



FIJI CONSTITUTION REVIEW COMMISSION REPORT

2026

A report on the review of the Constitution of the Republic of Fiji (2013 Constitution) by the

Fiji Constitution Review Commission 2026

in fulfilment of its Terms of Reference as appointed by

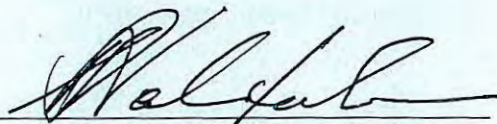
His Excellency the President of the Republic of Fiji, Ratu Naiqama Tawakecolati Lalabalavu,

delivered to His Excellency on **Monday, the 31st day of August 2026**, and confirmed as received by:



R.N.T. Lalabalavu
President of the Republic of Fiji

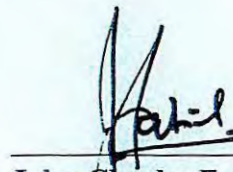
Conveyed by the Fiji Constitution Review Commission 2026:



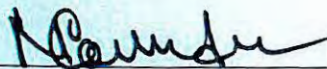
Sevuloni Ratumaiyale Valenitabua
Chair



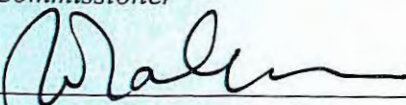
Conway Beg
Commissioner



John Charles Fatiaki
Commissioner



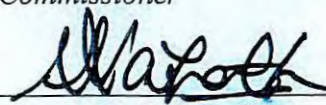
Neelesh Gounder
Commissioner



Salanieta Bakalevu
Commissioner



Ami Kohli
Commissioner



Merewalesi Nailatikau
Commissioner

Acronyms	1
The Chair's Foreword	2
Chapter 1: Introduction	3
1.1 Historical Context	4
Chapter 2: Message from the Commission	6
Chapter 3: The Commission's Purpose and Underlying Principles	8
3.1 Recognition of Mandate	8
3.2 Constitutional Relevance	9
3.3 Necessity for Change	10
3.4 Balancing Precedence with Progress	11
3.5 Present and Future Implications	11
3.6 Complementarity of Recommendations	12
3.7 Consensus and Alternative Views	12
Chapter 4: How the Commission Went About Its Task	13
4.1 The Commission's Work	13
4.2 The Commission's Approach	15
Table 1: Consultation Participation and Submissions	15
Chapter 5: Preamble, National Identity and Citizenship	18
5.1 What People Told Us	18
5.2 The Commission's Approach	19
5.2.1 National Identity	19
5.2.2 Citizenship	20
5.3 Recommendations	21
5.4 Alternative Views	22
5.4.1 National Identity	22
5.4.2 Alternative Recommendations	24
Chapter 6: Fundamental Rights and Freedoms	25
6.1 What People Told Us	25
6.2 The Commission's Approach	26
6.2.1 Limitations of Rights	26
6.2.2 Absolute and Fundamental Rights	27
6.2.3 Socioeconomic Rights	28
6.2.4 Group Rights	28
6.3 Recommendations	30
Chapter 7: The Rule of Law	32
7.1 What People Told Us	32
7.2 The Commission's Approach	33

7.2.2 The Separation of Powers	33
7.2.3 Independent Commissions and Offices	34
7.2.4 Constitutional Offices Commission (COC)	34
7.2.5 Unamendable Provisions - Immunity and Transitional	35
7.2.5.1 Recommendation 1: Future Immunities (Chapter 1)	37
7.2.5.2 Recommendation 2A: Repeal Chapter 10 and Chapter 12 Part D	38
7.2.5.3 Recommendation 2B: The Supreme Court Pathway to Repeal Chapter 10 and Chapter 12 Part D	38
7.2.5.4 Recommendation 2C: Harm Reduction Approach (Chapter 10)	39
7.2.6 Fiji Independent Commission Against Corruption (FICAC)	39
7.3 Recommendations	40
Chapter 8: The Legislature	41
8.1 What People Told Us	41
8.2 The Commission's Approach	42
8.2.1 Legislative Authority	42
8.2.2 Composition of Parliament	43
8.2.3 Institutions and Offices	44
8.3 Recommendations	47
8.4 Alternative Views	49
8.4.1 Gender Parity	49
8.4.2 Alternative Recommendations	51
Chapter 9: The Executive	52
9.1 What People Told Us	52
9.2 The Commission's Approach	53
9.2.1 The President	53
9.2.2 The Prime Minister and Cabinet	54
9.2.3 Attorney-General	54
9.2.4 Code of Conduct, Ethical Standards and Accountability	55
9.2.5 Term Limits and Retirement Age	55
9.3 Recommendations	56
Chapter 10: The Judiciary	57
10.1 What People Told Us	57
10.2 The Commission's Approach	58
10.2.1 Judicial Services Commissions (JSC)	59
10.2.2 Judiciary	59
10.2.3 Solicitor-General	60
10.2.4 Independent Legal Services Commission (ILSC)	60
10.2.5 Military Court	61

