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## STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

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### Report on the Review of the Electoral (Registration of Voters) (Amendment) Bill 2020 Bill No. 51 of 2020



**Parliament of the Republic of Fiji**

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June, 2021

*Published and Printed by the Department of Legislature, Parliament House, SUVA.*

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## **CHAIRPERSON'S FOREWORD**

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General elections provides the citizens of the country their right to vote to select a democratically elected government to lead the country for a period of 4 years. As a voter, a citizen should be well versed with five basic principles:

- Citizens must be registered as voter to vote;
- Citizens should know the venue, where he or she is supposed to vote;
- Citizens should know how to vote;
- Citizens should know whom to vote; and
- Citizens to ensure his or her vote is not invalid.

Under the democratic process it is very important to continuously review and improve the electoral process to ensure that the above mentioned principles are well reflected in the Act. Furthermore, the Act should ensure simple and easy processes during general elections, for voters to cast their votes.

Thus the Fijian Electoral Commission and the Fijian Elections Office, after completion of two (2) elections under the new electoral system, as embedded in the **2013 Constitution** carried out a review of the election processes and suggested certain amendments to the ***Electoral (Registration of Voters) Act 2012***.

Thus, the Standing Committee on Justice, Law and Human Rights, under the Parliamentary process was handed the ***Electoral (Registration of Voters) (Amendment) Bill 2020***, to conduct a thorough review and report back to the Parliament.

At the completion of the review, the Committee Report provides details of the Committee's review process, which includes initial deliberation, public consultation and identification of key findings, and outcome of the review.

The Committee began its review with preliminary deliberations, whereby it was noted that the Bill aims to bring about changes to the ***Electoral (Registration of Voters) Act 2012*** that are based on analysis of the Electoral Commission and the Supervisor of Elections on the 2018 General Election. The Committee also identified some of the key changes that the Bill is proposing to introduce, which are as follows:

- that there will be new voter cards and voters will be required to upgrade their voter cards for the next general election;
- that the new voter card will now have the polling venues clearly stated on the card; as a result there will be less confusion among voters as to where to go to cast their votes on Polling Day; and
- that re-registration to obtain the new voter card can be done with a certified birth certificate, which would be returned to the voter once registration is complete.

The Committee also conducted public consultation on the Bill and received support and commendation on the introduction of the Bill, from the public that had participated in the public consultation

There were also concerns and suggestions for improvements from numerous participants of the public consultation. The pertinent matters highlighted by the public were as follows:

- that the Bill will require that voters upgrade and get new voter cards; and
- that the Bill will introduce alternative polling locations for voters.

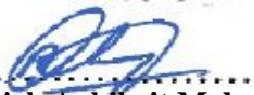
This Report will also cover the Committee's consideration given to the impact of the Bill on Fiji's efforts in meeting its targets of the national development plan, which in turn contributes to Fiji's obligations and commitments towards the sustainable development goals. It was noted that the Bill was introduced for the purpose of carrying on the great strides that have been achieved in ensuring that Fijians are free to participate in a free and fair election. Additionally, the objective of the Bill is as such that it applies equally to all persons, irrespective of gender.

At the conclusion of the review, the Committee acknowledges that there were a few issues identified and in addressing the issues, the Committee sort legal clarifications pertaining to the few issues noted from the Bill. This ensured that the primary objectives of the Bill are preserved. The Committee deliberated extensively on the issues and the legal clarifications provided and made efforts in coming to a conclusion that would preserve the main intentions of the Bill while at the same time giving consideration to the public's input.

Therefore, the Committee believes that as we start implementing the provisions proposed by this Bill, this would be an opportune moment to gauge the implications of the Bill on Fiji's electoral system in the next General Election, and gather lessons learnt. The Committee therefore is of the opinion that the Bill as it is currently worded is adequate to meet the key objectives of the proposed law, which is to assist in voter registration and ultimately enable voters to conveniently participate in the election process.

This Report benefited immensely from the public consultation and the Committee would like to acknowledge all the members of the public and entities that provided their views on the Bill and for taking an interest in the proceedings of the Committee and Parliament.

Moreover, my appreciation goes to the Honourable Members of the Justice, Law and Human Rights Committee for their dedication, deliberations and input; specifically Hon. Rohit Sharma (Hon. Deputy Chairperson), Hon. Ratu Suliano Matanitobua, Hon. Dr. Salik Govind, and Hon. Moses Bulitavu.



