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## **STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS**

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### **Review of the 2018 General Election Joint Report by the Electoral Commission and the Supervisor of Elections**



**PARLIAMENT OF THE REPUBLIC OF FIJI**

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## CHAIRPERSON'S FOREWORD

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An election is a way people can choose the candidates of their preference in a representative democracy. For democracy to be upheld, every country should go through a free and fair election. There are different ways to organise elections in different countries; in certain places, voters vote for an individual and in others they might vote for a political party. Elections contribute immensely to democratic governance, which is achieved through representatives, who are selected and held accountable by the people.

Voting is the responsibility of each and every citizen. The law does not require citizens to vote, but voting is a very important part of any democracy. Fiji has had its second election under the new election system in 2018, whereby all eligible Fijians were given the opportunity to practice their right to elect who they wanted to represent them in government.

At the conclusion of the 2018 General Election, the election management authorities in Fiji, which includes the Electoral Commission and the Supervisor of Elections, compiled a joint report on the same, which was then tabled in Parliament.

The Standing Committee on Justice, Law and Human Rights was referred the **2018 General Election Joint Report by the Electoral Commission and the Supervisor of Elections**. The Committee was mandated by Parliament to review this report and table its findings back to Parliament.

The Committee reviewed and conducted deliberations on the **Joint Report**. This Committee Report provides the process, which the Committee followed in reviewing the **Joint Report**, the findings from the Committee's review and recommendations of the Committee with respect to the issues identified in the findings.

The Committee conducted extensive public consultation on the Joint Report, by calling for written submissions and visiting key locations around Fiji to hear the views of the public.

Some of the main matters highlighted from submissions by the public on the 2018 General Election are as follows:

That Fiji's electoral management body collaborate with civil society organisations when conducting voter awareness and education initiatives for the public. Additionally, it was also suggested that Fiji's electoral management body allow for inter-agency sharing of information.

Moreover, it was suggested that Fiji's electoral management body consider allowing that more is to be done to assist with voters being able to identify the candidates when in the polling booth.

Detailed explanations on the above paragraphs are provided in the Deliberations Part and Key Findings of this report.

The Committee also interviewed and consulted the Electoral Commission and the Supervisor of Elections and deliberated on the views of the two independent statutory offices.

At the conclusion of the review the Committee believes that it has fulfilled its mandate of reviewing the *Joint Report*. From the review the Committee identified key findings which are:

- that the Electoral Commission and the Supervisor of Elections, through the Fijian Elections Office are in the process of revamping their awareness strategy to include closer collaboration with grass-root non-governmental organisations, such as community women's groups, youth groups and so forth;
- the commendable work by the Electoral Commission and the Supervisor of Elections, through the Fijian Elections Office, being the only electoral management body in our region to consider and accept the recommendations by a Multinational Observer Group for Elections;
- Out of the 21 recommendations put forward by the MOG after the 2018 General Election, 14 recommendations have been accepted and have been implemented or will be implemented by the Electoral Commission and the Fijian Elections Office, as they were directed towards these two statutory bodies;
- Also, to note that out of the 21 recommendation put forward by MOG after the 2018 General Election, seven (7) recommendations were not directed either towards the Electoral Commission or Fijian Elections Office, thus both entities did not have the jurisdiction to either accept or reject the 7 recommendations, since this recommendations, for example, should have been directed towards the judiciary, the Constitution of Fiji, the media and so forth;
- Considering the above two bullet points, it can be stated that Supervisor of Elections and Electoral Commission adopted and implemented one hundred percent of the recommendations that were directed towards these two entities.

These key findings from the review were addressed with discussions with the Electoral Commission and the Fijian Elections Office. This Report will also provide how the Committee has come to the conclusion that all the matters identified from the review have been adequately addressed.

The Committee also believes that it is prudent to put forward a few recommendations for the consideration of the Electoral Commission and the Fijian Elections Office;

- a) Having gone through two cycles of General Elections under the *2013 Constitution*, a lot of progress has been made in trying to simplify the process of voting, thus the Committee recommends that continuous review of the system be conducted, to continue to further streamline the election process.
- b) The Committee also recommends that it should be mandatory for all candidates to a General Election to take part in the electoral processes training programs conducted by the Electoral Commission and the Fijian Elections Office.
- c) Furthermore, the Committee recommends that more roundtable discussions be conducted with the Electoral Commission, the Supervisor of Elections and the Fijian Elections Office and all key stakeholders, pertaining to the electoral system and all related issues, so that conflicting messages regarding election processes is not passed

onto the general public by all relevant stakeholders, especially Political Parties and candidates.

- d) Additionally, the Committee proposes that more civic education be conducted in schools and communities, which would ensure awareness for registered voters and potential voters who would be eligible to vote in future general elections.
- e) The Committee recommends that a Multinational Observer Group that is invited to observe General Elections in Fiji is advised that recommendations should be classified to indicate an appropriate agency responsible to take action.
- f) Moreover, the Committee recommends that the boxes to be ticked in the ballot paper are slightly increased in size to “best fit” the ballot paper.
- g) Finally, the Committee recommends that the Electoral Commission and the Supervisor of Elections, through the Fijian Elections Office continue its collaboration with the CSO’s and to formulate a terms of reference for awareness and education programs on elections.

I would like to acknowledge the Members of the Justice, Law and Human Rights Committee, Hon Rohit Sharma (Deputy Chairperson), Hon. Ratu Suliano Matanitobua, Hon. Dr. Salik Govind and Hon. Mosese Bulitavu, for their deliberations and input, the voters, elected politicians, members of political parties and representatives of Fiji’s electoral management bodies, who accepted the invitation of the Committee and provided their views on the ***Joint Report*** and for taking an interest in the proceedings of the Committee and Parliament.



**Hon. Alvick Avhikrit Maharaj**  
**Chairperson**

## **ACRONYMS**

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EVR	-	Electronic Voter Registration
MOG	-	Multinational Observer Group
SoE	-	Supervisor of Elections

## COMMITTEE COMPOSITION

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***Hon. Alvick A. Maharaj (Chairperson)***

- *Assistant Minister of Employment, Productivity, Industry Relations, Youth and Sports*
- *Chairperson of Public Accounts Committee*
- *Government Whip*
- *Pharmacist*



***Hon. Rohit Ritesh Sharma (Deputy Chairperson)***

- *Former Civil Servant – Education Sector*
- *Deputy Chairperson of the Standing Committee on Justice, Law and Human Rights*
- *Deputy Government Whip*



***Hon. Ratu Suliano Matanitobua (Member)***

- *Shadow Minister for Youth and Sports*
- *Former State Minister of Fijian Affairs*
- *Territorial Military Officer – Republic of Fiji Military Forces*



***Hon. Dr. Salik Govind (Member)***

- *Public Health Specialist – United Nations (World Health Organisation)*
- *Deputy Chairperson of the Standing Committee on Foreign Affairs and Defence Committee*



***Hon. Mosese Bulitavu (Member)***

- *Shadow Minister for Defense, National Security, Immigration and Correction Services*
- *Former Opposition Whip*
- *Business Consultant/Farmer*
- *Territorial Military Officer – Republic of Fiji Military Forces*
- *Law Graduate and Researcher*

### **Committee Secretariat Team**

Supporting the Committee in its work is a group of dedicated Parliament Officers who make-up the Committee Secretariat, and are appointed and delegated by the Secretary-General to Parliament pursuant to Standing Order 15 (3)(i). The Secretariat team is made of the following Parliament officers:

- Mr. Ira Komaisavai – Senior Committee Clerk
- Mr. Jackson Cakacaka – Deputy Committee Clerk
- Ms. Darolin Vinisha – Committee Assistant

# PART 1 - INTRODUCTION

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## 1.1 Background

The Fijian Electoral Commission (“**Commission**”) was constituted by Section 75 of the *Constitution of the Republic of Fiji (2013)* (hereinafter also referred to as “the *Constitution*”) and mandated to carry out the responsibilities as stated in Section 75(2), (3) and (4).

The *Joint Report* covers the detailed aspects of the 2018 General Election and includes the *Supervisor of Elections Report on the 2018 General Elections* and the *Multinational Observer Group Report on the 2018 General Election*.

The Standing Committee on Justice, Law and Human Rights was referred the *2018 General Election Joint Report by the Electoral Commission and the Supervisor of Elections* and mandated by Parliament to review it and report back to Parliament on its findings.

## 1.2 Committee’s Review Process

The Committee’s review process was through the resolution of the Committee and the following provides brief summary of the agreed upon procedure and program.

The first step in the Committee’s review process was the formulation of its program with regards to its review process. The Committee’s agreed upon review program was as follows:

### i) Initial Analysis

The Committee began with an initial reading of the *Joint Report* and conducting its own deliberation and analysis on its various parts and the information contained in it. An in-depth deliberation of the *Joint Report* was conducted by the Committee, whereby pertinent issues were identified.

Following the initial reading of the *Joint Report*, the Committee had discussions with the Supervisor of Elections and the Electoral Commission to obtain their views on the Joint Report and the 2018 General Election, which was assisted the Committee in better understanding the election and its processes.

### ii) Identification of mode of public consultation

The Committee then discussed, which mode of public consultation would be suitable for the review the Joint Report. The Committee resolved to rely on two main modes of public consultation, which is to call for written submission and conducting in-person public consultation.

### iii) Awareness on the Committee’s public consultation through advertisement

The Committee then conducted awareness on its proposed public consultations, through advertisements via newspaper advertisements and televised advertisements.

iv) Conducting of public consultation

The Committee was also committed to upholding public trust in Parliament, by ensuring that there is public participation and that all such participation is given due consideration. The Committee was mindful of the provisions in Standing Order 111(1)(a) and ensured that its meetings were open to the public and the media, except during such deliberations and discussions to develop and finalise the Committee's observations and this Report.

The Committee conducted awareness initiatives by calling for written submissions from the public and other interested stakeholders and scheduling in-person public consultation by placing advertisements through the Parliament website and Parliament social media pages on social media platforms; Facebook, Twitter and Instagram and through paid Television advertisements. The Committee received written submissions on the Joint Report from relevant stakeholders. A summary of these submissions is provided in a later part of this report, under the heading '*Deliberation and Findings by the Committee*'.

The Committee then visited various communities around Fiji to conduct in-person public consultation. All the face-to-face submissions conducted during the public consultation were recorded and open to the public and the media.

v) Review of evidence collected and seeking legal clarification on pertinent issues

The Committee reviewed all the evidence received from the public consultation and to maintain due diligence, the Committee also relies on clarification on technical issues identified from the review, by consulting the Electoral Commission and the Supervisor of Elections. These clarifications also assist the Committee in deliberating on these pertinent issues and in deciding whether there would be recommendations for the Electoral Commission and the Supervisor of Elections

vi) Drafting of Committee Report

The final step of the review process is the compilation of all issues identified from the evidence received from the public consultation. This is then deliberated on with the necessary clarifications and the Committee forms its own independent view on all issues identified.