10.3 Recommendations	61
Chapter 11: Constitutional Office Holders	62
11.1 What People Told Us	62
11.2 The Commission's Approach	63
11.2.1 Public Service Commission (PSC)	63
11.2.2 Electoral Commission and Supervisor of Elections	64
11.2.3 Speaker, Deputy Speaker, and Secretary-General to Parliament	64
11.2.4 Fiji Police Force and Fiji Corrections Service	65
11.2.5 Republic of Fiji Military Forces (RFMF)	65
11.3. Recommendations	66
Chapter 12: State Services, Revenue and Expenditure	68
12.1 What People Told Us	68
12.2 The Commission's Approach	69
12.3 Recommendations	71
Chapter 13: Rights, Interests, and Concerns of Indigenous Fijians and Rotumans	72
13.1 What People Told Us	72
13.2 The Commission's Approach	73
13.2.1 Recognition of Village Bylaws	74
13.2.2 Mineral Rights	74
13.2.3 "Fijian" as National Identity	75
13.2.4 Land, Maritime and Shoreline Customary Rights	75
13.2.5 Individual Rights, Traditional Authority, and Communal Relationships	76
13.2.6 Rotuma	76
13.3 Recommendations	77
Chapter 14: The Bose Levu Vakaturaga (BLV)	78
14.1 What People Told Us	78
14.2 The Commission's Approach	79
14.2.1 Role of the Bose Levu Vakaturaga	80
14.2.2 Accountability of the Bose Levu Vakaturaga	80
14.3 Recommendations	81
14.4 Alternative Views	82
14.4.1 Power and Primogeniture	82
14.4.2 Alternative Recommendations	85
Chapter 15: Constitutional Supremacy: Its Review or Alteration	86
15.1 What People Told Us	86
15.2 The Commission's Approach	86
15.2.1 An Enabling Environment	87
15.2.2 Amendability	87

15.2.3 Ownership of the Constitution	88
15.2.4 The Supremacy of Democratic Civilian Rule	88
15.3 Recommendations	89
Chapter 16: Concluding Reflections	91
16.1 Closing Overview and Supplementary Recommendations	91
16.2 Gratitude and Acknowledgement	93
Appendix	93
Appendix A: Draft Constitution	93
Annexes	94
Annex A: Rules of Proceedings	94
Annex B: CRC Resolutions for Admission of Evidence (Submissions)	94
Annex C:	94
Exhibit 1 - CRC-E1-Online Public Submissions Received Through The Constitution Review Commission Online Web Portal	94
Exhibit 2 - CRC-E2-Written Submissions Received by Electronic Mail and Hard Copy Delivery to the Secretariat on Behalf of Individuals	94
Exhibit 3 - CRC-E3-Written Submissions Received on Behalf of Groups and Organisations via Electronic Mail and Hard Copy Delivery to the Secretariat	94
Exhibit 4 - CRC-E4-Submissions Presented to the Commission at Level 9 Suvavou House (In Person and Virtual)	
Exhibit 5 - CRC-E5-Team 1 Nationwide Consultation Transcripts and Written Submissions (Volumes 1-5)	94
Exhibit 6 - CRC-E6-Team 2 Nationwide Consultation Transcripts and Written Submissions (Volumes 1-4)	94

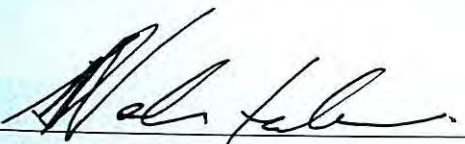
Acronyms

BLV	Bose Levu Vakaturaga (Great Council of Chiefs)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COC	Constitutional Offices Commission
CRC	Constitution Review Commission
DMP	Director of Military Prosecutions
DPP	Director of Public Prosecutions
FCOSS	Fiji Council of Social Services
FICAC	Fiji Independent Commission Against Corruption
FMA	Fiji Medical Association
FPIC	Free, Prior and Informed Consent
ILSC	Independent Legal Services Commission
JSC	Judicial Services Commission
MMP	Mixed Member Proportional voting system
PACE	Public Awareness and Civic Education
PSC	Public Service Commission
RFMF	Republic of Fiji Military Forces
RIC	Rotuma Island Council
UN	United Nations
UNCRC	UN Convention on the Rights of the Child
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
USP	University of the South Pacific

The Chair's Foreword

As Chair of the Fiji Constitution Review Commission, it is my pleasure and privilege to present this report to His Excellency the President of the Republic of Fiji, Ratu Naiqama Tawakecolati Lalabalavu. This report represents the completion of the Commission's Terms of Reference¹ as prescribed by His Excellency in accordance with the Commissions of Inquiry Act 1946.² The Commission's work, inquiring into and examining "the democratic deficit of the 2013 Constitution of the Republic of Fiji, as identified by the Supreme Court of the Republic of Fiji" has led us across the country, engaging with citizens on matters of priority to them. We recognise the full gravity of this task, undertaken to the best of our integrity, knowledge and ability under a demanding timeframe.

We thank the submitters who made their views known to us, the Secretariat who supported our work, and to all who contributed to the discourse on matters of constitutional importance in the months since we took our oaths. A diversity of views has been shared with us, all of which we have received in good faith and with the understanding that the process to follow will be one that will ultimately be subjected to the will of the people - through their elected representatives in Parliament, and through a referendum. Living together in this country requires all of us, voicing our concerns, putting forward our aspirations, and working together towards a future in which we all can thrive. As a Commission, we have kept this in mind while engaging with fellow citizens, inquiring into their perspectives, and reporting our recommendations faithfully and impartially. With these words, on behalf of the Fiji Constitution Review Commission, I present this *Fiji Constitution Review Commission Report 2026* to His Excellency, in the hope that it will contribute meaningfully to Fiji's constitutional future.