Hon. Alvick Avhikrit Maharaj  
Chairperson

## 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 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
- Former Military Territorial Officer



**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**

Following the 2018 General Election, the Electoral Commission and the Supervisor of Elections reviewed the work conducted by their respective offices during the 2018 Election period and published a Joint Report on the same. Through this report, the two offices made recommendations for changes to the laws on Election and certain procedural aspects of the election process. The recommendations put forth is also a result of the review of the Multi-national Observer Group Report on the 2018 General Election.

The Government of day has considered these recommendations and have introduced certain proposed election-related legislation, which aims to bring about the proposed changes to the election laws and one of which is ***Electoral (Registration of Voters) (Amendment) Bill 2020***.

As is required under the ***Constitution***, the Government introduced the Bill into Parliament for its consideration, before it becomes law<sup>1</sup>. The Parliament then referred the Bill to the Standing Committee on Justice, Law and Human Rights (“Committee”), for review on 11 December 2020. The Bill was referred to the Committee pursuant to Standing Order 51 of the Standing Orders of the Parliament of Fiji, whereby the Committee was tasked with scrutinising the Bill and to report back on the Bill in the March 2021 Parliament Sitting.

Despite the specified timeframe for reviewing and reporting prescribed by Parliament to the Committee; there were a lot of interest shown by the public on the Bill, thus, the Committee requested for an extension of the timeframe for the review and for reporting by the Committee.

## **1.2 Committee 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 of the Bill

The Committee began with an initial reading of the Bill and conducting its own deliberation of the Clauses in the Bill. An in-depth deliberation of the Bill was conducted by the Committee, whereby pertinent issues were identified.

Following the initial reading of the Bill, the Committee met twice with the Supervisor of Elections and once with the Electoral Commission to obtain in-depth view of the Bill, for better understanding by the Committee.

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<sup>1</sup> Chapter 3, Part A, *Constitution of the Republic of Fiji* (2013).

ii) Identification of mode of public consultation

The Committee then discussed, which mode of public consultation would be suitable for the review the Bill. 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 called for written submissions from the public and other interested stakeholders by placing an advertisement through the Parliament website and Parliament social media pages on social media platforms; Facebook, Twitter and Instagram. The Committee received a written submission on the Bill from relevant stakeholders. A summary of these submissions is provided in a later part of this report, under the heading '*Committee's Deliberation and Analysis of the Bill*'.

The Committee then visited various communities around Fiji to conduct in-person public consultation. The Committee also heard submissions from the Electoral Commission and the Supervisor of Elections. 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 legal clarification on technical issues identified from the Bill, which is obtained from the Office of the Solicitor-General. These clarifications also assist the Committee in deliberating on these pertinent issues and in deciding whether there would be recommendations for any changes to the Bill.

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 legal clarifications and the Committee forms its own independent view on all issues identified.

## **PART 2 - COMMITTEE'S DELIBERATION AND ANALYSIS OF THE BILL**

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### **2.1 Initial Deliberation**

The Committee commenced its analysis of the Bill, reading through it, Clause by Clause. From this initial reading, it was noted that the Bill aims to make changes to the ***Electoral (Registration of Voters) (Amendment) Act 2012***. These proposed changes to the electoral law was the result of extensive analysis of the 2018 General Election by the Electoral Commission (hereinafter referred to as the Commission) and the Supervisor of Elections, who is most commonly referred to as “SOE”. This analysis was assisted by a report by Multinational Observer Group (also commonly known as “MOG”) on the 2018 General Election.

The Committee had extensive discussions on the provisions of the Bill and resolved that given the limited time provided to the Committee to review the Bill; that it be prudent to firstly hear the views of the public on this very important piece of proposed legislation. This public consultation would then allow the Committee to gauge the public’s perspective on the Bill before deliberating further, whilst also bearing in mind the requirements as set down by Parliament in referring the Bill to the Committee.

Before commencing with the public consultation, the Committee also heard submissions from the Electoral Commission and the Supervisor of Elections. The Committee saw this as an important step for the Committee in understanding the election process and system and to gauge how the Bill contributes to the election system. From these submission, the Committee was briefed on the election process.

To assist the Committee in understanding the background to the proposed changes to the ***Electoral (Registration of Voters) Act 2012***, the Committee was advised of the voter registration process.

