

IN THE HIGH COURT OF FIJI

AT LAUTOKA

CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 016 OF 2025

STATE

V

ISOA BOSEYACO VUNIWAI

Counsel: Ms E. Cabemaiwai for the State
Ms A. Chand with Mr P. Naidu for the Defence

Date of Judgment: 24 March 2026

Date of Sentence Hearing: 26 March 2026

Date of Sentence: 31 March 2026

(The name of the Complainant is suppressed. She is referred to as MD)

SENTENCE

1. Isoa Boseyaco Vuniwai, after a contested trial, this Court convicted you of one count of Rape on the following information filed by the Director of Public Prosecutions:

Statement of Offence

RAPE: Contrary to Section 207 (1) and (2) (a) of the Crimes Act 2009.

Particulars of Offence

ISOA BOSEYACO VUNIWAI sometimes between the 1st of June 2024 and 30th day of September, 2024, at Sigatoka, in the Western Division, had carnal knowledge of MD, without her consent.

2. This is not a case of opportunistic offending against an unknown victim. Rather, it arises within the context of an ongoing interpersonal relationship. The victim is your neighbour, trusted workmate and niece. While working at the workplace (Beach House) with the victim, you pulled her to a room and took off her clothes. You made her lie down on the floor and inserted your penis into her vagina without her consent. She was struggling with pain. You closed her mouth when she screamed.
3. Although the charge involved a single act of rape, the evidence revealed that sexual intercourse occurred on multiple occasions over several months from June to November 2024.
4. When selecting a sentence that best suits you, I must consider the proportionality principle enshrined in the Constitution and those in the Sentencing and Penalties Act 2009 (SPA). Accordingly, I will consider the maximum penalty prescribed for the offence, current sentencing practices, and the applicable guidelines issued by the courts. Considering the seriousness of the offence and the harm caused to the victim, I will identify the starting point. The final sentence will then be determined after adjustments for aggravating and mitigating factors.
5. The rape of a child is among the most serious forms of sexual violence, demanding severe, often long-term custodial sentences to reflect public outrage and protect vulnerable children. Such crimes are a "scourge and menace" to society. Sexual offences involving children are

on the rise in Fiji¹. The courts have emphasised that the increasing prevalence of this offence in our community calls for deterrent sentences. The offenders must receive harsher punishment to mark the society's outrage and denunciation against the sexual abuse of children.

6. The main purpose of your punishment is to condemn your action and to protect the public from the commission of such crimes by making it clear to you and to others with similar impulses that anyone who yields to this crime will meet with severe punishments.
7. The maximum punishment for Rape is life imprisonment. The sentencing tariff established for child rapists ranges from 11 years to 20 years' imprisonment².
8. Your offending behaviour, while serious, does not display the characteristics usually linked to the most severe rape cases. The lack of weapons, serious physical injury, prolonged detention, premeditation, or extreme violence suggests that the offence probably belongs to a lower severity level of child rape cases, rather than the "upper range."
9. Considering the seriousness of the offence and the harm caused to the victim, a starting point of 11 years from the bottom range of the tariff would be appropriate as the first step in the sentencing process. Having picked this starting point, I proceed to identify the aggravating and mitigating factors, considering the submissions filed by the counsel.
10. You were old, and she was young. You were turning 60 when you committed this offence on a child of 16. The considerable age gap certainly aggravates your offence. The Court found the victim to be cognitively impaired, lacking the intellectual capacity to give consent to a sexual activity. You exploited the vulnerability of an intellectually challenged child.
11. The trauma caused to the victim scarred the rest of her life. The psychological impact on the victim is enormous, making her life miserable. You made her pregnant when she was still a

¹ As of 2026, the Office of the Director of Public Prosecutions (ODPP) reported that a significant portion of sexual offence cases are against minors, with many offenders being related to the victim.