Sevuloni Ratumaiyale Valenitabua (Chair)

¹Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

²Fiji, *Commissions of Inquiry Act 1946*, Government of the Republic of Fiji, 1946, www.paclii.org/fj/legis/consol_act_OK/coia283/.

Chapter 1: Introduction

This report entails the findings and recommendations of the Fiji Constitution Review Commission 2026 (hereinafter referred to as the Commission, or the CRC), appointed by His Excellency the President of the Republic of Fiji “to inquire into and examine the democratic deficit of the 2013 Constitution of the Republic of Fiji, as identified by the Supreme Court of the Republic of Fiji.”³

The Commission consists of:

Sevuloni Ratumaiyale Valenitabua (Chair)

Conway Beg

John Charles Fatiaki

Neelesh Gounder

Ami Kohli

Salanieta Bakalevu

Merewalesi Nailatikau

The Commission’s work was guided by the Commissions of Inquiry Act 1946, under which it was appointed by His Excellency with accompanying Terms of Reference, and the Advisory Opinion of the Supreme Court on the rules for constitutional amendment in the 2013 Constitution of Fiji. Following nationwide consultations with 3,873 citizens at 105 venues across all of Fiji’s divisions, this report sets out the Commission’s “findings of the effectiveness, relevance, and implementation of the Constitution’s provisions and their impact on governance, rights and accountability”⁴ with respect to its Terms of Reference:⁵

³Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

⁴Office of the President, Letter of Appointment to the Constitution Review Commission, File Ref: C1/A/25, 13 Mar. 2026.

⁵Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

Each chapter of this report discusses these findings and their impact, reflecting what the Commission heard in its consultations throughout Fiji, and “faithfully and impartially”⁶ reporting its recommendations. Our role, undertaken under unprecedented constraints of time, has been to (i) inquire, and (ii) report on the 2013 Constitution’s provisions, reviewing it in light of the public’s submissions, and paying regard to the priorities in our Terms of Reference.⁷ We accept the concerns of the public in relation to the time constraints involved in our work, and indeed, amending a constitution should and must be approached with the utmost care and consideration. We are also familiar with the fate of the good work and groundbreaking efforts of earlier constitutional commissions, who had the benefit of more time and resources, yet whose endeavours at constitution-making met with unfavourable ends. With this in mind, the Commission makes these recommendations with careful consideration and analysis, recognising that this report marks the end of our mandate as an independent body, after which, together with a Draft Bill, it will undergo scrutiny and debate in a political process as outlined by the Supreme Court.

1.1 Historical Context

Fiji is well-versed in constitutional design. In fifty-six years of independence, we have lived under four constitutions - from the negotiated settlement with the British Crown that gave rise to the 1970 Constitution and marked our entry into nationhood, to the 1990 Constitution, informed by the Falvey Commission following the 1987 coups; the 1997 Constitution, built on the work of the Reeves Commission as part of a constitutionally prescribed seven-year review process; and the draft 2013 Constitution prepared by the Ghai Commission. The Ghai Commission’s draft Constitution was never enacted.⁸ Instead, it was replaced by an alternative of unknown provenance, promulgated by decree as the 2013 Constitution, and which has remained in force

⁶Fiji, *Commissions of Inquiry Act 1946*, Government of the Republic of Fiji, 1946, www.pacii.org/fj/legis/consol_act_OK/coia283/.

⁷Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

⁸Jill Cottrell Ghai and Yash Pal Ghai, "The Constitution That Never Was: Revisiting Fiji’s 2012 Draft," *Taylor & Francis Online*, 10 Dec. 2023, www.tandfonline.com/doi/full/10.1080/00223344.2023.2265584?scroll=top&needAccess=true.

through three national elections and the enactment of more than 400 laws, and was declared by the Supreme Court as “legally effective.”⁹

As this Commission travelled throughout the country, submitters spoke emphatically of their desire to see the 2013 Constitution repealed in full. When asked what should take its place, many advocated a return to the 1997 Constitution. Yet history reminds us that the 1997 Constitution itself was unsettled three times by coup-related events: first in 2000, before being restored by the courts in 2001; again in 2006, by a coup said to have been undertaken in defence of the Constitution; and finally in 2009, when it was abrogated following a court decision that sought to restore constitutional government.¹⁰ However public views may have shifted towards Fiji's previous constitutions, the foundational principle remains: the desire of the people to have a voice in shaping the country's supreme law, and to see their values, concerns, and aspirations reflected within it.

The 2013 Constitution is an amalgamation. It includes provisions drawn from the 1997 Constitution, the Ghai Commission draft, and others are inventions of “a small group of officials.”¹¹ The Constitution contains far too much detail in some areas, uses legalistic rather than plain language, is internally inconsistent, repetitive, and recognises institutions and offices established under promulgations, decrees and statutes. This has been a challenge to unravel as the Commission considered the constitutionalised forms of governance that have been in place, their experienced impacts, and their collective relevance to our recommendations. The Commission recognises that these considerations have resulted in a lengthy draft Constitution, with more prescriptiveness in some areas, and in some cases, separate parts or new chapters. Many submitters were insistent that the whole Constitution be removed. All these considered, the Commission was tasked only to review the 2013 Constitution, and within a limited time. As a result, the Commission recommends revision of the Constitution through amendments rather

⁹Supreme Court of Fiji, *Miscellaneous Case No 1 of 2025 (Constitution Reference Opinion)*, Supreme Court SC Misc 1, 2025, 29 Aug. 2025, judiciary.gov.fj/wp-content/uploads/2025/09/29.08.25-SC-Misc-1.2025-Constitution-Reference-Opinion.pdf.