## PART 2 - DELIBERATION AND FINDINGS BY THE COMMITTEE

### 2.1 Initial Deliberation by the Committee

At the initial stage of the review, the Committee read through the Joint Report and deliberated on matters that were, in the opinion of individual Members of the Committee, to be noteworthy. The Committee had extensive discussions on these matters and resolved that it be prudent to firstly hear the views of the public on this important Report. This public consultation would then allow the Committee to gauge the public's perspective on the 2018 General Election and the election system before deliberating further.

Before commencing with the public consultation, the Committee also heard submissions from the Electoral Commission and the Supervisor of Elections. From this submission, the Committee was briefed on the election process, and it was also noted that the Electoral Commission and the Fijian Elections Office had made certain recommendations, which are captured in page 25 of the *Joint Report*. A summary of the submissions is provided below.

To begin with the Commission and the Supervisor of Elections, briefed the Committee on the Elections in Fiji.

#### History of Elections in Fiji

1.	1972	7.	1994
2.	1977 (March)	8.	1999
3.	1977 (September)	9.	2001
4.	1982	10.	2006
5.	1987	11.	2014
6.	1992		

#### Historical Statistics

Year	Voter turnout	Total vote	Registration	Voting age population	Population	Invalid voters	Compulsory voting
2014	84.60%	500,078	591,101	602,405	903,207	0.75%	No
2006	64.00%	307,004	479,674	552,797	905,949	6.40%	Yes
2001	81.05%	379,954	468,772	493,217	832,494	11.70%	Yes
1999	89.41%	398,877	437,195	522,310	832,494	9.00%	Yes
1994	74.80%	277,046	303,529	407,680	784,000		Yes
1992	78.77%	238,814	303,172	373,000	746,000		Yes

Source: <http://www.idea.int/data-tools/country-view/106/40>

#### Comparison of Elections: 2006 – 2014 -2018

	2006	2014	2018
Constituency	71	1	1

Voting	Compulsory	NOT Compulsory	NOT Compulsory
Voting Age	21	18	18
Polling Stations	1183	2028	2149 *
Registered Voters		591,101	620,338
Turnout	69%	84%	
Invalid votes	6.9%	0.75%	

### Election Statistics – Fiji

Year	Voter Turn-out	Total vote	Registration	VAP Turn-out	Voting age population	Population	Invalid votes	Compulsory voting
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2006	64.00%	307,004	479,674	55.54%	552,797	905,949	6.40%	Yes
2001	81.05%	379,954	468,772	77.04%	493,217	832,494	11.70%	Yes
1999	89.41%	390,877	437,195	74.84%	522,310	832,494	9%	Yes
1994	74.80%	227,046	303,529	55.69%	407,680	784,000		Yes
1992	78.77%	238,814	303,172	64.03%	373,000	746,000		Yes

The Commission highlighted the legal provisions, which make up the legal framework, which governs Election in Fiji.

### Legal Framework Governing Elections in Fiji

For this part, the discussions was on the Election legal framework that covers a few key areas of the electoral system and process including, the Nominations Process, Preparations for Poll (After Nomination Process) and Requirement for Voting by Ballot.

The nomination process for candidates wishing to contest elections are covered in the following provisions of the *Electoral Act 2014*:

Section 23 – eligibility criteria;	Section 30 – objections to nominations;
Section 26 – party candidates’ eligibility;	Section 31 – appealing SoE’s decision for non-acceptance of nomination;
Section 27 – candidate nomination deposit;	Section 32 – death after successful nomination; and
Section 28 – withdrawing from being a candidate;	Section 33 – disqualification of candidate after nomination.
Section 29 – nominations to be displayed;	

Preparation for Poll is covered under Section 36 of the *Electoral Act 2014*. Postal Voting is provided under Sections 66-81 and Pre-Poll is provided under Sections 82 to 88.

The Commission and the SoE then highlighted key aspects of Fiji's electoral system and process, including the 50 Day Writ to Writ Plan, an brief overview of the election process, key electoral events, voter registration, candidate nomination process, preparation of national candidate list, voting process (steps on how to vote) and seat allocation.

### ❖ 50 Day Writ to Writ Plan (as per the lead up to the 2018 General Election)

The 50 Day Plan highlights the Key Operational Events during the Election period, which include:

- Writ Day (7 Days after dissolution of Parliament):
  - Prime Minister may advise the President to dissolve Parliament;
  - Writ for General Election must be issued within 7 days;
  - If Election date is announced, then:-
    - Postal Vote Applications Open;
    - Provisions of Campaign under the Electoral Act are activated;
- Writ Day + 1:
  - Nominations open;
  - Nomination forms are available on FEO website;
  - FEO Suva HQ Opening Home – 8 a.m. – 6 p.m.;
  - FEO Suva HQ to be open on Saturday and Sunday during nominations;
  - Final Voter List operation process commences;
- Writ Day + 14:
  - Nominations Close at 12 Noon;
  - List of approved Candidates to be published;
- Writ Day + 18:
  - Electoral Commission Issues Notice of Poll and Notice of Pre-Poll;
  - Final List of Polling Stations and statistics released:-
    - Political Parties will receive this information on email;
  - 3 p.m. National Candidate List draw (can be held sooner if all the decisions from the EC are received);
  - Ballot Paper productions begins at the factory:-
    - Briefing at the factory at 12 midnight for Party agents;
  - Postal vote pre-packing initiated:-
    - Party Agents briefing on pre-packing at 9 a.m.;
- Writ Day + 23:
  - Postal Vote Application closes at 6 p.m.;
- Writ Day + 30:
  - Ballot Paper Production concludes:-
    - Final briefing of Party Agents at Print Factory.

### ❖ Election Operations

The Election process covers the following key aspects:

- Polling Places
- Election Officials
- Election Materials
- Election Security

#### Polling Places

<b>Divisions</b>	<b>Total No. of Polling Venues</b>	<b>Total No. of Pre-Poll Venues</b>	<b>No. of Pre-Poll Teams</b>
Central	316	96	10
Western	303	164	20
Northern	202	134	15
Eastern	33	187	44
<b>TOTAL</b>	<b>854</b>	<b>581</b>	<b>89</b>

#### Election Officials

<b>Divisions</b>	<b>Elections Office staffing required</b>
Central	4459
Western	4023
Northern	1537
Eastern	224
Pre-poll	445
Voter Awareness Assistants	134
Counting	240
<b>TOTAL</b>	<b>11,062</b>
<b>It should be noted that these are estimates only</b>	

#### Election Materials

Each Polling Station receives:

- 5 Cardboard Voting Screens;
- 1 Polling kit;
- 1 Ballot Box;
- Voter List;
- Ballot Paper (as per quantity required);
- Indelible Ink;
- Election Officials Manuals and Recording instruments.

#### Election Security

- Fiji Police Force to provide security;
- Police Training on elections;
- Police will provide guard at the printing facility;
- Police to accompany Pre-Poll teams on the ship;
- Police to received sensitive materials with the Presiding Officer at the Polling Station;
- Election Resources.

#### ❖ **Key Electoral Events**

The three (3) main key electoral timeframe events: Pre-Writ Period, Writ Period and Post Writ Period.

Pre Writ Processes

- Voter Registration

#### ❖ **Voter Registration**

2006 Election

Post 2012

Voters were issued with a voter registration slip	Voters are issued with a Voter ID card
Voter registration was conducted within a period of 3 weeks	Voter registration is conducted continuously.
Eligibility was 21 years for Fiji citizens	Eligibility was 18 years for Fiji citizens Overseas Fijians can register
Not personal verification data captured	Use of biometrics and facial recognition.

#### Voter Registration – the process - 2018 General Election

There are five (5) steps in the voter registration process, which are as follows:

<b>Step 1:</b>	<b>Step 2:</b>	<b>Step 3:</b>	<b>Step 4:</b>	<b>Step 5:</b>
Verification of personal details and verification of ID	Filling of registration details and identification of 3 closest polling venues	Data entry on EVR laptop and confirmation of 3 closest polling venues	Capturing of biometrics and taking of photograph of sufficient quality	Printing of VoterCard and registering the form received by the FEO staff

#### Voter Registration- The National Register of Voters

- National Register of voters is printed annually.
- All registered Political Parties are handed copies free of Charge.
- Names of registered voters are printed alphabetically according to their divisions.
- Voters entitled to inspect the NRV display and apply for changes if necessary or confirm details or object to the registration of another voter.

#### Voter Registration- Annual National Voter Registration Drives

- Conducted annually and offers the following services:
  - Secondary Schools voter registration drive
  - Nationwide voter services drive
  - National Register of Voters Display
  - Nationwide Polling Venues assessment project
  - Voter awareness
  - 2017 Nationwide Drive attracted over 240,000 registered voters.

#### Voter Registration- The Voter List

- Voter List is printed from the National Register of Voters
- Voter selects 3 polling venues closest to their place of residence when they register and FEO tags them to the Polling places accordingly.
- The new Fiji National Polling Venues Directories will assist the voter and the FEO staff members to identify venues and tag voters accordingly

- Provisional Voters list available in e-copy for political parties. Cost – FJD1000 and all updates are free until March 2018. New fee is applicable since March 2018.

### ❖ Nomination Process

The first step is ensuring potential candidates are eligible to stand for election. The eligibility criteria for being a candidate is provided under 23 and Section 26 of the *Electoral Act 2014* (“Act”), covers for Party Candidates eligibility. Section 27 of the Act, then prescribes that a nomination of a party candidate should then be accompanied with a deposit (\$1,000).

Under the nomination process, there is also provisions for withdrawing from being a candidate. For this, candidates follow the steps provided under Section 28 of the Act. After successful nomination, the law requires for the names and notice of nomination of those nominated to be candidates are displayed at the place of nomination (Section 29).

The process also includes objecting to a nomination and the rules governing this is provided under Section 30 of the Act. In addition to this, candidates can appeal, to the Electoral Commission, against the decision of the SoE for not accepting a nomination. If a candidate duly nominated dies after being successfully nominated, then provisions of Section 32 apply. There is also the process for the disqualification of a candidate after he or she has been duly nominated.