#### **Voter Registration – the process**

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 polling venue(s)	Data entry on EVR laptop and confirmation of polling venue(s)	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

### **Voter Registration- The Voter List**

- Voter List is printed from the National Register of Voters
- Voter selects polling venue 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.

### **Postal Voting Registration**

Postal voting registration is provided under Section 67 - Division 5 of the Electoral Act 2014. 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 and postal ballot papers should be received by the Fijian Elections Office at the Count Centre at 6pm on polling day.

A person is eligible for postal voting if:

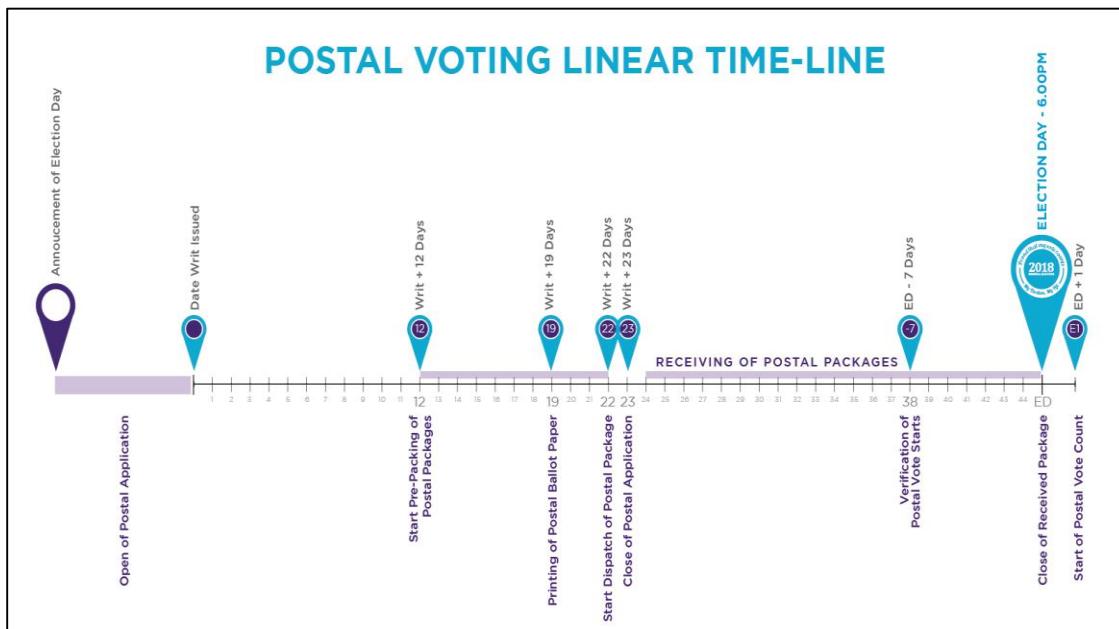
- (a) the applicant is living outside of Fiji or will be outside of Fiji on the polling day;
- (b) because of serious illness or infirmity, the applicant is unable to travel from his or her place of living to his or her assigned polling station;
- (c) the applicant is under pre-trial detention or sentence 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 Registration

Pre-Poll is provided under Section 82 - Division 6 of the Electoral Act 2014. The 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
<b>TOTAL</b>	<b>1433</b>	<b>588</b>	<b>88</b>

#### **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

#### **2.2 Bill Summary**

By way of consensus, the Committee during the drafting of this Report believed that it be prudent to also capture, the necessary changes the proposed law is intending to bring about to the trademarks election regulatory framework. This would conveniently provide the reader of this Report with the aforementioned information about the Bill. The Bill summary is provided below<sup>2</sup>.

Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.

Clause 2 of the Bill amends section 2 of the Act to insert the definitions of “election”, “Fijian Elections Office” and “polling day” to align them to the definitions of “election”, “Fijian Elections Office” and “polling day” in the Electoral Act 2014. Clause 2 of the Bill also amends section 2 of the Act to insert the definitions of “publish” and “voter card”. The term “publish” means to produce information and make it available to the public, including electronically. The term “voter card” means an identification card assigned to a registered voter which contains the full name, photograph, date of birth,

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<sup>2</sup> Explanatory Note to the Bill; *Electoral (Registration of Voters) (Amendment) Bill 2020* (Bill No. 51 of 2020), pages 7-9.

residential address, voter number, polling venue and any other information as required by the Supervisor of Elections ('SOE').