¹⁰Michele Brandt, Jill Cottrell, Yash Ghai, and Anthony Regan, *Constitution-making and Reform: Options for the Process*, ConstitutionNet, Nov. 2011, constitutionnet.org/sites/default/files/constitution-making_and_reform-handbook.pdf.

¹¹Supreme Court of Fiji, *Miscellaneous Action No 0001 of 2024 (Constitution Reference Opinion)*, Supreme Court FJSC 20, 2024, 28 June 2024, www.pacii.org/fj/cases/FJSC/2024/20.pdf.

than wholesale change. It will be for Parliament and the people to decide the level of prescriptiveness that is politically acceptable in light of Fiji's prevailing norms.

Chapter 2: Message from the Commission

The Fiji Constitution Review Commission 2026 delivers this report in recognition of Fiji's fraught history with constitutions, the pressures and challenges citizens face in the present, and their desire to have their voices heard in the development of their constitutional framework. The gravity of the task and responsibility involved have not been lost on us. With an extensive undertaking and limited time, we have endeavoured to review the 2013 Constitution within the mandate prescribed to us, and with due consideration to the perspectives and recommendations conveyed in the 1,220 submissions received at 105 venues across the country.

Mindful of the foundations laid by previous constitutional commissions, we are equally conscious of the valuable work undertaken by other commissions or bodies on matters of electoral reform, education, national development plan, truth and reconciliation, and mineral rights. We have received submissions from the Electoral Law Reform Commission and acknowledge the efforts of other bodies that are fostering meaningful engagement with Fiji's citizens in nation-building and democratic participation. Acknowledging these efforts in consulting with people is fundamental to addressing the "democratic deficit"¹² we have been appointed to inquire into.

The Commission expresses its gratitude to the citizens of Fiji who attended the consultations, made submissions in person, as individuals and organisations, and shared their diverse perspectives on matters of constitutional importance. We recognise the support, commitment, and combined expertise of the CRC Secretariat, whose diligence and dedication have been instrumental in undertaking our work. We also appreciate His Excellency the President, for the trust and confidence in our integrity, knowledge, and ability, which we have endeavoured to apply in this important work.

¹²Office of the President, Letter of Appointment to the Constitution Review Commission, File Ref: C1/A/25, 13 Mar. 2026.

Fiji, *Commissions of Inquiry Act 1946*, Government of the Republic of Fiji, 1946, www.paclii.org/fj/legis/consol_act_OK/coia283/.

As mammoth as the task has been, we recognise what a privilege it was to travel across Fiji, to be welcomed by communities, and to be entrusted with their voices. We have endeavored to respect the contributions of the people by considering them with care, applying our principles consistently, and explaining the rationale and analysis behind our recommendations. No constitution is self-executing - it will require an enabling legislative framework, and ultimately, the people's commitment to upholding its values. Not everyone will be pleased with all of our recommendations. We have done our best to take into account the diversity of perspectives shared with us, to affirm the country's ever-evolving progress towards a collective settlement, while providing room for people to co-create amongst themselves the shape that settlement will take. Fiji's history has taught us that there are limits to what constitutions can settle - so, on matters of persisting contention, we have endeavored to leave room for citizens to shape their collective path together. Overall, we hope people will see themselves in the future Fiji that these recommendations are geared towards - or at the very least, see entry points for their participation in contributing to that future. It is in this spirit that this report and accompanying draft Bill are put forward for His Excellency and the Cabinet's consideration.

Chapter 3: The Commission's Purpose and Underlying Principles

As recommendations on individual provisions were made, the Commission took care to balance this with how the Constitution as a whole holds together, including its cross-references. This balance is essential in anticipation of future scrutiny, as people's futures and legal destinies will depend on it. In reviewing the 2013 Constitution, the Commission has applied the following principles in its deliberations:

3.1 Recognition of Mandate

The Supreme Court's Advisory Opinion on the rules for constitutional amendment in the 2013 Constitution of Fiji,¹³ and the gazetted Terms of Reference¹⁴ conveyed to the Commission by His Excellency in accordance with the Commissions of Inquiry Act 1946,¹⁵ are foundational to our work. The Terms of Reference have informed the Commission's engagements with the public, and the Advisory Opinion is a vital reference point, not only for commissioners but also for citizens' questions about the developments that have led Fiji to this constitution review process. Our deliberations and this report are structured to speak to our Terms of Reference, with the Advisory Opinion providing the guardrails of our recommendations. Given the Supreme Court's "Opinion, as a 'decision' is, by reason of s 98(6), binding on all of the courts of the State,"¹⁶ where we have drawn close to these guardrails, we have been transparent in doing so, ensuring that our recommendations are grounded in the desired outcomes expressed in submissions, and we have done our utmost to remain conscious of that distinction.