### ❖ After Nomination Process

Section 36, prescribes the Preparations for Poll of the Electoral Act and the process for preparing the National Candidate List. A general overview of this regulatory provision provides that all the candidates for the 2018 General Election will be assigned a unique three-digit number. The numbers will be assigned by random draw which will be conducted publicly in the presence of candidates, media, and observers.

- Approved names of independent candidates and names of party candidates saved in PDF format in alphabetical order with the last name (if any) of the candidate appearing before the first name.
- Balls for the draw:
  - Balls of equal size and weight
  - Each marked with number commencing from approved number: 508

Step 1: The list of candidates to be read out. In alphabetical order as it was saved after approval process.

Step 2: Equal to the number of candidates, the marked balls will be placed into a barrel that is large enough to allow the balls to move about freely when the barrel is rotated.

Step 3: The barrel will be rotated to ensure thorough mixing of the balls for equal probability of selection.

Step 4: A person nominated by the SoE is blind folded prior to the barrel rotation and once the barrel rotation has taken place is asked to pick the balls of the barrel one by one.

Step 5: As each ball is taken out, the unique three-digit number on the ball will be called out.

- The ball will be shown to the audience before it is placed into the basket.

Step 6: The picked three-digit number will be allocated to the first candidate on the list.

- All the numbers will be placed or allocated as they are called out for each subsequent candidate on the list until all the candidates have been allocated with the unique 3 digit number.

Step 7: The numbers will be entered electronically into the EMS System.

- A copy will also be entered and maintained in an excel sheet.

Step 8: After the draw;

- A National Candidate List is prepared which contains the names of the candidates.
- No party name or symbol will be on the National Candidate List

#### National Candidate List

- The names in the National Candidate List will be arranged in sequential order, commencing with the first candidate who was allocated the first 3 digit number.
- The allocated number together with the photograph of each candidate will be recorded next to the name of each candidate on the National Candidate List.

### ❖ Voting Process

#### Voting by ballot

Section 37 provides that the votes in a poll must be taken by ballot and the ballot of each voter must consist of a paper prepared in accordance with the Act; the provision also specifies other key requirements of for voting by ballot.

#### Voting Hours

- **Start: 7:30am**
  - The polling venue will be open to the voters all throughout the day;
  - Polling venue will not close for breaks.
- **Close: 6:00pm**
  - After all voters who are in the queue in the polling station have voted.

#### Election Official & Responsibilities

- **Presiding Officer:** In charge of the polling station.
- **Assistant Presiding Officer:** Provides assistance when required to the Presiding Officer and the Election Officials.
- **Venue Queue Controller:** Directs voter to correct polling station.
- **Inside Queue Controller:** Stands at the entrance of the Polling Station and is responsible for checking the voter's finger for ink prior to giving out the Voter Instruction Booklet.
- **ID Officer:** Confirm the voter's id before drawing a line to join the two arrowheads in the check off column of the Voter List.
- **Ballot Paper Issuer:** Explains to the voter the method of marking the Ballot paper and gives one (1) Ballot Paper to the voter.

- **Inker:** Ensures the voter's index finger or the little finger of the left hand is marked with indelible ink.
- **Ballot Box Guard:** Responsible for guarding the Ballot Box inside the Polling Station.

#### Voting Steps

**Step 1:** Voters will be assisted by the **Venue Queue Controller** who will direct them to their correct polling station.

**Step 2:** In each polling station, the **Inside Queue Controller** will check that;

- voters have no ink on their fingers;
- voters do not carry any materials containing instruction on how to vote.
- here the Voter is issued with the Voter Instruction Booklet

**Step 3: The ID officer** checks the name and photograph on the person's Voter Card to confirm the identity of the voter.

- Finds the voter's name on the Voter List;
- Confirms the persons ID and draws a line joining the two (2) arrowheads in the check off column.

**Step 4: The ID Officer** after confirming voters identification will than ask the voter to sign next to his/her name on the Voter List and direct the voter to the Ballot Paper Issuer.

**Step 5: The Ballot Paper Issuer**

- will instruct the voter on how to use the Voter Instruction Booklet and how to mark the Ballot Paper.
- will clearly inform the voter to mark the Ballot Paper and not the Voter Instruction Booklet.
- Will issue the Ballot Paper to the Voter.

**Step 6:**

- Using the Voter Instruction Booklet, the **voter** identifies the number for whom he/she wishes to vote;
- Using the pen attached on the voter screen, mark the Ballot Paper (Circle, tick or cross);
- Fold the ballot paper into four;
- Proceed to the Inker.

**Step 7: Inker will;**

- Request voter to fold Ballot Paper into four if yet to and hold it in his/her right hand;
- Clean the voter's left hand index finger with a tissue and dip that finger in the ink bottle;
- Direct the voter to the Ballot Box Guard.

**Step 8: Ballot Box Guard will;**

- Direct the voter to place the folded Ballot Paper in the Ballot Box;
- Ensure that voter does not drop his/her VoterCard or Voter Instruction Booklet in the Ballot Box;

- Kindly instruct the voter to leave the polling station after putting the Ballot Paper inside the Ballot Box.

**Step 9:** Once the Ballot Paper is placed inside the Ballot Box, the **voter** must leave the Polling Station and Polling Venue.

### ❖ **Postal Voting**

Postal Voting is provided under Sections 66-81, Division 5 of the ***Electoral Act 2014*** and encompasses the following.

- A registered voter may apply to be registered in the Register of Postal Voters in order to vote by post in an election.
- Application for postal vote can be made from the announcement of the date of election
- Application for postal vote must be received by the Supervisor of Elections 21 days prior to polling day
- Verification of postal ballot papers starts 7 days before polling day
- Receive of postal package 6pm on polling day

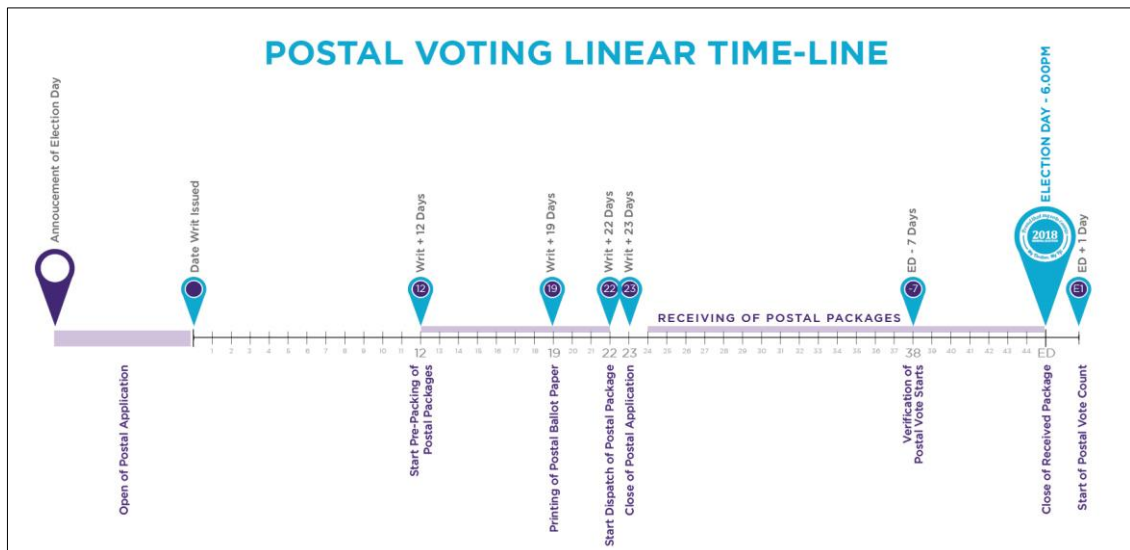
#### Eligibility for Postal Voting

- a) The applicant is living outside of Fiji or will be outside of Fiji on the polling day;
- b) Because of serious illness or infirmity, the applicant is unable to travel from his or her place of living to his or her assigned polling station;
- c) The applicant is under pre-trial detention or sentence of imprisonment;
- d) Because of the applicant's religious beliefs or membership of a religious order, he or she –
  - i.) is precluded from attending a polling station; or
  - ii.) for the greater part of the hours of polling is precluded from attending a polling station; or
- e) Because the applicant will be away from his or her usual place of residence and in a place not convenient to his or her assigned polling station due to work commitments on the polling day

#### Decision on Registration as a Postal Voter

As provided under Section 70(1) of the Electoral Act, the Supervisor must decide whether to accept or reject an application for inclusion in the Register of Postal Voters under section 67 within 48 hours, and if the application is delivered by person, the decision to register the applicant as a postal voter may be made on the spot

As provided under Section 70(5), a decision under subsection (4) may be appealed to the Electoral Commission within 1 day of the receipt of the rejection which must issue its decision on appeal within 1 day.



### Postal Vote Packages

Will be delivered by:

- Overseas Courier Company
- Local Courier Company
- Or by the Fijian Elections Office

### Return of Ballot Papers

Overseas

- A pre-paid return labelled courier bag will be included in your package

Local

- If couriered, a pre-paid return labelled courier bag will be included in your package
- If received by registered post, a pre-paid return labelled envelope will be included in your package
- Or can be dropped at any designated drop off point as deemed by the Supervisor of Election

### ❖ **Pre Poll Voting**

Division 6 of the Electoral Act 2014 – s82 to s88

- Electoral Commission authorizes voters to vote in advance of Polling Day

*Grounds for a voter to vote in advance*

- Resides in a locality that is remote, or number of voters is not sufficient for the establishment of a polling station
- Is a resident of a nursing home or health care facility
- Is a member of the Disciplined forces
- Is under pre-trial or sentence of imprisonment
- Is in any other place approved by the Electoral Commission

### **Pre-Poll Venues 2018**

Divisions	Total No Polling Venues	Total No. Pre Poll Venues	No. of Pre Poll Teams
Central	411	95	10
Western	467	170	20
Northern	336	136	15
Eastern	219	187	43
TOTAL	1433	588	88

### **Publication of Pre Poll Venues in the 2018 General Election**

- July 30<sup>th</sup> 2016
- March 18<sup>th</sup> 2017
- September 16<sup>th</sup> 2017

### **2018 General Election - Pre Poll Voting Timelines**

- pre poll voting week is week before polling week
- seven (7) days pre poll voting period
- five (5) days polling, two (2) days travelling
- pre poll voting period from Writ Day + 35 to Writ Day + 42

### **❖ The Counting Process**

The following provides details of the counting of the process, which were extracted from the Fijian Elections Office Polling Agent Handbook used for the 2018 General Election.

Firstly, when the last voter in the queue at 6:00 p.m. has voted, the Polling Day Workers will immediately setup the counting station. Polling Agents who are present inside the Polling Station at the close of poll can remain inside to witness the counting station setup.