Clause 3 of the Bill amends section 4 of the Act to give a voter the opportunity to select a polling venue closest to their residence and an alternative polling venue. Clause 3 of the Bill also amends section 4 to allow SOE to assign a polling venue closest to the voter's residence and an alternative polling venue for the voter if the voter fails to select the polling venues as such. Clause 3 of the Bill also allows the Electoral Commission to approve the voter registration form to be used for the registration of voters.

Clause 4 of the Bill amends section 9 of the Act to capture the details that are currently in the National Register of Voters ('Register'), which include closest and alternative polling venues.

Clause 5 of the Bill amends section 10 of the Act to mandate the issuance of a voter card following the registration of a person as a voter. Clause 5 of the Bill also amends section 10 to include a provision which states that all voter cards are the property of FEO and any card found must be returned to FEO.

Clause 6 of the Bill inserts a new section 11A in the Act to allow SOE to publish the Register. Clause 6 of the Bill also allows political parties to obtain a copy of the Register upon the payment of an approved fee.

Clause 7 of the Bill inserts a new section 13 in the Act to ensure that SOE publishers a notice annually to notify those whose names have been deleted from the Register of the deletion. 2.8 Clause 8 of the Bill inserts a new section 16 in the Act to allow a person to make an objection in relation to the inclusion of a name of a person on the Register. Clause 8 of the Bill also outlines the procedure a person may follow to make the objection.

Clause 8 of the Bill also inserts a new section 17 in the Act to allow SOE to either uphold or dismiss an objection within 7 days from the date the objection is delivered to him or her.

Clause 8 of the Bill also inserts a new section 18 in the Act to allow a person to make an application to the Electoral Commission for a review of the decision made by SOE in relation to an objection. Clause 8 of the Bill outlines the procedure a person may follow when making an application to the Electoral Commission.

Clause 9 of the Bill amends section 19 of the Act to clarify that the Register will be closed at the time specified in the writ and from then onwards, no name is to be entered into the Register.

Clause 10 of the Bill inserts new sections 19A to 19F in the Act. The new section 19A allows FEO to verify any document with the relevant agency if the registration officer suspects that the document produced during registration is false or invalid. The new section 19B allows FEO to seek assistance from the State and State agencies in relation to the verification of information submitted by voters during registration. The new section 19C states that the data obtained from voters is protected and not disclosed to any

person by the registration officer or any person employed by FEO at the time of registration. It also includes a provision which states that if a person contravenes section 19C, he or she is liable on conviction to a term of imprisonment not exceeding 5 years.

The new section 19D mandates SOE to ensure that there are adequate security features on a voter card to prevent fraudulent activities. SOE is also allowed to upgrade the security features on a voter card and to also issue new voter cards to voters. The new section 19E allows FEO to facilitate the replacement of a voter card when a person's voter card is damaged or misplaced. The new section 19F ensures that FEO staff adhere to the provisions of the Act and also provides for a fine not exceeding \$50,000 or a term of imprisonment not exceeding 10 years or both if they are in breach of the Act.

Clause 11 of the Bill amends section 22 of the Act to allow SOE to delegate his or her powers to an officer of FEO.

### **2.3 Evidence received via public consultation**

As part of the review, the Committee conducted public consultation on the Bill, in around various key locations around Fiji and also called for written submissions from interested persons, entities and political parties. This consultation ensured that the public participated in the legislative process, which is fundamental to democracy. All the submissions received were considered and deliberated on extensively. Various individuals and entities including registered political parties participated in the public consultation. The main points and issues noted from the submissions are summarised below.

At the outset, members of the public commended and supported the introduction of the Bill given that it aims to promote good governance by making necessary changes to the election laws, which has been a result of lessons learnt from the first two (2) general elections conducted under Fiji's new electoral system.

Apart from the support shown by the members of the public, there were also submissions, which highlighted a few pertinent issues, which the Committee placed reasonable emphasis on.

To begin with, submissions noted that the new insertion proposed by Clause 3 states that applications for registration has to be in a form approved by the Electoral Commission. This also means that the Bill will require that voters upgrade and get new voter cards, thus a registration drive is planned to commence in March 2022 to get eligible and issued with the new voter card with Polling Venues stated on it. The concerns raised by the general public was on the number of venues where they can get registered and the requirement of original certificates (along with associated cost of printing of birth certificate) to be presented to obtain the new voter card.

