor
Chairperson

Acronyms

CRC	Convention on the Rights of the Child
CSOs	Civil Society Organisations
FBOs	Faith Based Organisations
FPF	Fiji Police Force
ICRC	International Committee Of The Red Cross
MCIF	Methodist Church in Fiji
MODNSP	Ministry of Defence National Security and Policing
MOFA	Ministry of Foreign Affairs
MS Teams	Microsoft Office 365 Teams Application
NGOs	Non-Governmental Organisations
OHCHR	Office of the United Nations High Commissioner for Human Rights
OPAC	Optional Protocol To The Convention On The Rights Of The Child on the Involvement of Children in Armed Conflict
RFMF	Republic of Fiji Military Forces
SDGs	Sustainable Development Goals
SGs Office	Office of the Solicitor General
SO	Standing Orders
UNICEF	United Nation Children’s Fund

Recommendations

The Committee recommends that:

1. Fiji accedes to the Convention and adopts without reservation. The ratification of this treaty would be another step to strengthening our commitment to the Convention on the Rights of the Child.
2. Parliament to amend section 7 (3) of the RFMF Act to remove the discretionary powers of the Commander RFMF to enlist Fiji citizens between the ages of 16 and 18 into the RFMF. This would make Fiji consistent with the objectives of the Protocol and requirement of the United Nations to restrict the recruitment of children in the Armed Forces to 18 years.
3. Recommend to Parliament that the relevance of Cadet Training in Schools be reviewed. In particular the value of the use of arms in drills.

1.0 Introduction

1.1 Background and Terms of Reference

The Committee had its first meeting on Monday 1st June 2020 and reviewed the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

From the 8th to 22nd June 2020, stakeholders made virtual online submissions on the MS Office Teams application in Suva and Canberra, Australia to the Committee.

Summary of the Optional Protocol

The Optional Protocol contains 13 Articles.

Article 1 provides that States Parties must take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

Article 2 provides that States Parties must ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Article 3(1) provides that States Parties must raise the minimum age for the voluntary recruitment of persons into their national armed forces from that which was set out in Article 38(3) of the CRC and recognise that persons under the age of 18 years are entitled to special protection.

Article 3(2) provides that each State Party must deposit a binding declaration upon ratification or accession to the Optional Protocol that outlines the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced.

The Report is divided into three parts:

- I. **Part One** - focuses on the Committee recommendations
- II. **Part Two** - covers the Findings of the report to Parliament
- III. **Part Three** - covers the Conclusion

1.2 Committee Remit and Composition

Pursuant to Standing Orders 109(2) (e) that the Standing Committee on Foreign Affairs and Defence is mandated to look into matters related to Fiji's relations with other

countries, development aid, foreign direct investment, oversight of the military and relations with multi-lateral organisation.

The members of the Standing Committee on Foreign Affairs and Defence are as follows:

- 1.2.1 Hon. Alexander O'Connor – Chairperson
- 1.2.2 Hon. Dr. Salik Govind - Deputy Chairperson
- 1.2.3 Hon. Selai Adimaitoga – Member
- 1.2.4 Hon. Pio Tikoduadua - Member

1.3 Procedure and Program

The Standing Committee on Foreign Affairs and Defence commenced its deliberation from the 8th to 22nd June using the online MS Office Teams, also received written and oral submissions from stakeholders with the following attendees:

- Fiji Police Force
- Ministry of Education, Heritage and Arts
- Ministry of Women, Children and Poverty Alleviation
- Ministry of Defence, National Security and Policing
- The Anglican Church In Aotearoa New Zealand and Polynesia based in Suva
- House of Sarah –Anglican Faith based Civil Society in Suva
- Office of the Solicitor General
- International Committee of the Red Cross
- Republic of Fiji Military Forces
- United Nations Children’s Fund
- International Labour Organization
- Office of the United Nations High Commissioner on Human Rights
- International Labour Organization
- Ministry of Foreign Affairs
- Methodist Church in Fiji