Counting Station Set-Up: On Election Day all Ballot Papers for each Polling Station will be counted immediately after close of poll. However, the Postal Ballot Papers and the Pre-Poll Ballot Papers will be counted at the National Count Centre at the date and time prescribed by the SoE. Polling Agents will be notified to observe the counting process at the National Count Centre. The standard setup for counting either at the Polling Station or at the National Count Centre is as illustrated below:



### Counting Process:

**Step 1:** Reconciliation of all Ballot Papers received by the Polling Station. Number of voters' signature on Voter List + Unused Ballot Papers + Spoiled Ballot Papers + Tendered Ballot Papers must equal the total number of Ballot Papers received by the Polling Station. If there is discrepancy in the reconciliation of the Ballot Papers received, a recount of the above is conducted.

**Step 2:** The five (5) numbered seals on the Ballot Box is checked and verified. If the five (5) seals have been reconciled, the Ballot Box is opened. If there is any discrepancy in the five (5) seals, the Ballot Box is not opened.

**Step 3:** Reconciliation of the number of Ballot Papers in the Ballot Box with the total number of signatures on the Voter List.

**Step 4:** Ballot Papers will be unfolded and then sorted into column number ranges as marked on the Ballot Paper before counting Ballot Papers for each candidate. Counting of all the Ballot Papers in each column range including the invalid Ballot Papers. Totalling each column to reconcile the total number of signatures on the Voter List.

**Step 5:** Sorting of Ballot Papers by candidate number, proceeding column by column. Counting the Ballot Papers for each candidate number that have received votes. The results are entered in the Protocol of Results worksheet in the PO Record Book.

**Step 6:** Once the Presiding Officer is satisfied that all the numbers on the Protocol of Results worksheet in the PO Record Book is correct, the results are transferred in the Protocol of Results.

### **❖ Declaration of Results**

The following provides details of the declaration of results, as extracted from the Fijian Elections Office Polling Agents Handbook for the 2018 General Elections.

### Declaration of Results:

After the result of the Polling Station is recorded in the Protocol of Results the Presiding Officer will sign off on it and this is witnessed by any three (3) Election Observers or Polling Agents.

Once the Protocol of Results is witnessed, the Presiding Officer will call the Call Centre to transmit the result recorded in the Protocol of Results.

From the Call Centre the result is submitted to the Results Centre where results from all Polling Stations and the Count Centre are received and released as provisional results until counting concludes for the General Election and the last result is submitted to the Results Centre.

Subsequently the Presiding Officer will place the original copy of the Protocol of Results inside the Tamper Evident Envelope and this will be transported to the Count Centre after the Polling Day Workers pack-up from the Polling Station.

The second copy (pink colour) is detached and placed in a publicly accessible area outside the Polling Station. The third copy (green colour) is placed inside the Ballot Box for safe keeping.

#### Transferring of Sensitive Materials:

When packing is completed the Ballot Box and the Tamper Evident Envelope containing the original Protocol of Results, Presiding Officer's Record Book, Voter List and Tendered Ballot Papers is collected by the Fijian Elections Office Officials. These sensitive materials are then transported to the Count Centre by Fijian Elections Officials and the Fiji Police Force. Any Polling Agent can accompany the transport of the sensitive materials to the Count Centre. However, this will be at the cost of the Polling Agent.

#### Final National Results Tally:

Once all results from the Polling Stations and the Count Centre are received, the Results Centre will prepare the Final National Results Tally and this is signed off by the SoE. The SoE will then provide the Final National Results Tally to the Electoral Commission who will allocate seats to the candidates who have been elected as Members of Parliament. The Final National Results Tally will also be publicly displayed and made available to Polling Agents upon request.

### **❖ Allocation of Seats in Parliament**

The Electoral Commission (EC) allocates the 51 seats of the new Parliament (that is, it determines which candidates from which political parties have been elected).

#### **Step 1:**

EC receives the Final National Results Tally from the Supervisor of Elections. The Tally will contain:

- The total number of votes received by each candidate.
- The total number of votes received by each political party.

The party list of each political party, which will have been arranged in descending order (that is, the party candidate receiving most votes for a party will be at the top of its list, and the one receiving least votes at the bottom). A table showing the aforementioned is provided below.

**Table 1:  
Final National Results Tally – Section 103 (4)**

	<b>Party A</b>	<b>Votes</b>		<b>Party B</b>	<b>Votes</b>		<b>Party C</b>	<b>Votes</b>
149	Name	20,119	218	Name	5,400	211	Name	10,200
393	”	18,234	300	”	5,264		”	10,060
201	”	15,413	379	”	4,151		”	4,113
314	”	10,279	182	”	4,607		”	3,717
255	”	7,048	394	”	2,014		”	3,221
195	”	6,824	142	”	1,207		”	1,233
141	”	6,041	276	”	918		”	1,052
382	”	4,422	148	”	420		”	1,084
316	”	2,433	End of list				”	900
135	”	2,100		Total	23,441		”	882
List continues		....  ....					List continues	....  ....
	<b>Total</b>	<b>117, 064</b>					<b>Total</b>	<b>53,890</b>

	<b>Party D</b>	<b>Votes</b>		<b>Party E</b>	<b>Votes</b>		<b>Party F</b>	<b>Votes</b>
392	Name	4,398	389	Name	41,154	210	Name	10,504
150	”	3,911	302	”	25,556	144	”	10,368
200	”	3,252	380	”	13,308	391	”	4,313
256	”	2,826	180	”	10,002	278	”	3,997
313	”	2,016	385	”	8,743	138	”	3,521
191	”	1,818	147	”	4,913	383	”	1,535
136	”	1,127	279	”	999	146	”	1,352

384	”	904	151	”	975	301	”	1,304
361	”	887	152		972	249	”	999
145	”	803	377		890	370	”	982
List continues		....  ....		List continues			List continues	....  ....
				<b>Total</b>	<b>221,457</b>			
	<b>Total</b>	<b>298,112</b>					<b>Total</b>	<b>67,099</b>
<b>Independent No. 1</b>			<b>Independent No. 2</b>					
		Votes			Votes			
153	Name	27,504	317	Name	10,462			

Step 2:

- EC takes the totals in Table 1 for each party and independent candidate and puts them at the head of separate columns under the name of each such party or independent candidate.

**TABLE 2 – Candidate allocation form**

Party A	Party B	Party C	Party D	Party E	Party F	Ind 1	Ind 2
117,064	23,441	53,890	29,112	221,457	67,099	27,504	10,462

Step 3:

- EC adds all the totals together.
- The resultant figure is the total number of valid votes cast in the election.
- EC determines what constitutes 5% of the total.
- Any party or any independent candidate receiving less than 5% (called the threshold) will be declared eliminated.
- TABLE 2 – Candidate allocation form
- Total number of votes: 550,029
- Threshold: 27,501.45
- Party B and Independent No. 2 are eliminated as not reaching the threshold.

Step 4:

- EC now begins to determine the number of seats to be allocated to the remaining parties.

- The number of seats allotted to each party will be in proportion to the number of votes gained by that party as against the other remaining parties and independent candidates.
- This is worked out using the Largest Divisor Method, also known as the d'Hondt Rule.
- The total number of votes gained by each party is divided by 1, then by 2, then by 3 and so on.
- The results of the division (called “quotients”) are put in columns under the name of each party.
- For an independent candidate, the number of votes is divided only by 1.

Divisor	Party A	Party C	Party D	Party E	Party F	Ind 1
1	117,064	53,890	29,112	221,457	67,099	27,504
2	58,532	26,945	14,556	110,729	33,550	
3	39,021	17,963	9,704	73,819	22,366	
4	29,266	13,473	7,278	55,364	16,775	
5	23,413	10,778		44,291	13,420	
6	19,511	8,982		36,910	11,183	
7	16,723			31,637	9,586	
8	14,633			27,682	8,387	
9	13,007			24,606		
10	11,706			22,146		
11	10,642			20,132		
12	9,755			18,455		
13	9,005			17,035		
14	8,362			15,818		
15				14,764		
16				13,841		
17				13,027		
18				12,303		

19				11,656		
20				11,073		
21				10,546		
22				10,066		
23				9,629		
24				9,227		
25				8,858		

Step 5:

- EC then determines, which the 50 highest quotients are.
- EC marks these quotients by putting a circle around each of them.

Divisor	Party A	Party C	Party D	Party E	Party F	Ind 1
1	117,064	53,890	29,112	221,457	67,099	27,504
2	58,532	26,945	14,556	110,729	33,550	
3	39,021	17,963	9,704	73,819	22,366	
4	29,266	13,473	7,278	55,364	16,775	
5	23,413	10,778		44,291	13,420	
6	19,511	8,982		36,910	11,183	
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8	14,633			27,682	8,387	
9	13,007			24,606		
10	11,706			22,146		
11	10,642			20,132		
12	9,755			18,455		
13	9,005			17,035		
14	8,362			15,818		
15				14,764		
16				13,841		

17				13,027		
18				12,303		
19				11,656		
20				11,073		
21				10,546		
22				10,066		
23				9,629		
24				9,227		
25				8,858		

**Step 6:**

- EC then determines how many circled quotients there are in the column of each party and independent candidate, and writes that number down for each column.
- The number of circled quotients in each column is the number of seats the EC must allot to that party or independent candidate. It is their proportional share of the 51 seats of Parliament.

Divisor	Party A	Party C	Party D	Party E	Party F	Ind 1
1	117,064	53,890	29,112	221,457	67,099	27,504
2	58,532	26,945	14,556	110,729	33,550	
3	39,021	17,963	9,704	73,819	22,366	
4	29,266	13,473	7,278	55,364	16,775	
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7	16,723			31,637	9,586	
8	14,633			27,682	8,387	
9	13,007			24,606		
10	11,706			22,146		
11	10,642			20,132		
12	9,755			18,455		

13	9,005			17,035		
14	8,362			15,818		
15				14,764		
16				13,841		
17				13,027		
18				12,303		
19				11,656		
20				11,073		
21				10,546		
22				10,066		
23				9,629		
24				9,227		
25				8,858		
Seats	12	5	3	23	6	1

Votes gained & percentage of remaining parties' votes

Party A	Party C	Party D	Party E	Party F	(Ind 1)
117,064	53,809	29,112	221,457	67,099	(27,504)
23.96%	11.01%	5.96%	45.33%	13.73%	
Seats won & percentage of 49 seats (d'Hondt)					
12	5	3	23	6	(1)
24.49%	10.2%	6.12%	46.94%	12.24%	

Step 7:

- EC must now determine which candidates of each party are to occupy the seats just allotted to that party.
- This is done by looking back at the party lists, sorted in the descending order of votes gained by each candidate of the party (as provided by the Supervisor of Elections).
- The topmost candidates on each list occupy the number of seats the parties have been respectively allotted (for example, candidates 211, 140, 390, 277 & 137 of Party C are to be allotted that party's 5 seats).