Submission also noted that in regard to the amendment proposed by Clause 4; that there is no need for adding an alternative polling venue. Submission noted that there was no report on the need for alternative polling venues and that the issue was on the actual voter registration list and data used in the 2018 election, for example, people were registered to vote in Nukuloa, Gau, but actually lived in Nukuloa Ra. The amendment where the

registration of voters must now include a primary polling venue, in addition to an alternative polling venue; that may then be selected by FEO, is unnecessary. There is nothing in any of the reports post-2018 Elections by the Electoral Commission or the Elections Office that justifies the need for alternative polling venues.

Submitters also insisted that given that the proposed law will make it mandatory for voters to upgrade and get new voter cards; that voter registration be conducted in the villages, settlements and communities and proposed Polling Venues, and that the election offices not restrict their voter registration centres in urban locations.

A copy of the written submission and transcripts of the submission received can be obtained from the online Appendices of this Report, which can be accessed via the parliament website: [www.parliament.gov.fj](http://www.parliament.gov.fj).

## **2.4 Discussions with the Electoral Commission and the Supervisor of Elections**

The Committee also felt it prudent to have discussions with the Electoral Commission and the Supervisor of Elections, whereby the two electoral management offices gave detailed submissions on the Election process and the proposed amendments to the Election laws.

### **Summary of discussions with the Electoral Commission**

The Commission began by highlighting that it is regarded as best practice to make changes to electoral laws well in advance of an election. It also notes the efforts to reform some of the prescribed procedures in the laws to make them consistent, practically with the international norms around such activities.

Following the 2018 General Election, the Electoral Commission and the Supervisor of Elections issued a Joint Report, whereby various recommendations were made on the legal and operational frameworks. It was advised that the rationale for the recommendations for changes was due to the fact that there were 2 general elections under the framework and it was a suitable time to determine which of the projects, policies and procedures are practical and contextually relevant in Fiji's electoral system.

The Commission highlighted the recommendations which were put forth in the 2018 Joint Report, provided in page 25 and provided the Committee with their view on the proposed amendments to the voter registration law.

The Electoral Commission highlighted the introduction of the proposed law regarding the Voter Card, one of the most prominent ID cards in Fiji. The SoE is required to issue every voter who is registered with a Voter card. All voter cards remain the property of the FEO. The law has also required voters to select their polling venue at the time they apply for registration. Voters are also required to select an alternative polling venue. However, the voter will only be able to vote at the polling station they are registered to.

The Commission advised that the new provisions in the Electoral (Registration of Voters) Act greatly improves the transparency in the management of the National Register of

Voters. The amendments now require the SoE to publish the National Register of Voters. This will be done as Provisional Voter List under the Electoral Act. The SoE is also required to publish the list of voters who will be deleted from the NRV.

Overall, the Electoral Commission advised that it is its view that the amendments to the voter registration law are well designed and these amendments will further strengthen the electoral system.

### **Summary of discussions with the Supervisor of Elections**

In terms of Protection of National Register of Voters Database: The FEO registers voters electronically. The electronic registration system was introduced after the Act came into force in 2012. The law is now being amended to protect the FEO's National Register of Voters Database. That is Section 10A.

In terms of the Voter Card: As is common knowledge, the FEO issues a voter card for every registration. Section 10(3) is being inserted in the law to now legally require that the SOE must issue every person who is registered as a voter with a voter card. The amendment in the law makes the voter card a property of the FEO and the new Section 19E introduces the legal provisions for replacement of these voter cards.

In terms of selection of Polling Venue: it was advised that the Electoral Act states that every voter must be listed to vote closest to their residential address. As such, the amendments in Section 4 is to now:

- firstly, register a voter based on a form approved by the Electoral Commission; and
- secondly, the law now requires a voter to select a polling venue closest to his or her residence, or an alternative polling venue as well.

This removes the obligation on the FEO to individually allocate voters to polling venues and transfers the onus on the voters to select a polling venue of their choice. Although the FEO still retains the power to allocate a voter, who does not choose or make their choice at the time of registration, these provisions also allow the FEO to make effective use of its polling maps to assist voters on making the choices on their venue.

In terms of details on the National Register of Voters: the National Register of Voters will now contain details of each voter and in addition to that, it will contain details of their polling venue and the alternative polling venue as well.