2.0 Committee Deliberation and Analysis

2.1 Committee Findings

The Committee's findings are outlined below:

1. There was overall support by stakeholders that Fiji accedes to the Optional Protocol and adopts without reservation.
2. Children, Students and Teachers were affected by the Political Conflict and Crisis of 1987, 2000 and 2006 and the need for proper counselling and social support in the education system, government structures, NGOs, CSOs and FBOs.
3. Fiji adopts the straight eighteen (18) years rule when recruiting young people into the Disciplined Services, Civil Service, Private Sector, NGOs and CSOs as well.
4. Various stakeholders raised concerns on the exceptional powers of the Commander RFMF to recruit children between the ages of 16 to 18 under exceptional circumstances.
5. Various stakeholders in particular Faith Based Organisations raised concerns over the relevance of Cadet Training and the value of arms in drill in school.
6. The involvement of children in armed conflict directly violates the rules of international humanitarian law as stipulated in articles 38 and 39 of the Convention of the Rights of the Child (CRC) which Fiji ratified in 1993.
7. Faith based organisations (FBOs) in Fiji believe in its conviction that human beings are made in the image of God, firmly believing in the sanctity and sacredness of human life. The child is therefore a sacred human being whose vulnerability and dependence on the adult community and society as a whole, require that States provide measures, policies and programmes which ensure the best interests and special needs of the child are recognised, respected and protected.

Impact of the Convention

The Optional Protocol clarifies and narrows the obligations of States Parties under Article 38 of the CRC.

Given that Fiji is a party to the CRC and signed the Optional Protocol on 16 September 2005, ratification of the Optional Protocol will further strengthen Fiji's commitments and obligations under the CRC and complement all relevant existing national laws and policies.

With respect to the age of eligibility for military service in Fiji, the Republic of Fiji Military Forces Act 1949 ('RFMF Act') establishes recruitment qualifications and does not provide for compulsory military service. Section 7(3) of the RFMF Act provides that no person who is under the age of 18 years must be enlisted in the military forces, provided that the Commander of the Republic of Fiji Military Forces may permit the enlistment of such number of persons of or above the age of 16 years.

The Employment Relations Act 2007 prohibits forced labour of children in Fiji. The Act defines a "child" as "a person who is under the age of 18 years" and defines "forced labour" as including "any work or service exacted in accordance with compulsory military service laws for work of a purely military character".

Moreover, section 41(1)(d) of the Constitution of the Republic of Fiji specifically provides for the rights of a child to be inter alia "protected from abuse, neglect, harmful cultural practices, any form of violence, inhumane treatment and punishment, and hazardous or exploitative labour".

Therefore, consistent with the Optional Protocol, the laws of Fiji prohibit compulsory military service of children under the age of 18 years and provide an effective legal framework for ensuring compliance with the minimum requirements of the Optional Protocol.

Ratification of the Optional Protocol will also promote co-operation and strengthen international relations with other State Parties who have ratified or acceded to the Optional Protocol.

Upon ratification, Fiji will be required to submit within two years, a report to the Committee providing comprehensive information on the measures it has taken to implement the provisions of the Optional Protocol, including the measures taken to implement the provisions on participation and recruitment.

Challenges

1. Current capacity of the Ministry of Women, Children and Poverty Alleviation to handle the Treaty requirements of OPAC in tandem with the relevant government line agencies.
2. Project coordination and management amongst the relevant local and international Children's NGOs, CSOs and FBOs with the view that no child in Fiji in the urban and rural settings in terms of OPAC is concerned is not left behind.
3. Devising and implementing child friendly OPAC programmes for outreach to Children's Home i.e. Saint Christopher's Home, Naulu, Homes of Hope, Wailoku and Dilkusha Home Nausori and other safe havens for children around the country.
4. Ensuring wholistic community programmes that Men and young boys have a key role in building safe and secure homes and workplaces in Fiji beginning with the respect for human life and humanity and zero tolerance attitude towards the elimination of violence and harassment of children in all shapes and forms.