**Table 1:  
Final National Results Tally – Section 103 (4)**

	<b>Party A</b>	<b>Votes</b>		<b>Party B</b>	<b>Votes</b>		<b>Party C</b>	<b>Votes</b>
149	Name	20,119	218	Name	5,400	211	Name	10,200
393	”	18,234	300	”	5,264		”	10,060
201	”	15,413	379	”	4,151		”	4,113
314	”	10,279	182	”	4,607		”	3,717
255	”	7,048	394	”	2,014		”	3,221
195	”	6,824	142	”	1,207		”	1,233
141	”	6,041	276	”	918		”	1,052
382	”	4,422	148	”	420		”	1,084
316	”	2,433	End of list				”	900
135	”	2,100		Total	23,441		”	882
List continues		....  ....					List continues	....  ....
	<b>Total</b>	<b>117, 064</b>					<b>Total</b>	<b>53,890</b>

	<b>Party D</b>	<b>Votes</b>		<b>Party E</b>	<b>Votes</b>		<b>Party F</b>	<b>Votes</b>
392	Name	4,398	389	Name	41,154	210	Name	10,504
150	”	3,911	302	”	25,556	144	”	10,368
200	”	3,252	380	”	13,308	391	”	4,313
256	”	2,826	180	”	10,002	278	”	3,997
313	”	2,016	385	”	8,743	138	”	3,521
191	”	1,818	147	”	4,913	383	”	1,535
136	”	1,127	279	”	999	146	”	1,352

384	”	904	151	”	975	301	”	1,304
361	”	887	152		972	249	”	999
145	”	803	377		890	370	”	982
List continues		....  ....		List continues			List continues	....  ....
				<b>Total</b>	<b>221,457</b>			
	<b>Total</b>	<b>298,112</b>					<b>Total</b>	<b>67,099</b>
<b>Independent No. 1</b>			<b>Independent No. 2</b>					
		Votes			Votes			
153	Name	27,504	317	Name	10,462			

Furthermore, the Committee was advised of the following key recommendations, which were put forth by the Electoral Commission and the Supervisor of Elections and also provided in the *Joint Report*.

#### 1. Voter Registration

The 2018 General Election was the first General Election that was conducted after the publication of the Fiji National Polling Venues Directory 2017. All the venues that had been approved by the Polling Venues Selection Committee were put to test and following the General Election, the FEO now has comprehensive data on the experiences of each venue.

It is recommended that the VoterCard is further enhanced to include the Polling Venue details of the voter. The presence of this essential data directly on the VoterCard should negate the need to search for the voter’s polling venue closer to the election. It may be prudent to expire the VoterCard 1.0 during this election cycle and to have all voters migrate to the new VoterCard to achieve the most recent and up-to-date details of the voter. It is further recommended that the voter education process is redesigned to create awareness amongst voters relating to the responsibilities following registration. The FEO carries out national voter services exercises, however, other external stakeholders that use the VoterCard as an ID should be engaged to promote the correction and updating of details of voters.

#### 2. Voter Lists

It is recommended that the legal framework is amended to allow the Electoral Commission to fix appropriate timelines for the FEO to finalize and publish Provisional Voter Lists. It may be procedurally prudent that the first provisional voter list is available at-least 18 months before the first date the Writ for the General Election can be issued. Consideration should be given to Political Parties and other stakeholders to carry out verification exercises and report to the FEO inaccuracies in voter lists for rectification.

The Electoral Commission may set out appropriate procedures for dealing with voter list verification. The FEO may need to re-look at its training of the Election Officials to minimize issues in locating names of voters in the Voter List.

### 3. Polling Venues

It is noted that the Fiji National Polling Venues Directory 2017 was the first ever comprehensive compilation of Polling Venue information from around the country. Venues that had been identified and selected by a committee comprised of various stakeholders. As per the Electoral Act 2014 the Electoral Commission was able to approve these venues officially for use once the Writ was issued in 2018. The FEO had continuously published the venues and the details, however, this did not carry legal authority and was merely advisory in nature.

It is recommended that the legal framework is amended to allow the FEO to propose a full list of venues for the following General Election for approval from the Electoral Commission at least two (2) years prior to the first date the Writ can be issued. The procedural framework would also be required to ensure that at-least a three (3) months consultation process is available for comments and suggestions from Political Parties and other interested stakeholders in respect of these polling venues. Following from this process, the Electoral Commission would finalize the Polling Venues and approve the same for publication. It would be prudent to consider allowing the Electoral Commission to approve additional or changes to existing venues as per the recommendation of the FEO and the process ought to accommodate an expedited process keeping in mind the tight operational timeline closer to the election.

### 4. Pre-Poll Polling Venues

Pre-Poll venues for the 2018 General Election had been identified in the Fiji National Polling Venues Directory 2017. The final approval for the Pre-Poll venues was done by the Electoral Commission in 2018 close to the announcement of the Writ. It is recommended that the legal framework is amended to allow the FEO to propose a full list of venues to be classified under Pre-Poll at least two (2) years prior to the first day the Writ can be issued. The procedure to be adopted as proposed above for finalizing polling venues.

### 5. Overseas Voters

The FEO recorded over 7,000 voters registered overseas. It is recommended that consideration is given to the setting up of a special polling station in Suva for voters who may be registered overseas, and did not apply for a postal ballot, to attend to cast their vote. Consideration should be given to allowing the ballot boxes from this Polling Station to be counted at the National Count Centre in addition to the relaxation of the maximum of 500 voters per polling station rule specifically for this venue.

### 6. Overseas Voter Postal Vote Applications

The FEO recorded over 7,000 registrations from Fijians who lived overseas, however, only 1,187 voters applied for a postal vote. At the close of the application period, the FEO found that a large number could not successfully complete and forward their applications as they did not wish to engage the services of a Notary Public as further costs were associated with the exercise. It is recommended that the legal framework is amended to facilitate the application process by overseas voters without the need to complete a statutory declaration. It will be possible for the FEO to verify voter

information directly from its records to avoid fraudulent activity. Procedurally, the FEO would then be able to facilitate the overseas Postal Ballot Application online.

#### 7. Election Timetable

The 2018 General Election recorded the first election in Fiji's history wherein the timetable for various activities and milestones were widely published. It is therefore recommended that the Electoral Commission publishes the timelines for key milestones leading up to a General Election at least two (2) years prior to the first date the Writ for the next General Election may be issued. This will boost the electoral understanding and preparation for all stakeholders. It is also useful to conduct a workshop to train Political Party Administrative officials by the FEO.

#### 8. Voter Instruction Booklets

The Voter Instruction Booklet is the only material that a voter is permitted to take into the Polling Station to the voting screen when they come to vote. In 2018, it was noted that some areas in Fiji complained of not having any party come to them to campaign. Accessibility and financial issues may have also prevented candidates to successfully disseminate their numbers to some areas.

Since Fiji has a modified proportional representation system where voter votes for a candidate and that vote is then added to the overall party vote to determine the threshold, it is prudent to consider sorting the candidates listed in the Voter Instruction Booklets by their Political Party. It is also recommended to list candidates for parties by alphabetical order of surname. It is anticipated that the above recommendation will reduce the number of errors in the number for each candidate while at the same time allow parties to properly educate voters on their candidate numbers.

#### 9. Political Party Management

The current framework for Political Party Management carries key components that are regarded as good practice globally. It is recommended that the legal framework is reviewed to implement further administrative processes so as to ensure the Registrar of Political Parties has exhausted all administrative processes before referring any matter for prosecution.

It is recommended that some procedural amendments are considered, particularly in terms of the financial disclosure deadlines (to bring it in line with Fiji's Accounting Sector Financial period) and also further clarifications made in regards to timelines for declarations by office holders of Political Parties.

There is also a need to formulate appropriate audit and financial standards for adherence by political parties to protect public interest. It is also necessary to make regulations in relation to donation management and income and expenditure management for Political Parties and individual Candidates. The legal framework would have to also cater for party officials, candidates, and agents of parties and candidates. The legal framework currently requires Political Parties and candidates to declare their income, assets and liabilities prior to the General Election. It is recommended that the legal framework requires the same persons and entities to prepare and submit another declaration within one (1) month of the General Election to allow the Electoral Commission to assess the election spending as well as compliance with other laws.

The current legal framework requires various declarations are made on specific dates. It is necessary to amend the legal framework to specify the exact cut-off dates for these declarations to remove ambiguity. There is also a need to enhance the administrative records for Political Parties. It is recommended that additional records are made in the Political Parties Register in terms of all office holders and their term, the names of the Party Auditors, Legal Advisors, Party bank details and the addresses of offices in the divisions and the managers of those offices. Procedurally, an annual update of particulars form should be sufficient to ensure that there is transparency in this area.

#### 10. Political Party Disputes

It is recommended that a framework is established to allow the Electoral Commission to mediate and if necessary arbitrate on disputes between Political Parties. It is necessary that disputes between parties are dealt with expeditiously and the Electoral Commission is best placed to deal with electoral issues. Consideration can be given to enhancing the enforceability of the decision of the Electoral Commission through the enforcement rules for High Court Orders and necessary pecuniary penalties are prescribed for non-compliance.

#### 11. Definition of Campaign Period

It is recommended that the legal framework clarifies the definition of ‘campaign period’ so as to allow proper enforcement of the Electoral Act 2014. It is recommended that consideration be given to declare the official campaign period to commence at-least one (1) month prior to the first date the writ can be issued and to conclude on Election Day.

#### 12. Use of Government Resources

It is recommended that the legal framework is reviewed and clarity is made on use of Government resources during the campaign.

#### 13. Enforcement of Blackout Period

It is necessary that any activity that is in breach of the Blackout Period is restrained without delay. The current legal framework allows for subsequent prosecution of offenders, however, it does not immediately stop the breach of the law. It is recommended that the legal framework is amended to empower the Supervisor of Elections to be able to issue an immediate cease and desist directive to any individual, Political Party or entity or to remove any material that is in breach of the blackout period. Any person who may have received such notice may appeal for a reconsideration by the Electoral Commission.

#### 14. Provisional Results

It was noted that despite numerous trainings and awareness, some political parties demonstrated lack of understanding of Provisional Results. Publishing provisional results is a common practice in numerous countries and it is recommended that Fiji amends its legal framework to allow the FEO to publish the Provisional Results in terms of totals for candidates and totals for parties until 7am the day after the election.