²² Aitcheson v [2018] FJSC 29; CAV0012.2018 (2 November 2018)

child and continued to have sexual intercourse despite knowing she was pregnant. You waited to accept the child's paternity until the Village Headman's intervention.

12. It is concerning that you issued a death threat to ensure that she did not reveal who the child's father is. You covered her mouth to prevent her from screaming and alerting others. She refrained from telling anyone that you forced her until it was discovered that she was six months pregnant. When the matter came to light, you offered to take care of the child and reconcile to prevent the course of justice.
13. You committed this offence against a trusted co-worker, neighbour, and niece. She shared personal matters with you because she trusted you as her elderly uncle. You used your authority and betrayed that trust. You committed sexual acts with a co-worker at the workplace by taking advantage of the situation she was in.
14. Your Counsel has submitted that you are a 62-year-old elderly person and begged mercy and leniency. Whether older sex offenders should receive lenient sentences is a complex, debated issue. Arguments for leniency often focus on lower recidivism risks, poor health, and the high cost of geriatric care in prison³.
15. A custodial sentence imposed upon a man of this age carries a weight and severity beyond that experienced by a younger offender. A lengthy sentence imposed later in life is viewed as more severe because it occupies a much larger proportion of the offender's remaining life expectancy. Courts acknowledge that such sentences can be "crushing" and, in some contexts, disproportionate.
16. Prison is generally understood to be harder on older offenders. They may be more vulnerable to aggression from younger inmates, suffer from declining health, and find it more difficult to adapt to prison conditions. Older offenders are generally perceived as posing less risk to public safety and are less likely to reoffend, which can be a mitigating factor. While

³ R v A (Whitelam) [2023] EWCA Crim 1204 (UK): A 70-year-old man with good character was convicted of 13 historic sexual offences against two children.

rehabilitation is the focus for younger offenders, the purpose of sentencing an older person may shift toward mercy and compassion⁴, particularly if they have a clean record.

17. You were a working man who had been engaged in manual employment as a caretaker and landscaper. There is no evidence before this Court of prior convictions or a history of similar offending. That absence is relevant to both your character and prospects of rehabilitation.
18. You did not wholly distance yourself from the consequences of the relationship. You, albeit late, took responsibility and offered to be the child's caregiver. A lengthy custodial sentence would have a significant adverse impact not only on you but also on the welfare of the child, for whom you have expressed a willingness to assume responsibility.
19. You also bear significant family responsibilities. You provide care for your elderly father and are the primary support for your de facto partner, who has undergone a leg amputation and requires ongoing assistance. Your incarceration will therefore have a direct and practical impact on those dependents.
20. The courts maintain a zero-tolerance approach, often noting that personal circumstances carry little weight when compared to the need to deter such crimes against children. Courts have increasingly emphasised that personal circumstances of offenders carry little weight in these cases, and lengthy imprisonment is necessary to protect children.
21. I add 2 years and one month to the starting point of 11 years for the above-mentioned aggravating factors to arrive at an interim sentence of 13 years and one month imprisonment. I reduced 1 year for mitigating factors to arrive at a sentence of 12 years and one month imprisonment.
22. According to the State's submission, you had been on remand for approximately one month before trial. The remand period is deducted from your sentence to arrive at a final sentence of 12 years' imprisonment.

⁴ S v Heller 1971 (2) SA 29 (A) at 55D

23. Given your older age, I accept that you pose a less risk in terms of recidivism. Considering your potential for rehabilitation and the gravity and the impact of your offence on society, I impose a non- parole period of 10 years.

24. Summary

You are sentenced to 12 years' imprisonment with a non-parole period of 10 years. You are eligible for parole after serving 10 years in the correctional facility.

25. You have 30 days to appeal to the Court of Appeal.



Aruna Aluthge

Judge

31 March 2026

At Lautoka

Solicitors:

Office of the Director of Public Prosecutions for the State
Anishini Chand Lawyers for the Defence