2.2 Oral and Written Evidence Received

The Committee received oral and written submissions from stakeholders and the public as listed in *Appendix A*.

3.0 Gender Analysis

Ratification of the Optional Protocol will enable the government of Fiji to receive further guidance from the Committee on the Rights of the Child to further align its domestic legislation and policies with the provisions of the Optional Protocol. This is aligned to Parliament raising the awareness on SDG 10: Reduced Inequalities.

The Committee received online submission from a wide cross section of the community on SDG and Gender Related issues impacting on OPAC and Fiji. They suggested appropriate Child Policies and child friendly services with the view of achieving National Development Plan Targets. Increasingly, significant number of female members of society are being recruited in the Armed Forces, Police and Correctional Services.

The Optional Protocol also allows for the possibility that States parties bind themselves to standards on the recruitment and the use of children in hostilities that surpass those outlined in the Optional Protocol, or that provide greater protection for children's rights, whether through national legislation or other international treaties.

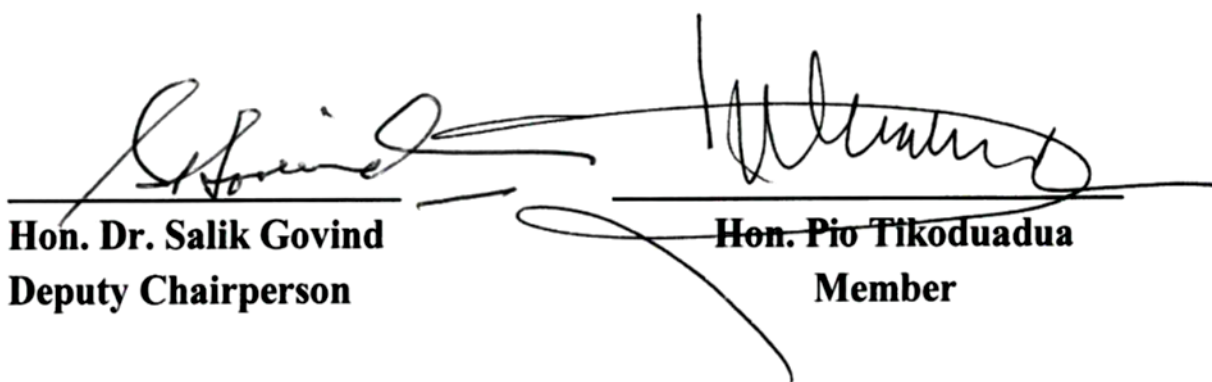
4.0 Conclusion

The Standing Committee on Foreign Affairs and Defence has fulfilled its mandate approved by Parliament which is to review the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

5.0 Members Signature



Hon. Alexander O'Connor
Chairperson



Hon. Dr. Salik Govind
Deputy Chairperson

Hon. Pio Tikoduadua
Member



Hon. Selai Adimaitoga
Member

6.0 Appendices

All other written and transcribed evidences gathered during the public submissions and public consultations will be made accessible on the Parliament website on: <http://www.parliament.gov.fj/committees/standing-committee-on-foreign-affairs-and-defence/>

No	Date	Agency/Organisation	Written Evidence	Oral Evidence (Online MS Teams submission)
1.		Fiji Police Force	✓	
2.		Ministry of Education, Heritage and Arts	✓	✓
3.		Ministry of Women, Children and Poverty Alleviation	✓	✓
4.		Ministry of Defence, National Security and Policing	✓	✓
5.		The Anglican Church in Aotearoa New Zealand and Polynesia based in Suva	✓	
6.		House of Sarah- Anglican Faith based Civil Society in Suva	✓	
7.		Office of the Solicitor General	✓	✓
8.		International Committee of the Red Cross	✓	✓
9.		Republic of Fiji Military Forces	✓	✓
10.		United Nations Children's Fund	✓	✓
11.		Office of the United Nations High Commissioner on Human Rights	✓	✓
12.		International Labour Organization	✓	✓
13.		Ministry of Foreign Affairs	✓	✓
14.		Methodist Church in Fiji	✓	✓