In terms of return of Voter Cards: it was advised that the law now requires the SOE to issue a voter card to every voter once they have registered. The voter cards will remain the property of the FEO and should anyone find another person's voter card, they must return it to the FEO. This will cover voter cards that maybe forgotten at a post office or at a bank, for instance. Now this obligates these institutions to actually return all those voter cards that are in their custody to the FEO.

In terms of Publication of the National Register of Voters: The SOE is now required to publish the National Register of Voters in the form approved by the Electoral Commission. If you look at the amendments to the Electoral Act, it has been amended so that the Provisional Voter Lists are published by September every year and these

amendments will enhance the level of information that is available to stakeholders, particularly political parties as they prepare for the General Election. Further, transparency amendments have been implemented where the SOE is now required to publish the notice of deletion, Section 13(1) annually for all those persons who have been removed from the voter roll. The FEO has already been doing such in practice and now the legal framework has been revised to strengthen the current processes. The notice, as you can see, will contain the details of the person and this publication will be done online annually.

In terms of Objections: provisions have been introduced with appeals provisions which allows for the review of the SOE's decision by the Electoral Commission and the Electoral Commission's decision is final.

In terms of the Close of the National Register of Voters: There has been an amendment to practically implement the close of the National Register of Voters. The registration is closed when the Writ is issued. The Writ will now specify the exact time when the National Register of Voters will close on that day.

In terms of the Authority of the Supervisor: The law further strengthens the powers of the SOE in the following manner:

- The SOE or his staff can take possession of any documents that have been produced that the registration officer believes is false or invalid.
- The State and all State agencies have been directed by the law to provide assistance in a timely manner. This is particularly necessary when the Voter List is to be prepared after the issue of the Writ.
- There is now a specific law that prohibits any staff of the FEO from disclosing information in relation to any person at the time of registration, unless it is by a directive of a Court of Law. And if any staff of FEO commits such an offence, they are liable upon conviction to a maximum term of imprisonment of five years.
- The security features of the voter card has also been introduced where the SOE must ensure that there are now security features incorporated in the voter card. The law specifically allows the SOE to upgrade the security features in design and printing of the voter card and it further allows the SOE to enforce these upgrades on voters, by requiring the voters to replace their voter cards following the security feature upgrade.

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

In reviewing the Bill, the Committee was mindful of the Bill's impact on Fiji's efforts in achieving the targets set out in the national development plan, which in turn contributes to Fiji's overall commitment and obligation towards the global agenda - the sustainable development goals.

As a starting point, the objectives of the Bill aims to make necessary changes to the election regulatory framework, which were envisioned to make the election process more transparent and convenient to voters. This objective 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.

The Committee was also mindful of the requirements of the Standing Orders of Parliament regarding gender, which is also a key goal in the sustainable development goals. The Committee ensured that full consideration will be given to the principle of gender equality so as to ensure all matters are considered with regard to the impact and benefit on both men and women equally. The Committee through the review identified that the Clauses of the Bill were worded using gender-neutral language and was designed to impact all Fijians and the people living in Fiji, irrespective of gender.

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

## **PART 3 - KEY FINDINGS**

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At the penultimate stage of the review, after reviewing the evidence received from both the public and the electoral management bodies; the Committee identified a few key issues, which the Committee place reasonable emphasis on and which the Committee believed need legal clarification. The following are these key issues that were identified:

- That the amendment to the Act, will allow the Supervisor of Elections to insert the polling venue in the new VoterCard. This would ensure that voters are well aware about their polling venue and where they are supposed present themselves on the day of election to cast their votes.
- That the proposed changes to the law, which would introduce an alternative polling locations for a voter, is argued by certain number of people that participated in the public consultation; is an unnecessary change to the election process. These submitters argued that alternative polling venues does not solve the problematic issues regarding the election process. The Committee is also of the opinion that having a choice of alternative polling venues may cause confusion to voters.
- That the proposed change to the law, which would require that voters upgrade and get new voter cards, is said to be a concern to voters. Voters already have upgraded cards, which were used in the 2018 General Election and according to the public that participated in the public consultation; this new proposal would mean voters going through the inconvenience of getting necessary identification documents again, such as original birth certificates.
- That the provisions of the Bill aligns to initiatives in place, which contribute to Fiji's efforts in achieving its national development plan, whilst also addressing the principles of gender equality.

## **PART 4 - OUTCOME OF REVIEW**

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After extensive deliberation, the following outlines the main outcomes of the Committee's deliberation and review.