#### 15. Electoral Petition Rules

It is recommended that rules governing the handling of Election Petitions to the Court of Disputed Returns is promulgated expeditiously.

## 16. Final Report on the General Election

It was found in 2018 that there is significant constraint on the part of the Supervisor of Elections to effectively deliver its report within 30 days of the General Election in the event petitions are moved in the Court of Disputed Returns. In the same like, there is significant constraints placed on the Electoral Commission and the Supervisor of Elections to publish a report on the Election in three (3) months.

It is recommended that consideration be given to extend the timeframes to allow for the Petition timelines. It is also necessary to consider that the joint report on the General Election be made to be due at least six (6) months following the election to allow for comprehensive review and reflection on the election. It will also allow the Electoral Commission and the FEO to properly assess and analyze the recommendations and findings of the Observers of the Election and if necessary incorporate the same in their own report. Such timeframes will also facilitate appropriate time for necessary consultations with Agencies such as the Solicitor General's Office, the Office of the Auditor General and FICAC to name a few.

## **2.2 Evidence via submissions received and heard**

As part of the review the Committee conducted public consultation by inviting the public to send their views on the Joint Report via written submissions and also by visiting key locations around Fiji to hear the views of the public. The following is a summary of the salient issues identified from the public consultation.

Submitters commented on the voter awareness and education by the electoral management bodies and recommended that the voter education and information materials should take heed of the comments made by the MOG on its report on the 2018 General Elections (reference is made to page 26 of the Final Report of the Multinational Observer Group on 2018 Fijian General Election). In essence the submitters suggest that closer collaboration with CSO's, NGO's and other institutions is vital for voter awareness and election education.

Additionally certain submitters suggested that the election laws be reviewed, and one such vital piece of legislation is the *Electoral Act 2014*. The review of the election laws should be done with consultation of stakeholders such as (but not limited to) civil society organisations. The submitters argue that CSOs could be instrumental in assisting with such review resulting in improved public confidence in Fiji's electoral system.

Certain submitters commended the existing initiatives and plans being put in place for helping persons with disabilities, but also submitted that the same efforts be made for citizens who are eligible to vote and are held or resident in institutions around Fiji (prisons, remand centers, medical centers, hospitals, etc).

Certain submitters commented that the election system should encourage local inclusiveness and participation by incorporating into Fiji's Election regulatory framework that domestic observers are also used during elections.

There was also submission stating that the media regulatory framework must be reviewed including; penalties and reporting against matters concerning the public and national interest.

Submitters also noted that the Multinational Observer Group (MOG) also made a report on their observations on the 2018 General Election. Submission noted that this report also put forth some recommendations for the consideration of the Electoral Commission and the Supervisor of Elections. It was recommended that these recommendations are considered by the electoral management bodies.

Certain submitters raised a concern regarding the indirect revelation of who voted for who during elections. It was suggested that there is a need to maintain the secrecy of voting from Polling Day till release of Official Results, since currently, results of votes from polling stations being published does indicate how a community votes – since it is publicly available.

There were also miscellaneous comments and suggestions put to the Committee on other aspects of the electoral system, including:

- it was suggested that the ballot paper be changed by increasing the boxes to be checked/ticked during election;
- it was suggested that persons with dual citizenship be allowed to stand for elections – without rescinding citizenship in the other country;
- there should be more done to assist with voters being able to identify the candidates when in the polling booth; one such recommendation noted from the submission was for changes to be made to the Ballot Paper; and
- it was recommended that membership of Parliament should be expanded to also include Members that are appointed by the elected Members of the Parliament – these Members would consist of specialised professionals, such as Doctors, Lawyers, Accountants, Auditors, Scientists, etc.

Written copies of the submissions and transcripts of the submissions (Verbatim Reports) are uploaded along with this Report onto the Parliament website: [www.parliament.gov.fj](http://www.parliament.gov.fj).

### **2.3 Sustainable Development Goals/National Development Plan Impact Analysis**

In reviewing the *Joint Report*, the Committee was mindful of Fiji's efforts in achieving its targets on the national development plan, which in turn contributes to the Fiji's overall obligations towards the sustainable development goals.

As a starting point, whilst reviewing the *Joint Report*, the Committee was mindful of the principles of gender equality and empowerment of women. During the review, the Committee noted that the electoral management bodies actively places a lot of efforts in promoting the principles of gender equality. This was reflected in both in the 2018 General Election Final Report by the Supervisor of Elections<sup>1</sup> and the the MOG Report on the 2018 General Election<sup>2</sup>, whereby it was noted that women were well represented in the administration of the General Election (whereby 44% of the core staff were women). The Fijian Elections Office also advised that out of its 45 core staff, 20 are females, and whereby eight (8) are heads of departments within the office.

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<sup>1</sup> 2018 General Election Final Report by the Supervisor of Elections, page 28.

<sup>2</sup> 2018 General Election Final Report by the Multinational Observer Group, page 28.

Additionally, it was also noted from the review of the *Joint Report* that it is part of international best practice that necessary changes are made to the election regulatory framework, which are envisioned to make the election process more transparent and convenient to voters. This relates to the development plans by the Government of Fiji in contributing to the strong and enabling environment that exists for further development of good governance, which is a key component of a democratic and accountable governance system<sup>3</sup>. In order to contribute to good governance, Fiji has invested a lot in revamping its electoral system, with the goal of ensuring free and fair elections.

## 2.4 Key Findings

At the penultimate stage of the review, the Committee has identified a few pertinent matters, which the Committee places reasonable emphasis on. The Committee took this as an opportunity to consult the Electoral Commission (“**Commission**”) and the Supervisor of Elections (“**SoE**”) to clarify the key issues highlighted from the review. These assisted the Committee in carrying out further deliberation on the identified issues. The pertinent matters including the clarifications put forth by the Commission and the SoE, make up the key findings from review and these are:

- that the Electoral Commission and the Supervisor of Elections, through the Fijian Elections Office are in the process of revamping their awareness strategy to include closer collaboration with grass-root non-governmental organisations, such as community women’s groups, youth groups and so forth;
- the commendable work by the Electoral Commission and the Supervisor of Elections, through the Fijian Elections Office, being the only electoral management body in our region to consider and accept recommendations by a Multinational Observer Group for Elections;
- out of the 21 recommendations put forward by MOG after the 2018 General Election, 14 recommendations have been accepted and have been implemented or will be implemented by the Electoral Commission and the Supervisor of Election, through the Fijian Elections Office, as they were directed towards these statutory offices;
- also, to note that out of the 21 recommendations put forward by MOG after the 2018 General Election, seven (7) recommendations were not directed either towards the Electoral Commission or the Fijian Elections Office, thus both entities did not have the jurisdiction to either accept or reject the 7 recommendations, since this recommendations, for example, should have been directed towards the judiciary, the Constitution of Fiji and the media, etcetera; and
- considering the above two bullet points, it can be stated that the Electoral Commission and the Supervisor of Elections, through the Fijian Elections Office, adopted and implemented one hundred percent of the recommendations that were directed towards these entities.

## 2.5 Responses on the MOG Recommendations

This part of the Report will highlight the consideration that was given to the Multinational Observer Group (MOG) recommendations on the 2018 General Election. In ascertaining the consideration given to the MOG recommendations, the Committee consulted the Electoral Commission and the Supervisor of Elections on their input regarding the same and the following is the result of this discussion that was carried out in 1 April 2021.

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<sup>3</sup> Fijian Government 5-Year & 20-Year National Development Plan.

To begin with the following are the recommendations that were considered and addressed by the Electoral Commission and the Supervisor of Elections.

**MOG Recommendation 1: Remove restrictions on party identification in official election material.**

The Electoral Commission and the SoE has considered the recommendation, which would be included in the proposed amendment to Section 36(6) as provided in the Electoral (Amendment) Bill 2020. The initial section stated that the National Candidates List must not contain any party name or party symbol. However, the proposed amendment suggests for the National Candidate must to contain either the party name or the party symbol or any other information as approved by the SoE.

**MOG Recommendation 2: Submit voter Register to external audit.**

The FEO in its 2020-2021 Strategic Plan has reflected on Goal 3, Objective 3.5, Activity 3.5.1 for the external audit of the Voter List to be conducted in the 4<sup>th</sup> quarter of this year. The EC is looking to approach donor agencies to facilitate this process as it will be costly.

Practically, the laws are also being amended to allow local stakeholders to actively use and QA the voter list. This proposed amendment to section 40(8) of the Electoral (Amendment) Bill 2020 suggests for the SoE to publish the Provisional Voter List for each Polling Station as approved by the EC on or before 30 September of each year except in an election year. Once published, key electoral stakeholders can verify the lists and work with the electoral authorities to detect inaccuracies, if any.

**Recommendation 3: Legislation should incorporate the principle (which the Supervisor respected in practice in 2018) that the Fijian public can inspect the full Register.**

This has been considered in the proposed new Section 11 of the Electoral Registration of Voters) (Amendment) Bill 2020, which allows the SoE to publish the National Register of Voters and this could be inspected by any political party. Also, the proposed new Section 16 of the same Bill allows for any registered person to inspect the National Register of Voters and make an objection to the inclusion of the name of any other person on the National Register of Voters.

**Recommendation 7: Take steps to enhance the institutional standing and capacity of the EC. The EC should receive its own funding in the government budget and sufficient resources to achieve its mandate. At least one full-time Commissioner would also benefit the EC. Future appointments should be staggered to ensure the preservation of institutional memory and experience.**

The EC had requested the Ministry of Economy for separation of its budget from the FEO and this was facilitated in the year 2019. Since then the Commission has had its own Budget, its own staffing under its secretary and the Commission budget is also sufficient for it to obtain legal advice from a legal practitioner of their own choice.

Also, after the expiration of the terms of the previous EC (who oversaw the 2018 General Election), five (5) out of the seven (7) Electoral Commissioners were reappointed on 20 March 2020. Although the appointment of the Commission is the independent responsibility of the Constitutional Offices Commission, the continuation of 5 of the 7 Commissioners for the next general election ensures preservation of experience.

This recommendation has been addressed administratively without the need for any amendments to the statute.

**Recommendation 12: Require parties to report campaign expenditure following an election and consider setting campaign expenditure limits.**

This has been considered on the proposed new section 25(1A) of the Political Parties (Registration, Conduct, Funding & Disclosures) (Amendment) Bill 2020. This proposed section requires a political party to within 30 days after the Polling day, submit to the Registrar of Political Parties a written declaration giving details of all assets and liabilities as at polling day and income and expenditure, including all contributions, donations or pledges of contributions or donations, whether in cash or in kind, made or to be made from the date the writ is issued to polling day.