¹³Supreme Court of Fiji, *Miscellaneous Case No 1 of 2025 (Constitution Reference Opinion)*, Supreme Court SC Misc 1, 2025, 29 Aug. 2025, judiciary.gov.fj/wp-content/uploads/2025/09/29.08.25-SC-Misc-1.2025-Constitution-Reference-Opinion.pdf.

¹⁴Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

¹⁵Fiji, *Commissions of Inquiry Act 1946*, Government of the Republic of Fiji, 1946, www.paclii.org/fj/legis/consol_act_OK/coia283/.

¹⁶Supreme Court of Fiji, *Miscellaneous Case No 1 of 2025 (Constitution Reference Opinion)*, Supreme Court SC Misc 1, 2025, 29 Aug. 2025, judiciary.gov.fj/wp-content/uploads/2025/09/29.08.25-SC-Misc-1.2025-Constitution-Reference-Opinion.pdf.

Having been engaged to “undertake a comprehensive inquiry into the democratic deficit identified in the 2013 Constitution,”¹⁷ the Commission understands that this reference originates from the Supreme Court’s 2025 Advisory Opinion¹⁸ relating to amendment provisions (Chapter 11) of the 2013 Constitution. The Supreme Court also commented in a 2024 decision that the Constitution was promulgated against a background¹⁹ in which “there was no extensive public consultation process prior to its adoption: rather, it was the work of a small group of officials.”²⁰ It is clear then that although the Supreme Court’s 2025 decision related to the amendment provisions, the “democratic deficit” about which it was concerned is one that has much wider implications for the legitimacy of the 2013 Constitution. Recognising this alongside the terms of our appointment, the Commission approached its inquiry into the democratic deficit through the lens of democratic constitutionalism,²¹ grounded in the principles of: (1) “*representative government*, enabling citizens to participate in public affairs and hold their government to account;” and (2) “the *protection of rights* (especially the due process of law, freedom of speech and religious tolerance), through which citizens are insulated from abuses of power.”²²

3.2 Constitutional Relevance

As expected, the citizens of Fiji face numerous, competing challenges in their daily lives. The drug crisis, HIV epidemic, cost of living pressures, and eroding trust in institutions were prominent in people’s concerns, with an overall fatigue with the culture of coups and the impunity that trails them. Such concerns were an ever-present backdrop to the Commission’s consultations and the wide spectrum of concerns and perspectives submitted to us. The Commission did our best to explain that not all matters are directly relevant to the 2013

¹⁷Office of the President, Letter of Appointment to the Constitution Review Commission, File Ref: C1/A/25, 13 Mar. 2026.

¹⁸Supreme Court of Fiji, *Miscellaneous Case No 1 of 2025 (Constitution Reference Opinion)*, Supreme Court SC Misc 1, 2025, 29 Aug. 2025, judiciary.gov.fj/wp-content/uploads/2025/09/29.08.25-SC-Misc-1.2025-Constitution-Reference-Opinion.pdf.

¹⁹Anthony J. Regan, Coel Kirkby, and Romitesh Kant, “Between Two Worlds’: The Origins, Operation, and Future of the 2013 Fiji Constitution,” *The Journal of Pacific History*, vol. 59, no. 2, 2024, pp. 165-85, doi.org/10.1080/00223344.2023.2271124.

²⁰Supreme Court of Fiji, *Miscellaneous Action No 0001 of 2024 (Constitution Reference Opinion)*, Supreme Court FJSC 20, 2024, 28 June 2024, www.paclii.org/fj/cases/FJSC/2024/20.pdf.

²¹Elliot Bulmer, *What is a Constitution? Principles and Concepts: International IDEA Constitution-Building Primer I*, International IDEA, 2017, www.idea.int/sites/default/files/publications/what-is-a-constitution-primer.pdf.

²²Elliot Bulmer, *What is a Constitution? Principles and Concepts: International IDEA Constitution-Building Primer I*, International IDEA, 2017, www.idea.int/sites/default/files/publications/what-is-a-constitution-primer.pdf.

Constitution, and are best addressed in national legislation, policy, or procedures. There was, of course, an abundance of issues that touched directly on provisions in the 2013 Constitution - citizens engaged robustly with us on these, and the Commission has deliberated on them. We recognise the importance of ongoing civic education for all ages, to socialise and encourage collective understanding and ownership of the Constitution going forward. Where matters raised with us were not directly relevant to the 2013 Constitution, we have done our best to capture them in this report's supplementary recommendations to inform a legislative, planning and policy framework that may best deliver for Fiji's people. Issues considered non-constitutional were still weighed by the Commission, as they relate to the "democratic deficit" (see 3.1 Recognition of Mandate) that applies more broadly to the 2013 Constitution. For the Commission's purposes, we paid attention not only to 'what' people told us, but we also engaged with them to understand more about the 'why' and the 'how,' to ensure that their desired outcomes are considered in addressing the democratic deficit we were appointed to investigate and report on.

3.3 Necessity for Change

Given Fiji's constitutional history and the obscure origins of the 2013 Constitution, submitters shared strong views with us about its validity and what they believe should be done moving forward. A large volume of submissions called for the full removal of the 2013 Constitution. We also heard from submitters that in addressing the democratic deficit of the 2013 Constitution, we would do well not to disregard its beneficial aspects. Where we have recommended amendments, this has been done with due consideration of the necessity of the change, whether it has grounding in the desired outcomes of people's submissions, and whether it is reasonably justified as strengthening democracy, nation-building, and the rule of law. In instances where constitutional clarity has been sought in submissions, is deemed relevant to Fiji's context, and is supported by analysis, we have made recommendations for amendment. Where standing provisions have been affirmed or unaddressed by submitters, and there are no pressing implications for changing them, we have not sought to disturb them.