The pertinent issues identified during the review were discussed at length by the Members of the Committee and consultation with Electoral Commission and the office of the Supervisor of Elections so as to gauge the practical implications of issues raised on the electoral process. The Committee also sort legal assistance from the Office of the Solicitor-General so as to ensure that all these relevant issues were appropriately addressed and that the objectives of the Bill were preserved.

The Committee weighed all options concerning the few issues that had been identified and had extensive discussions on these and the following is the result of these discussions.

With regards to the concern raised regarding the burden being put on voters in re-registering and getting new voter cards; the Committee noted that a voter could use a certified copy of the birth certificate. There is no need for obtaining a new birth certificate, if the voter already has an original or certified copy of his/her birth certificate. The Committee also notes that the proposed amendment to the ***Electoral (Registration of Voters) Act*** aims to assist the voter to be able to easily identify which Polling Station the voter will vote in during Election. The Committee therefore is of the opinion that the provisions are adequate as they are and no amendments are needed.

In terms of the concern raised regarding alternative polling venues; the Committee notes that this proposed amendment to the voter registration law aims to cater for any unforeseen circumstance that may arise during Election, which may affect a voter from voting at his/her specified Polling Station. The provision aims to cater for such a circumstance that occurred in the 2018 General Election, whereby several Polling Venues and Stations had to be closed and voting in these venues were deferred to a later date, due to unfavourable weather conditions. The Committee took note of the clarification provided, however, had reservations on the wording of the provisions and noted that there is a possibility of there being a lot of confusion created during registration of voters, in regards to choosing their polling venues. The Committee therefore is of the opinion that this provision should be deleted from the Bill.

Furthermore, in relation to the suggestion on the voter registration drive to be conducted in communities and villages; the Committee was advised that the Fijian Elections Office will be having voter registration drives commencing next year and there are plans in place to ensure that the venues for voter registration are situated in locations convenient to the all persons that are intending to register.

At the completion of the review, the Committee therefore is of the opinion that majority of the provisions of the Bill are sufficient as they are and that issues raised are addressed adequately in these current wording of the Bill. However, there were certain issues noted, which the Committee placed reasonable emphasis on and which the Committee is of the opinion, need to be changed. These changes to the Bill are as follows:

- Removal of the provisions and wording, which would have provided that voters can choose alternative polling venues, during voter registration and upgrading of voter cards.
- Inserting a provision which aims to address fraudulent activities regarding voter registration, specifically by empowering the Fijian Elections Office to be able to remove registration from the National Register of Voters, which were secured through fraudulent means.
- Rewording of subsequent Clauses after the new addition to the Bill, which sets out the process of removing a registration from the National Register of Voters.
- And the Consequential amendments to the Bill, which are syntax in nature and are consequences of the substantial changes made to the provisions of the Bill.

## **PART 5 - 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 Bill.

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 Bill. 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 6 - CONCLUSION**

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After adhering to due process and the requirements of the Standing Orders of Parliament, the Committee in its deliberation and review noted that there was great support for the Bill.

The review highlighted a few issues on the Bill, which were considered extensively by the Committee through consultations with the Electoral Commission and the Supervisor of Elections. The Committee also sought legal clarification from legal team from the Solicitor-General's Office so as to address all the issues raised and to ensure the objectives of the Bill are not affected. The Committee supports majority of the provisions of the Bill, however, given the issues noted, the Committee believes that certain amendments are necessary to reinforce the law on registration of voters.

Therefore, the Committee is of the opinion that Bill needs to be amended and have done so accordingly, through the introduction of few clauses of the Bill and these amendments are captured in magenta coloured words in the amended copy of the Bill tabled with this Report.

The Committee through this report commends the ***Electoral (Registration of Voters) (Amendment) Bill 2020***, to the Parliament.

## **MEMBERS SIGNATURES**

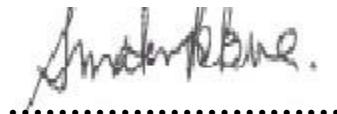
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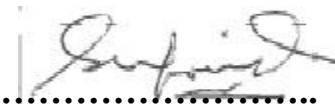
**HON. ALVICK MAHARAJ  
(CHAIRPERSON)**



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



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



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



**HON. MOSESE BULITAVU  
(MEMBER)**

**DATE:05 June 2021**

