

Submission to the Review of the Electoral Bills

Standing Committee on Justice, Law and Human Rights

Parliament of Fiji

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This submission provides some recommendations to consider for firstly, improving the electoral laws in Fiji, and secondly, it has some responses to the Electoral Bills under review in Fiji's Parliament.

Recommendations for Improving the Electoral Laws in Fiji

The right to take part in government is a key civil and political right enshrined in the Universal Declaration of Human Rights (UDHR), as well as the International Covenant on Civil and Political Rights (ICCPR). As many citizens as possible should have a fair chance at standing in elections, and to express their diverse political ideologies. A prime feature of democracy is a plural society. Pluralism is not just having a multiplicity of ethnicities, beliefs, sexual orientation and other features of diverse society, this plurality needs to be reflected in a political system which allows a maximum chance for political parties and candidates with different viewpoints to contest elections and enter parliament.

Section 53 (4) of the 2013 Constitution empowers parliament to make a written law to prescribe rules for awarding seats in Parliament that meets internationally accepted standards. Fiji's parliament should review the electoral system well ahead of the 2022 general elections to make the laws fairer and more participatory for citizens.

Recommendation One

The review process for the Electoral Bills is too short. A longer time frame needs to be provided for citizens to make submissions. Furthermore, provision needs to be made to take submissions in the different residential areas that fall within the Suva and Nausori corridor, where the majority of Fiji's population reside.

Recommendation Two

The threshold to be eligible for a parliamentary seat needs to be lowered to acquiring 1% of votes. This would bring Fiji in line with other democracies such as Britain, who have much lesser threshold requirements. Lowering of the threshold to 1% would give a much fairer chance for citizens with diverse ideologies to enter parliament and exercise their right to government and elections.

¹ Disclaimer: This submission comprises the views of the author Mosmi Bhim. It does not reflect the views of any other person or the organisation FNU where she is employed.

Recommendation Three

The electoral system needs to be revised because the current system disadvantages the opposition and is more advantageous to the leading government figures who are privileged by widespread media coverage in the years prior to the elections. It is recommended that if Fiji wants to retain the current elections system, then the leading candidates contesting for the Prime Minister position should contest in a presidential style, where the votes to them will determine who will become the Prime Minister, and their votes will not be redistributed to the other candidates.

Recommendation Four

It is recommended that if Fiji wants to retain the current electoral system, then they need to re-introduce municipal elections as a matter of priority. The current electoral system does not allow representation from constituencies. The town councils have been run by special administrators appointed by the incumbent government. Since the town councils also do not allow elections, this means that Fiji's citizens are not getting any opportunity to elect representatives from their area. This further means that they are unable to gain experience in lower level elections, which could prepare them for participating in the national level events.

Responses to the Electoral Bills Under Review in Fiji's Parliament

Recommendations for Bill No. 52 2020 - Political Parties (Amendment) Bill

- 1) With regards to Section 23 and Section 26 of the Principal Act, the amendments to require political parties to publish their accounts in a national daily newspaper is unfair as it would be an expensive exercise. It is instead recommended that political parties should only be required to publish their accounts on their official website and also to submit these to the Supervisor of Elections.
- 2) With regards to Section 25 of the Principal Act, the 30-day requirement appears too short and the new amendment also seems unnecessary. It appears to be a redundant requirement as Section 23 already requires political parties to furnish the supervisor of elections with their financial details for the year.
- 3) The amendments to Section 30 should not be made as it would provide excessive powers to the Electoral Commission.

Recommendations for Bill No. 50 2020 – Electoral (Amendment) Bill

- 1) With regards to Section 116 of the Principal Act, the maximum penalty of \$10,000 or 5 years imprisonment is too excessive and is unnecessary. Removing the campaign materials (that are breaching rules) is sufficient as a deterrent.

2) With regards to Section 144, the maximum penalty of \$50,000 or 5 years imprisonment is too excessive. If a person or organisation has already taken remedial action to rectify their error in judgement, then their actions need not be regarded as an offence. If a serious crime has been committed rather than an error of judgement, then sufficient laws already exist in Fiji to cater for these crimes.

3) With regards to Section 153, this new amendment should not be made. Reducing the timeframe to keep the physical records of an election result to 6 months only is too short. The current time frame of one year should be retained to allow adequate time to persons or parties wanting to examine the elections results.

Recommendations for Bill No. 51 2020 – Electoral Registration of Voters (Amendment) Bill

1) With regards to Section 19F, the penalty of \$50,000 or 10 years imprisonment is too excessive. The penalty should be left to a court of law to determine based on whether the crime was minor or major. The proportionate penalty could be minor or major, depending on the severity of the crime, which could be decided by a court of law.