3.4 Balancing Precedence with Progress

Many solutions to the constitutionally relevant problems brought forward by submitters have been tried and tested under previous constitutional arrangements. The Commission has sought to ground our deliberations in an understanding of how Fiji's constitutions have evolved, and to benefit from the learnings of previous practice, while being progressive wherever possible. Decades have passed since those earlier constitutional frameworks, and recommendations must reflect that. People have told us they want a lasting constitution that provides the stability to move the country forward, while being responsive to citizens' aspirations. As Fiji's social, political, and economic context has changed over time, the Commission remains conscious of ensuring that the country's supreme law addresses contemporary concerns, while being forward-looking.

3.5 Present and Future Implications

In hearing what people want in relation to the 2013 Constitution, we have done our utmost to consider and seek analysis as to the present and future implications of recommended amendments. Such implications are considered in light of their impact on nation-building, good governance, and the rule of law, including protecting fundamental rights and freedoms. As we have learned from our country's political trajectory, decisions of national importance have generational impacts - for better or worse - and we have done our best to treat such decisions with gravity. In post-conflict settings, collective memory can be long and short at the same time, and while certain facts may be established, both the past and the future can be vast and unknowable. Recognising the hurt and trauma many carry, we have tried to ensure that immediate-term grievances do not derail long-term goals. A constitution must ultimately reflect actionable aspirations, not merely be centred on retribution. We have done our best to consider experience, best practice across a variety of contexts, and maintain a forward-looking outlook. Fiji's population has changed significantly since its earlier Constitutions were framed; they were each a product of their times while crafting a path towards the future, and we have assessed the analysis with this in mind.

3.6 Complementarity of Recommendations

Anticipating that this report will undergo scrutiny and debate via the political process set out by the Supreme Court - involving Cabinet, Parliament, and a referendum - we have flagged wherever our recommendations are meant to work together as a package to achieve the outcomes people expressed in their submissions. Complex problems do not always have simple solutions, and we encourage decision makers to read our recommendations in complementarity with one another. We have kept things simple where we could, but a constitution is an interlocking framework that exists in a broader legislative, policy, and socioeconomic landscape, and we urge Parliament to bear this in mind and consider how recommendations interact with each other.

3.7 Consensus and Alternative Views

The Commission has taken a consensus-first approach to reaching recommendations, and in many cases, this has been accomplished. We anticipated contentious issues and approached them democratically. If the “democratic deficit” as the Commission approaches it is to be addressed, we hope to reflect this, and to convey alternative views where recommendations diverge. The Commission considers this to be demonstrative of each commissioner’s duty to inquire and report “faithfully and impartially.” We put these forward with the aim of enriching democratic debate by considering alternatives and employing second-order thinking to the best of our knowledge and ability. This is intended to illustrate that diverse views can co-exist for the betterment of decision-making and, as is the ultimate hope, for the benefit of the people of Fiji. Recommendations reflect the consensus and majority-supported decisions of the Commission, and where deemed fit, commissioners have included their alternative views for consideration as part of the democratic process.

Chapter 4: How the Commission Went About Its Task

4.1 The Commission's Work

In the time it was given, the Commission divided its task into three phases. The first two months (Phase 1) were spent preparing for nationwide consultations and receiving submissions from invited stakeholders at the Commission's secretariat office in Suva. Commencing on 1 April, the Commission heard from institutions, ministries, groups and individuals. An email and website platform were also established to accept written submissions electronically, in addition to post and hand-delivered written submissions. In partnership with the Ministry of Youth and Sports, a cohort of trainers was trained to deliver a Public Awareness and Civic Education (PACE) program, ahead of the Commission's consultations to ensure communities were informed and prepared.

To encourage public participation, Commission members undertook media interviews and placed advisories on consultation dates and venues in print and online via the following avenues:

- Fiji Sun advisory, Saturday 18 April
- Fiji Sun advisory, Sunday 19 April
- Fiji Times advisory, Saturday 18 April
- Fiji Times advisory, Sunday 19 April
- Fiji Sun advisory, Saturday 2 May
- Fiji Sun advisory, Sunday 3 May
- Fiji Times advisory, Saturday 2 May
- Fiji Times advisory, Sunday 3 May
- Radio interview, *PMN Fiji*, Friday 1 May
- Radio interview, *Gold FM*, Tuesday 28 April
- Radio interview, *Mirchi FM*, Tuesday 21 April
- Radio advertisements across the Communications Fiji Limited network
 - Legend FM, Friday 24 April - Friday 15 May (16 days x 2 mentions: 32 mentions)
 - Navtarang, Friday 24 April - Friday 15 May (16 days x 2 mentions: 32 mentions)

- VITIFM, Friday 24 April - Friday 15 May (16 days x 2 mentions: 32 mentions)
- TV/online interview, Fiji One *The Breakfast Show*, Tuesday 21 April
- TV/online interview, Mai TV *The Brunch*, Tuesday 28 April
- TV/online interview, Fiji Village *Straight Talk*, Wednesday 6 May

A *Fiji Constitution Review Commission 2026* Facebook page,²³ with over 11,700 followers, conveyed submission details and deadlines, consultation advisories and coverage, over the course of the Commission's work. In addition to submissions, a total of 287 media print and online articles between Thursday 28 May and Monday 3 August have contributed to public discourse surrounding the constitution review process.

