



FIJI WOMEN'S CRISIS CENTRE SUBMISSION:

THE ELECTORAL AMENDMENT BILL NO 50 OF 2020

Acronyms

Bill – refers to the Electoral Amendment Bill No. 50 of 2020

Constitution – refers to the Constitution of the Republic of Fiji 2013

FEO – refers to Fijian Elections Officer

FWCC – refers to the Fiji Women's Crisis Centre

SOE – refers to Supervisor of Elections

UDHR – refers to the Universal Declaration of Human Rights

1. BRIEF ON FIJI WOMEN'S CRISIS CENTRE

The Fiji Women's Crisis Centre (**FWCC**) is a human rights organisation, based on the principles as set out in the *Universal Declaration on Human Rights (UDHR)*, democracy and the rule of law and has been in existence for over 35 years.

The goal of the Fiji Women's Crisis Centre (FWCC) is to eliminate violence against women in Fiji and the Pacific, to lobby for women's rights in all spheres of society. FWCC implements this vision through an integrated and comprehensive program designed to prevent and respond to violence, by reducing individual and institutional tolerance of violence against women, and increasing available and appropriate services for survivors, including access to justice.

FWCC addresses the problem of violence against women using a human rights and development framework. This focus on human rights includes a feminist analysis of the problem and permeates all aspect of FWCC's work, recognising that the root cause of violence against women are unequal gender power relations, embedded in patriarchy and the lack of knowledge and belief in human rights¹.

2. INTRODUCTION

An effectual electoral system is a key instrument of the rule of law and the ultimate guarantee of compliance with the democratic principle of holding free, fair and genuine elections. The aim of Electoral Act is to prevent and identify irregularities in elections and to provide the means and mechanisms to correct those irregularities.²

FWCC acknowledges that free and fair election process is vital for a democratic society. As human rights defenders we advocate to promote human rights. We need legislations that are transparent, aligns with good governance, fair and does not entertain corruption and the abuse of power. We strive to ensure that the restrictions placed on our rights are justified.

This submission outlines our brief analysis of the Electoral Amendment Bill No. 50 of 2020 on the additional powers given to Supervisor of Elections (SOE), limiting of funding for political parties and failure to provide detailed explanation on the use of other forms of government resources during

¹ Fiji National Service Delivery Protocol for Responding to Cases of Gender Based Violence *Standard Operating Procedures for Interagency Response among Social Services, Police, Health and Legal/Justice providers* June 2017, p.5

² International Institute for Democracy and Electoral Assistance, "Electoral Justice: An Overview of the International IDEA Handbook," (2010), Trydells Tryckeri AB, Sweden, p 5

political campaign. FWCC acknowledges the amendments to align provisions of the proposed Electoral Act with the Rights of Persons with Disabilities Act 2018.

3. THE ELECTORAL AMENDMENT BILL NO 50 OF 2020

What is this Bill?

This bill is an amendment to the existing Electoral Act 2014. The Electoral Act provides for the conduct of general elections. These proposed amendments have been made after reviewing the Multinational Observer Group's report on Fiji Elections 2018.

4. WHAT ARE THE CONSEQUENCES OF THESE AMENDMENTS?

1. Supervisor of Elections (SOE)

- SOE has been given additional powers, that is, apart from overseeing the registration of political parties, SOE can now oversee conduct, funding and the disclosures of political parties.
- More time would be given to SOE to compile a comprehensive report on the election.
- SOE can now call on heads of institution where people are likely to vote (hospitals, health care facilities, prison facilities, military facilities etc.) to submit their list of voters within 7 days from dissolution of parliament.
- The SOE would have the power to remove or correct any information published as part of a campaign for a political party if they find that the publication is false or misleading.
- SOE can destroy elections records after 6 months of election unless ordered otherwise by the court.

2. The Political Parties

- Political parties must ensure any publication of material for campaigns has to be in accordance to the criteria set by SOE and Electoral Commission.
- Political Parties can request in writing for a review of the decision by the SOE (where the Political Parties have been

directed to amend or remove publications that are alleged to be false and misleading.)

- The National Candidates List can now contain party name and symbol.

3. The Voters

- Voters would have to sign the voter list before they are given a ballot paper.
- A Fijian Elections Officer (FEO) assigned to a polling station could leave the polling station to assist a voter who resides within the polling venue boundary and is unable to cast his or her vote at his or her assigned polling station due to illness, physical disability or for any reason approved by the Supervisor.
- The word illiterate has been removed from the Electoral Act 2014, so it is consistent with Rights of Persons with Disabilities Act 2018.
- A person with disability can be assisted by a FEO or a person of his or her choice with an elections officer present before casting a vote.
- Decision on registration of postal voter will no longer be made on the spot when the applicant is delivering the application in person.

4. Government Resources

- The Amendment does not allow for government vehicles to be used as part of campaign, unless it is used to provide security. The Electoral Act 2014 and the Amendment is silent on the use of other government resources during the campaign.

5. Impact on Human Rights

- The current amendments give more power to the Supervisor of Elections (SOE). The SOE decides what information is appropriate for publication as part of political campaigns. SOE can give directive for removal of any publication that SOE deems as misleading and false.
- In contrast to New Zealand Electoral Act 1993, the Electoral Commission provides legal advice and guidance to political parties, candidates, Minister for Justice, MPs and wider government.
- The SOE can now oversee the registration and regulate the conduct, funding and disclosures of political parties. Previously the powers were limited to only registration of the political

parties. As per the current amendments, political parties and independent candidates cannot accept donations from foreign governments, inter-governmental or non-governmental organisations, multilateral agencies, or non-Fiji citizens. The amendment has placed a limitation on donation acceptable from Fijians and former Fijians citizens, in accordance to the campaign rules set by the Electoral Commission. Political campaigns could be costly, thus, the limitations on the sources of funds could disadvantage the political parties from reaching to wider public spheres and addressing more pressing issues.

5. CONCLUSION

The role of Civil Society Organisations is distinguished from government in general on the basis that it is composed of citizens who act collectively in the public sphere to advocate, influence policy and to scrutinise and check the exercise of state power.

The immense power given to the SOE and Electoral Commission through the current and previous amendments could overshadow the key components of democracy which includes people power, checks and balances, separation of powers, citizens' rights and government accountability by civil society organisations.