

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 161 OF 2025

BETWEEN : **STATE**

AND : **TANIELA ROGAVIDI**

Counsel : **Ms W Yee for the State**
Mr S Ravu for the Accused

Date of Hearing : **27 November 2025**

Date of Sentence : **28 November 2025**

SENTENCING REMARKS

Introduction and Facts

- [1] The accused, Taniela Rogavidi, appears for sentence on four counts: two counts of Rape contrary to Section 207(1)(2)(a)(3) of the Crimes Act 2009 and two counts of Sexual Assault contrary to Section 210(1)(a) of the Crimes Act 2009. He pleaded guilty to all four counts at the pre-trial conference on 17 November 2025, and on 27 November 2025 the summary of facts was read in court and admitted by him.
- [2] The complainant, LK, was born on 25 February 2016 and was 9 years old at the time of the offences. She resided in Nabaitavo Village, Naitasiri, and the accused, then 40 years old, was living in a de facto relationship with her mother in the same household. Between 1 January and 25 April 2025, and on the specific dates of 16 and 26 April 2025, the accused repeatedly sexually violated her while she was

asleep at home with her siblings, including digital and penile penetration of her vulva, as well as inserting his penis into her mouth, coupled with instructions not to tell her mother.

- [3] Medical examination on 30 April 2025 supports the complainant's account, which recorded injuries to her vulva and an absent hymen and is further corroborated by the accused's own admissions in a caution interview on 1 April 2025 that he penetrated her vulva during the charged period. The State has also tendered a Victim Impact Statement describing severe and continuing emotional and psychological harm.

Statutory Framework and Tariffs

- [4] Section 4 of the Sentencing and Penalties Act 2009 requires this Court, in sentencing an offender, to have regard to the maximum penalty prescribed, current sentencing practices, applicable guidelines, the nature and gravity of the offence and the impact of the crime on the victim. The maximum penalty for rape is life imprisonment under Section 207 of the Crimes Act 2009, and the maximum penalty for sexual assault under Section 210 is 10 years' imprisonment.
- [5] In *Aitcheson v State* CAV0012.2018, the Supreme Court held that for the rape of a person under 18 years the appropriate tariff is now between 11 – 20 years' imprisonment, with the final sentence depending on aggravating and mitigating factors, remorse, the timing of the plea, and time spent on remand. In *State v Laca* HAC252.2011 and *Abdul Kaiyum* HAC160.2010, it has been indicated that sexual assault generally attracts a range of 2 to 8 years' imprisonment, with the upper end reserved for blatant manipulation of naked genitalia or anus and the lower end for less serious contact such as brushing of covered breasts or buttocks.

- [6] In *Laca*, Madigan J, drawing on United Kingdom guidelines, divided sexual assault into three categories; Category 2 includes contact with the genitalia of the victim using a part of the offender's body other than the genitalia or an object, as well as contact between the naked genitalia of the offender and another part of the victim's body. The conduct in Counts 1 and 3 - touching the complainant's vulva - falls squarely within Category 2 and therefore the mid to upper part of the 2–8 year range for sexual assault applies.

Principles for Child Rape and Sexual Offending

- [7] In *Ram v State* CAV12.2015, the Supreme Court set out a non-exhaustive list of factors particularly relevant in sentencing for child rape, including planning, breach of trust, whether the offender acted alone, use of alcohol or drugs, special vulnerability of the victim, severity and duration of impact, actual violence and injuries, dangerous or abhorrent methods of penetration, intrusion into a residence, duration of the incident, degradation or humiliation, timing of the guilty plea, time on remand, genuineness of remorse, and totality where there are multiple counts. These factors are to be applied on case specific basis within the 11–20 year tariff for child rape.
- [8] In *Alfaaz v State* CAV0009.2018, the Supreme Court approved observations from *Matasavui v State* AAU0036.2013 that no society can tolerate a perception that sexual offenders against women and children are inadequately punished, and that in egregious cases the highest possible punishment should be considered to protect vulnerable children. In *State v Natadra* HAC137.2017, Rajasinghe J emphasized that sexual exploitation of a young person is one of the most humiliating and distressing crimes, violating both physical integrity and personal dignity, and that deterrence and denunciation are central purposes of sentencing in such cases.

Aggravating Factors

- [9] The offending in this case is marked by a profound breach of trust: the accused was the complainant's stepfather, living with her and her mother, and owed her a clear duty of care and protection, which he grossly betrayed. The offences occurred in the family home, mainly at night, while the complainant was asleep with her siblings and her mother absent, which significantly increased her vulnerability and sense of helplessness.
- [10] The complainant was only 9 years old, while the accused was a mature 40-year-old adult, creating a substantial age disparity and an inherent power imbalance. The offences involved repeated conduct over a period of months, including penile penetration of her vulva and mouth, and digital contact with her vulva, accompanied by threats not to disclose, which is degrading and psychologically coercive.
- [11] The medical evidence of vulval injury and the absence of a hymen, together with Victim Impact Statement describing ongoing emotional and psychological harm, demonstrate that the impact on this child has been severe and continuing.