Phase 2 commenced in early May and ended in early July, with the Commission embarking on nationwide consultations in two teams, across the Lau and Lomaiviti groups, Ovalau, Kadavu, and Beqa. The Commission visited Vanua Levu, Taveuni and Rabi, and completed its consultations in Viti Levu and the Yasawa group. Planned consultations in Ono i Lau, Vatulele, and Qamea were cancelled due to inclement weather. Phase 3 involved hearing final submissions, admission of evidence after closing the submission period, reading of all submissions (including translation into English), analysis of issues therein, deliberations on proposed amendments and recommendations, and the contents of this Report and Draft Bill.

4.2 The Commission's Approach

The Commission remains grateful for the engaging, thoughtful and candid contributions made by citizens throughout consultations. People made significant efforts to prepare themselves, consult, and put forward their views in person, via petitions (often using the forms provided by the PACE team) and by email/web platform. Male (69%), iTaukei (86%) and rural/maritime (80%) participants are overrepresented amongst participants, with a median age of 50 and average age of 45.

²³Fiji Constitution Review Commission 2026. *Facebook*, Facebook Page, <https://www.facebook.com/fijicrc/>.

Table 1: Consultation Participation and Submissions

Consultation Participation	
Participants (in-person, incl. virtual)	3,873
Submissions	1,220
Ethnicity	
iTaukei	86%
Banaban	0.05%
Fijian of Indian Descent	7%
Fijian of Other Descent	1%
Rotuman	6%
Geography (Rural/Urban)	
Urban Participants	20%
Rural Participants	61%
Maritime Participants	19%
Geography (Divisions)	
Central Division Participants	33%
Eastern Division Participants	13%
Northern Division Participants	26%
Western Division Participants	21%
Gender	
Female	31%
Male	69%
Submissions	
Individual Submissions (n=1,220)	832
Collective Submissions (n=1,220)	388

In-Person Submissions (n=1,220)	1,098
Written Submissions (n=1,220)	122

The dominance of male participants, particularly in iTaukei rural communities, reflects the need for ongoing efforts at ensuring gender equity in representation. Gender equity as a matter of *representative government* in addressing the democratic deficit is discussed in this report, via alternative views in Chapters 8 (The Legislature), 14 (The Bose Levu Vakaturaga), and 16 (Closing Reflections) of this report. The Commission is transparent in its consideration of whether consultation participants are reflective of Fiji's diverse population.

It is not lost on the Commission that iTaukei communities have voiced significant concerns about their disenfranchisement in the 2013 Constitution - from a lack of consultation in the draft that was promulgated, the removal of the Senate and the Bose Levu Vakaturaga (BLV). Recognising the relatively low attendance numbers from non-iTaukei citizens, as is asked of us in the Terms of Reference, the Commission has approached recommendations with a view to "ensuring that the rights of other communities and groups are fully respected."²⁴ This is also reflected in an alternative view in Chapter 5 (Preamble, National Identity and Citizenship) of this report.

Given the ongoing challenges of rural development in Fiji, the Commission acknowledges that Fiji has a majority-urban population.²⁵ Rural concerns deserve their day in the sun, especially given the rural-urban disparities in living conditions,²⁶ the oncoming incorporation of some villages into municipalities,²⁷ and loss of connection to nature and heritage²⁸ as a result of rural-urban migration. The Commission has made recommendations relating to Group Rights as prioritised in our Terms of Reference, to recognise "group rights of the communities in Fiji,

²⁴ Government of Fiji Gazette, Vol, 27, Friday 27th March 2026, No.21

²⁵ World Bank Group, "Urban Population (% of Total Population) - Fiji," *World Bank Open Data*, 1960–2025, data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS?locations=FJ.

²⁶ Jake Wise, "Poverty Rates Higher in Rural Communities," *The Fiji Times*, 25 Sept. 2024, www.fijitimes.com.fj/poverty-rates-higher-in-rural-communities/.

²⁷ AAP, "Moves to Integrate Villages into City Councils," *The Fiji Times*, 6 Aug. 2026, www.fijitimes.com.fj/moves-to-integrate-villages-into-city-councils/.

²⁸ Shratika Naidu, "Urban Children Losing Connection with Nature, Conservationist Warns," *Fiji Sun*, 22 June 2026, fijisun.com.fj/news/environment/urban-children-losing-connection-with-nature-conservationist-warns.

taking into account their alignment with international laws and conventions on human rights, political and economic rights.”²⁹ A constitution should also work to address social, economic, and political inequities - this has formed part of considerations on the Bill of Rights in this report, particularly in Chapter 6 (Fundamental Rights and Freedoms).