Practically, it is necessary for Fiji to first evaluate the extent of campaign expenses before it can determine if any campaign expenditure limits should be implemented. The data on expenditure will be collected in the next election and an appropriate decision can be made thereafter.

**Recommendation 13: Clarify the start and finish of the campaign period so that stakeholders understand their rights and obligations during this time.**

This has been considered in the proposed new section 109A provided in the Electoral (Amendment) Bill 2020. This proposed section allows the EC to determine the campaign period and it specifies that the campaign period must not be earlier than 30 days prior to the completion of 3 years and 6 months of the sitting of Parliament after the last general election and later than 48 hours prior to the general election.

The amendments further specify all the campaign rules and restrictions, which will be applicable during this period.

**Recommendation 15: The EC and FEO should strengthen efforts to build productive partnerships with civil society organisations throughout the electoral cycle and actively work with CSO's in voter awareness and education activities.**

This is an administrative matter that does not need to be reflected in the electoral laws however, this recommendation has been considered in Pillar 4 of the FEO Strategic Plan 2020-2021, which is totally dedicated to electoral participation with the goal of strengthening electoral participation through effective outreach and engagement programs.

Objective 4.2. of this Strategic Plan specifically discusses the establishment of strategic collaboration with youth groups, civil society organisations, NGOs, faith based groups and informal groups in promoting electoral participation. As such, the EC and FEO is currently working on this partnership.

The SoE has proposed to design a Trainer of Trainers for all types of civil groups, which will be rolled out using a standard funding method during the election year. More details will be announced in November 2021.

**Recommendation 19: All stakeholders should continue their efforts to promote women, including as candidates; the FEO should broaden its voter outreach to**

**include village women's committees and the EC should work with women's advocacy groups (and other CSOs) in voter education.**

This is an administrative matter that does not need to be reflected in the electoral laws. But, EC reiterates that it has considered this recommendation and it is reflected on Goal 4, Objective 4.2 of the FEO Strategic Plan 2020-2023, which sets out the activities that EC and FEO will be conducting to ensure that voter outreach is broaden to all stakeholders, especially women in society.

The following are the recommendations not directly reflected in the Electoral Bills but has or will be implemented.

**Recommendation 4: Review Section 18 of the Electoral Act to ensure the SoE, the Registrar of Political Parties and the Electoral Commission can administer the law constructively, seeking compliance before redress and with criminal investigations as a last resort.**

Section 18 of the Electoral Act 2014 has been directly amended, and it must be noted that other provisions of the same Act are being proposed to be amended by the Electoral (Amendment) Bill 2020, to cater for this amendment by the MOG. For instance, the current Section 116 of the Act specifically highlights campaign rules for the General Election. In the last two (2) General Elections, the EC or SoE could not rectify any breach to campaign rules as they did not have the power to do so. Instead, the process was for a complaint to be forwarded to FICAC who would then conduct its own investigation before deciding on whether charges would be laid or not. However, with the inclusion of the new section 116 (4A) of the Electoral (Amendment) Bill, the SoE would now have to rectify breach to campaign rule immediately by removing or directing any political party, candidate or police officer to remove any material that is in breach of the campaign rules.

The EC and SoE had also experienced in the past General Election the publication of false statements, which undermined the duty and function of both parties. Lodging a complaint with FICAC did not rectify the issue instantly. To counter this, a new section 144A (1) in the Electoral (Amendment) Bill 2020 has been introduced. This new section would allow the SoE to direct a person including a service provider or political party to remove or correct any statement or information that was published in or outside of Fiji and is accessible in Fiji, immediately, if the believes that the information is false and would likely to influence the outcome of an election or diminish public confidence in the performance of any duty and function of the EC or SoE.

The inclusion of a new Section 116(4A) and section 144a (1) seeks compliance before redress and allows for criminal investigation to be a last resort for EC or SoE.

Since 2018, the Registrar of Political Parties has on all occasions required Political Parties to first rectify breaches of the Act without being suspended. Only in cases where the breaches were rendered within the given timeframe, the Registrar suspended the Party to ensure public interest is protected.

**Recommendation 8: The EC should increase its public profile and the transparency of its operations. It should establish and publish a permanent timetable of regular meetings with political parties throughout the electoral cycle and look to publish an agreed outcome of these meetings.**

This is an administrative matter that does not need to be reflected in the electoral laws. However, EC has made an initiative this to have quarterly meetings with registered political parties. The first meeting was held on 28 January 2021 in which matters such as registration of new voters, raising confidence in the 2022 General Election, independence of EC, voter confidence and opportunity to have a meeting with individual political parties to take them through different electoral processes, were discussed and clarified by EC and the Registrar of Political Parties. In this meeting it was also agreed that FEO will be liaising with political parties to finalise an operational workshop for them. The next meeting will be scheduled for 16 June 2021 and thereafter scheduled meetings until the next General Election.

Also on 18 February 2021, there was a meeting between the EC, Registrar of Political Parties and representatives of Political Parties to discuss on the Audit Guideline for Audited Accounts of Political Parties. At the moment, the Fiji Institute of Accountants have been approached to develop this Audit Guideline and this will be reviewed by the EC, Registrar of Political Parties and representatives of political parties before it is approved to be implemented.

It must be noted, in the year 2019 there were no meetings with political parties as the EC and FEO were reviewing the 2018 General Election and amendment to the electoral Bills. Then in the year 2020, there was the Covid-19 pandemic, which interrupted the conduct of meetings.

Further, the meeting minutes with political parties are normally circulated to them prior to the next scheduled meeting and EC decisions are accessible in the EC website: <http://www.electoralcommission.org.fj>.

**Recommendation 9: The EC should develop and publicize procedures to ensure it can provide due process in considering complaints against the SoE and the FEO in line with Section 17 of the Electoral Act. It should publish responses to substantive issues that stakeholders raise with it.**

This is an administrative matter that does not need to be reflected in the electoral laws. However, the EC has in previous occasions dealt with complaints against SoE and its decisions have normally been relayed in writing to the complainant. In situations, where complaint against the SoE is dealt with, he usually is excused as the EC Secretary so EC could deliberate on the issues against him. In the meantime, the EC is also amending its complaints procedure and this will be published before the next General Election, once it is finalised.

**Recommendation 10: The EC should conduct a review of voter education activities with the aim of expanding partnerships, including with civil society organisations. A standing working group with civil society organisations would be an important next step.**

This is an administrative matter that does not need to be reflected in the electoral laws. However, this recommendation has been considered. EC and FEO is currently developing a Terms of Reference inclusive of civil society organisations and this will be implemented once it is finalised.

**Recommendation 16: Review the appropriateness of Section 115 of the *Electoral Act*.**

The EC had already considered this recommendation when it was initially raised by MOG in their 2014 General Election Report. In reviewing the appropriateness of this section, the EC is of this view that this section needs to be manipulated as it ensures compliance, accuracy and consistency of voter awareness and education programs organised or published by civil society organisation after announcement of the election date.

It must be noted on 17 May 2018, EC approved the Guideline Application Form Appeal process and Appeal Form under Section 115. This required civil society organisations to submit content, material or prop and particulars of the Activity they are organising. Having received this, FEO made the necessary compliance, accuracy and consistency check. If there were any matter of inconsistency or inaccuracy the relevant civil society organisation was required to remedy it before approval is granted. For the 2018 General Election, two (2) applications were received and approved. The FEO did not reject any application under this section. The process for application and approval was clearly explained to all the CSO's prior to the election.

**Recommendation 20: Clarify the restrictions on media reporting during the restricted (blackout) period before and during polling.**

This is an administrative matter does not need to be reflected in the electoral laws. However, in the 2018 General Election, the FEO had published on 18 January 2018, a Media Handbook that specifically highlighted the period of the 48 hours' media blackout and rights and restrictions of the media during this period.

In leading up to the next General Election, the FEO has reflected on Goal 1, Objective 1.1, Activity 1.1.5 of the FEO Strategic Plan 2020-2023 of the need to review its existing handbooks, including the Media Handbook. This will ensure that clarifications on media reporting restrictions are reflected as highlighted by MOG will be factored in the Media Handbook for the next General Election.

The amendment in Section 116 will further enhance the implementation of the laws during the Campaign blackout.

Moreover, the following are recommendations that were not considered by the Electoral Commission and the Supervisor of Elections.

**Recommendation 5: Review electoral offences to ensure penalties are proportionate and generally civil in nature rather than criminal.**

The EC advised that it must be noted that most existing electoral laws around the world have electoral offences as criminal in nature rather than civil. For example, the *Commonwealth Electoral 1918*, *India's Representation of the People Act 1951*, *Vanuatu's Representation Act 1982 [Amended 2006]* and the *Solomon Islands Electoral Act 2018*, to name a few have similar electoral offences to Fiji, which are criminal in nature such as bribery, personation and offences in relation to ballot papers.

Further, the penalties for the electoral offences in Fiji state the maximum fine or imprisonment term that could be issued to the person charged. Currently, the electoral offences committed could lead to either a conviction of a fine not exceeding \$10,000 or a term of imprisonment not exceeding 5 years or to a fine not exceeding \$50,000 or a term of imprisonment not exceeding 10 years.

It would be at the discretion of the Court to issue a penalty proportionate to the electoral offence committed. So far, electoral offence cases brought before the Court have not been served the maximum fine or imprisonments. This is reflected in the cases mentioned below:

*a) FICAC v Jale Bab Criminal Case No. 2091/18*

Mr. Jale Baba was found guilty to the offence of Making a False Statement contrary to Section 27 (1)(b) of the ***Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013***. The maximum sentence for this offence is a maximum fine of \$10,000 or 5 years imprisonment. However, he was sentenced to 11 months imprisonment suspended for 3 years.

*b) FICAC v Rajnil Pratap Sobha Criminal Case No. 956/18*

Mr. Rajnil Pratap Sobha was found guilty to the offence of Making False Declaration on an Application for Voter Registration contrary to section 136(a) of the ***Electoral Act 2014*** and applying to be registered as a Voter on more than one occasion contrary to Section 4(4) of the ***Electoral (Registration of Voters) Act 2012***.

The maximum punishment for the offence of False Declaration on an Application for Voter Registration is a fine not exceeding \$50,000 or to an imprisonment term not exceeding 10 years. The maximum punishment for an offence of Applying to be registered as a Voter on more than one occasion is a fine not exceeding \$10,000 or 5 years imprisonment.