Mitigating Factors

- [12] The principal mitigating factor is the accused's plea of guilty to all four counts, entered before the trial proper and after the pre-trial conference stage. While the plea was not at the earliest opportunity, it nevertheless spared the complainant from giving evidence and reliving the events in a contested trial, saved court resources, and it is therefore appropriate to allow a tangible discount.
- [13] The accused also has three previous convictions including one for attempted rape, which weighs against leniency or credit for good character.

- [14] The defence also refers to the accused's personal circumstances, including his age, family responsibilities, and work as a farmer, and asserts remorse for his actions and a wish to seek forgiveness. However, in light of the very serious aggravating features and the presence of prior convictions, these personal factors carry limited weight.

Starting Point and Computation of Sentence

- [15] In *Koroivuki v State* [2013] FJCA 15, the appellate court directed that the starting point must be selected having regard only to the objective seriousness of the offending, without regard to personal mitigation or aggravation, and that it is usually taken from the lower to middle range of the applicable tariff. After adjustments for aggravating and mitigating factors, the final sentence should fall within the tariff unless reasons are provided for going outside it.
- [16] Having regard to the tariff of 11–20 years for child rape, the complainant's age, the repeated vaginal and oral penetration, the domestic setting, and the breach of trust, an aggregate starting point at or slightly above the mid-range of that tariff is justified. The State invites a high sentence within the tariff, while the defence suggests an aggregate starting point of 12 years for all counts. Considering the objective gravity of this series of offences, an aggregate starting point of 13 years' imprisonment for the rape counts, with a further notional component for the sexual assault counts, is appropriate before adjustment.
- [17] Taking into account the repeated Category 2 sexual assaults in Counts 1 and 3, and the overall pattern of exploitation, an uplift of 4 years for aggravating features—breach of trust, the child's extreme vulnerability, repeated conduct, degrading oral penetration, severe and continuing harm is warranted. This results in a provisional aggregate sentence of 17 years' imprisonment before considering mitigation.

- [18] For the guilty plea, which was entered before trial and spared the child from testifying, a discount of approximately 2 years is appropriate, consistent with the approach in comparable cases such as *Sevanaia Nakauyaca* HAC137 of 2017. This reduces the sentence to 15 years' imprisonment.
- [19] The accused has been in custody since 2 May 2025. As of today, that is approximately 7 months. Under section 24 of the Sentencing and Penalties Act 2009, that period of pre-sentence custody must be treated as time already served unless the Court orders otherwise, and in this case, it is appropriate to deduct that time from the head sentence.
- [20] After deducting the remand period, the effective sentence will be a term of 14 years and 5 months' imprisonment. Given the seriousness of these offences and the need for community protection and deterrence, no further reduction is justified.

Non-Parole Period

- [21] Sections 18(1) and (2) of the Sentencing and Penalties Act 2009 require the Court to fix a non-parole period where the head sentence is life imprisonment or two years or more. In *Vishwa Nadan v State* CAV007.2019, it was affirmed that even if the practical effect of a non-parole period may be uncertain, courts should continue to fix such periods in appropriate cases, as they will be important when a fully operational Parole Board is functioning.
- [22] Here, the purposes of sentencing are predominantly denunciation, deterrence and protection of the public, rather than rehabilitation, in light of the egregious breach of trust and the vulnerability of the child. A substantial non-parole period is therefore necessary to mark the gravity of the offending while leaving some incentive for rehabilitation.

[23] A non-parole period of 11 years is fixed. This reflects the seriousness of the offences, the aggravating circumstances, and the continuing harm to the complainant, while giving limited recognition to the guilty plea and the time already served.

Orders

[24] On Counts 2 and 4 (rape), the accused is sentenced to concurrent terms which, when aggregated with the sexual assault counts in accordance with Section 17 of the Sentencing and Penalties Act 2009, result in an aggregate sentence of 14 years and 5 months' imprisonment. On Counts 1 and 3 (sexual assault), concurrent sentences are imposed which are subsumed within the aggregate term. The total effective sentence for all four counts is therefore 14 years and 5 months' imprisonment.

[25] A non-parole period of 11 years is fixed pursuant to section 18 of the Sentencing and Penalties Act 2009. The accused may not be considered for release on parole before the expiry of that period.

[26] Pursuant to the Domestic Violence Act 2009,

(a) **Non-molestation**

The accused must not assault, threaten, harass, intimidate, stalk, molest or in any way interfere with the complainant, whether directly or indirectly.

(b) **No contact**

The accused must not contact or attempt to contact the complainant by any means, including in person, by telephone, text message, email, social media or through any third party, except as expressly authorized by further order of this Court.

[27] Thirty (30) days to appeal.



A handwritten signature in black ink, consisting of a stylized 'D' followed by a long horizontal stroke.

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Hon Mr Justice Daniel Goundar

Solicitors:

Office of the Director of Public Prosecutions for the State

Legal Aid Commission for the Accused