However, Rajnil Pratap Sobha was sentenced to 22 months imprisonment, out of the final aggregate sentence of 10 months imprisonment term suspended for 5 years and the balance of 12 months imprisonment term to be served in custody.

*c) Maraivalu v FICAC Criminal Appeal Case No. 52/14*

Mr/ Maraivalu was charged for personation contrary to Section 142 of the then Electoral Decree 2014. The maximum punishment for the offence is a fine not exceeding \$50,000 or 10 years imprisonment. He was sentenced to 2 years imprisonment but appealed his sentence. However, his appeal against his sentence was dismissed.

It is clear that though maximum penalty is mentioned in the existing electoral laws, the Court uses its discretion when deliberating on electoral offence cases. Therefore, emphasis was placed on the statement made by Judge Sudharshana De Silva in the case of *Mataraivalu v FICAC Criminal Appeal Case No. 52/14* that the sentence is neither harsh nor excessive in circumstances.

**Recommendation 6: Work towards consolidating and clarifying electoral legislation and, where possible, move to a principles-based legislative framework.**

This has not been considered as currently there are 156 Sections in the ***Electoral Act***, 31 Sections in the ***Political Parties (Registration, Conduct, Funding and Disclosures) Act*** and 24 Sections in the ***Electoral (Registration of Voters) Act***. Consolidating these different laws into one is not necessary as the respective laws each has its own function. For instance, the ***Electoral Act*** highlights processes surrounding the conduct of elections, the ***Political Parties (Registration, Conduct, Funding and Disclosures) Act*** focuses on the registration and administration of political parties and the ***Electoral (Registration of***

*Voters) Act* concentrates on the registration and administration of the National Register of Voters.

Instead of consolidating, the EC and FEO has, however, sought to clarify certain provisions of each electoral laws and this is reflected in the 56 sections proposed to be amended (31 in the *Electoral (Amendment) Bill 2020*, 14 in the *Political Parties (Registration, Conduct, Funding & Disclosures) (Amendment) Bill 2020* and 11 in the *Electoral (Registration of Voters) (Amendment) Bill 2020*). These amendments would allow the EC and FEO to deliver more effective election operation on the next General Election. Some of the amendments also bring consistency amongst the laws in regards to the definition of certain words and processes.

**Recommendation 11: Develop guidelines for the conduct of Ministers, Members of Parliament and the bureaucracy when the government is in caretaker mode to reinforce public confidence in a level electoral playing field.**

This recommendation does not apply to the EC or the FEO as this is for Parliament and Cabinet to decide on.

**Recommendation 14: Review of the provisions in the Political Parties Act regarding restrictions on public officers joining political parties.**

This recommendation is not considered. It was advised that there is no need review the provisions of Section 14 of the *Political Parties (Registration, Conduct, Funding & Disclosures) Act* and Section 57 of the *Constitution of the Republic of Fiji* as it clearly identifies the public office holders and restrictions placed on them.

Section 57 of the *Constitution of the Republic of Fiji* has established and recognised the principle that Public Officer Holders, which includes Trade Unions, should remain apolitical. The political participation of such persons is not restricted. Under the current legal framework, they have to surrender their appointment to take up office in Political Parties. This ensures that public office holders conduct their duties and functions and exercise their powers with utmost impartiality, in compliance with the existing laws of the country and without regard to any political or personal factor.

**Recommendation 17: The EC should clarify processes for the accreditation of domestic observers and support the participation of civil society organisation in future observation efforts.**

This recommendation is not considered as Section 119 of the *Electoral Act 2014* clearly states that the Minister responsible for Elections may appoint or invite any person, organisation or entity to be observers for any elections. There is no restriction to domestic observers. Any agency interested in observation activity must apply for approval from the said Minister. The Electoral Commission does not have any jurisdiction in this matter.

**Recommendation 18: Transfer the authority to approve domestic observers to the EC, in line with international good practice.**

This recommendation is not considered as Section 119 of the *Electoral Act 2014* deals with both international and domestic observers. The Minister responsible for Election would be in a better position to appoint or invite international or domestic observers instead of the EC. This has been the trend in the last two (2) General Elections.

**Recommendation 21: The media regulatory framework needs to be reviewed including with respect to penalties and with respect to reporting against the public and national interest.**

This recommendation is not considered as EC is not in charge of media regulatory framework, rather it is the Media Industry Development Authority (MIDA).

## **PART 3 - OUTCOME OF REVIEW AND RECOMMENDATION**

At the outset, the Committee views its mandate with regard to the review of parliamentary papers as follows; to review the content of a report, seek public input into the contents of the report and to comment on such contents, including any recommendations provided in a report.

After extensive deliberation, the Committee weighed all options concerning the pertinent issues identified from the review and had extensive discussions on these, so as to ensure that all these relevant issues were appropriately addressed. The following are some of the clarifications put forward to the Committee in regards to the issues noted.

In regard to the issue of more involvement of CSOs and other key stakeholders when it comes to voter awareness and reviewing of election laws; the Committee was advised that there needs to be more particulars for these complaints, in order to effectively address the issue.

In regard to the suggestion for sharing of information in the national register of voters, the Committee was advised that the electoral management authorities disagree to this suggestion given that the voter data is provided on a voluntary basis and is subject to strict confidentiality.

Furthermore, in regard to the suggestion for the electoral management bodies to ensure local participation through domestic observer groups; the Committee was advised that this these are policy matters for Government and does not fall within the jurisdiction of the Electoral Commission or Fijian Elections Office.

In regard to the issue on secrecy of vote; the Committee was advised that it is also a basic tenet of democracy that you can identify the exact location for polling results. This is also an ongoing debate issue on how to promote the transparency of the count as against the right to secrecy of the ballot.

Moreover, in regard to the other various suggestions regarding the electoral system in Fiji, such as dual citizenship, changes to the ballot paper and change in membership of Parliament; the Committee was advised that these are policy level issues for Parliament.

After all the deliberations, the Committee believes that the issues highlighted in the review have been adequately clarified and addressed. The Committee therefore resolved that it be prudent to make mention of a few key highlights noted from the review and put forth one recommendation for the Commission's consideration.

The following are a few key highlights noted by the Committee from the review of the Joint Report:

- a) The Electoral Commission has successfully completed a second cycle under the new electoral system, based on the *2013 Constitution*.

- b) That there were 16 key recommendations put forth by the Electoral Commission and Supervisor of Elections in the Joint Report, after analysing all aspects of the 2018 General Election.
- c) That the efforts by the Electoral Commission and the SoE put towards accepting the MOG recommendations, is envisioned to contribute to the improvement of election process and ensuring that General Elections are free and fair.
- d) That there were numerous issues and concerns tabled before the Committee from the public, during the review. The Committee was advised that the Commission and the Fijian Elections Office have made a lot of progress in addressing many of the concerns and are still in the process of making further developments.

Additionally, the Committee is of the opinion that it is prudent to put forward a few recommendation for the consideration of the Electoral Commission and the Supervisor of Elections. These recommendations are as follows:

- i) Having gone through two cycles of General Elections under the **2013 Constitution**, a lot of progress has been made in trying to simplify the process of voting, thus the Committee recommends that continuous review of the system be conducted, to continue to further streamline the election process.
- ii) The Committee also recommends that it should be mandatory for all candidates to a General Election to take part in the electoral processes training programs conducted by the Electoral Commission and the Fijian Elections Office.
- iii) Furthermore, the Committee recommends that more roundtable discussions be conducted with the Electoral Commission, the Supervisor of Elections, the Fijian Elections and all key stakeholders, pertaining to the electoral system and all related issues, so that conflicting messages regarding election processes is not passed onto the general public by all relevant stakeholders, especially Political Parties and candidates.
- iv) Additionally, the Committee proposes that more civic education be conducted in schools and communities, which would ensure awareness for registered voters and potential voters who would be eligible to vote in future general elections.
- v) The Committee recommends that Multi-National Observer Group that are invited to observe General Elections in Fiji are advised that recommendations should be classified to indicate an appropriate agency responsible to take action.
- vi) Moreover, the Committee recommends that the boxes to be ticked in the ballot paper are slightly increased in size to “best fit” the ballot paper.
- vii) Finally, the Committee recommends that the Electoral Commission and the Supervisor of Elections, through the Fijian Elections Office, continue its collaboration with the CSO’s and to formulate a terms of reference for awareness and education programs on elections.

## **PART 4 - APPRECIATION**

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The Committee believes that it is appropriate to acknowledge all those that had provided great support to the Committee during the review of the *Joint Report*.

Firstly, appreciation goes to the Fijian Parliament and the UNDP Fiji Parliament Support Project, for its financial support, which enabled the Committee to conduct extensive awareness and visit various communities around Fiji and effectively conduct public consultation on the *Joint Report*. Moreover, the Committee acknowledges the support from Speaker of the Parliament of the Republic of Fiji and the Acting Secretary-General to Parliament for the logistics and support provided to the Committee in conducting extensive public consultation.

The Committee looks forward to continued support for all future Committee work including public consultation.

Furthermore, the Committee would also like to acknowledge the Parliament IT Team for its support, which enabled more public participation on the Committee work, through live coverage of the public consultation. The Committee visited a total of 29 communities (inclusive of urban and rural communities) and had a coverage of an average of 10,000 people that was reached through its live coverage of each public consultation venue.

## **PART 5 - CONCLUSION**

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After reviewing the *2018 General Election Joint Report by the Electoral Commission and the Supervisor of Elections*, the Committee recommends that the House takes note of its contents.

The Standing Committee on Justice, Law and Human Rights has fulfilled its mandate approved by Parliament, which is to examine and review the *2018 General Election Joint Report by the Electoral Commission and the Supervisor of Elections* with due diligence.

The Committee's review findings showed some contentious matters which were addressed by the Committee and these were reflected in its findings and recommendation.

The Committee through this report commends the *2018 General Election Joint Report by the Electoral Commission and the Supervisor of Elections* and the contents of its Report to the Parliament.

## **MEMBERS SIGNATURES**

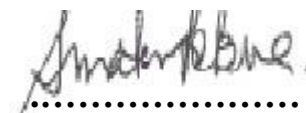
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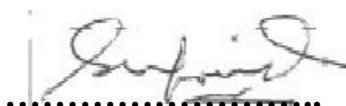
**HON. ALVICK MAHARAJ**  
**(CHAIRPERSON)**



**HON. ROHIT SHARMA**  
**(DEPUTY CHAIRPERSON)**



**HON. RATU SULIANO**  
**MATANITOBUA**  
**(MEMBER)**



**HON. DR. SALIK GOVIND**  
**(MEMBER)**



**HON. MOSESE BULITAVU**  
**(MEMBER)**

**DATE: 21 May 2021**