Finally, the Commission had the privilege of visiting schools and universities, as well as receiving submissions from youth organisations and young professionals. Commissioners are conscious of the need for a lasting constitution to be forward-looking - one that reflects the inevitable societal changes seen over the 152 years since the Deed of Cession, and the 56 years since Fiji's first Constitution. An intergenerational lens also forms part of this report's recommendations, as reflected in the principles set out in Chapter 3 (The Commission's Purpose and Underlying Principles), balancing precedence with progress and weighing both short- and long-term implications. Fiji's population and society have changed markedly since 1997, and with net migration expected to remain negative through 2050,³⁰ some persistent tensions - such as calls for ethnic primacy - may take a different form, or diminish, given this evolving context.

In the just over five months available to it (late March to 31 August 2026), the Commission needed to: (1) consult with people, which took until early July; (2) deliberate on recommendations issue by issue, which took from early July to mid-August; and (3) prepare drafting instructions for the drafter, who stayed just ahead of the Commission's decisions, with a revised draft becoming available only towards the end of August. As a result, the revised draft could be much improved, but there simply wasn't time to undertake such a comprehensive revision.

²⁹Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

³⁰Anish Chand, "World Bank Warns of Slowing Population Growth," *The Fiji Times*, 12 Nov. 2026, www.fijitimes.com.fj/world-bank-warns-of-slowing-population-growth/.

Chapter 5: Preamble, National Identity and Citizenship

5.1 What People Told Us

- Fiji's cultural, political, spiritual, and social history should be reflected in the Constitution's preamble, including the Deed of Cession and the recognition of God.
- That Fiji be recognised as a Christian state, with others calling for a secular state.
- People want to share a common national identity as Fijian, representing common and equal citizenship.
- Indigenous Fijians feel disenfranchised by the lack of consultation before the term "Fijian" was applied to all citizens, and want the term to apply exclusively to Indigenous Fijians.
- While some expressed reservations, people broadly accept dual citizenship and want dual citizens to be eligible for political candidacy, with accessible residency requirements as part of the criteria.
- Birthright citizenship should be recognised for Rotumans as an Indigenous community of Fiji, along with special birthright citizenship pathways for Indigenous Rotumans as well as Indigenous Fijians.
- Birthright citizenship must be safeguarded for children born to at least one parent who is a citizen at the time of their birth.

"...I propose to include the history of the Deed of Cession and the history of Fiji being ceded to Great Britain... The chiefs of Fiji ceded Fiji to Great Britain after a long process that took about two to three months... It was a difficult decision, not an easy one, for them to make, considering the amount of time they took to deliberate and decide to cede Fiji to Great Britain... I propose that this story be stated clearly in the Constitution... to reflect on the story and on the principles and aspirations that were with the chiefs of Fiji at the time." - Chief, Vanua Levu

"We are to continue to be called Fijian... I met so many Fiji-Fijians - Indigenous - who live in California. They have American passports, and they are proud of it, and they are called Americans. Why so many questions, and why are some dissatisfied about the name Fijian? I am proud because I was born here, and I have lived here for 80 years." - Retiree, Ba

5.2 The Commission's Approach

5.2.1 National Identity

The Commission considered grievances raised amongst Indigenous Fijian (iTaukei) submitters about the name "Fijian" being taken away from them. While this was not a unanimous view, it was a broadly shared sentiment amongst the communities the Commission visited, who saw it as central to their expressions of language, culture, and custodianship over natural resources. Acknowledging the value of this 'internal' identification,³¹ the majority of commissioners proposed amendments for removing the Section 5(1) reference to "Fijians" and creating a sixth section on "National Identity," incorporating a process into the Constitution for consensus-building on a shared national identity. The new Section 6 would outline that all citizens would continue to be known as Fijian until a nationwide culturally appropriate process for consensus-building is undertaken with all communities to collectively determine a national identity. Such a process would eventuate in Parliament, and if, within 12 months, it remains unclear that a consensus has been reached, nor is likely to ever be reached, the matter would be taken to a referendum within 12 months after the interim period, to determine the majoritarian view on a shared national identity. The intention behind these recommendations is to provide a pathway for collective, nationwide settlement on a contentious issue that has been raised as a grievance by the majority of submitters.

A minority of commissioners expressed support for retaining the national identity of "Fijian" for all citizens, expressing reservations that recommending an "initial interim period" of 12 months for maintaining a shared national identity may undermine confidence in a common and equal citizenship amongst non-Indigenous minorities, and represent a regression for generations of Fijians (including Indigenous Fijians) who are accustomed to a shared identity as a forward-looking measure. Furthermore, the minority proposed that such a process may best belong in report recommendations or transitional arrangements instead of in the Chapter 1 of the Constitution. A commissioner raised that if such a process were to be incorporated, that there be

³¹Steven Ratuva, "In Search of Common Values: Ethnic Schema, Ethnic Conflict and National Reconciliation in Fiji," 2000, www.library.uc.edu.kh/userfiles/pdf/7.Education%20for%20Values%20Morals%20Ethics%20and%20Citizenship%20in%20Contemporary%20Teaching.pdf#page=322.

a provision in the recommended Section 6 to provide the assurance of common and equal citizenship continuing to be upheld throughout said process. The majority held that the matter of common and equal citizenship would be sufficiently covered in Section 5, from sub-sections (2) onwards. An alternative view is provided alongside recommendations (see Chapter 5, 5.4 of this report) by the minority group.

5.2.2 Citizenship

Recognising Fiji's centuries-old history as a regional hub, the Commission heard submissions from communities and the government calling for citizenship conditions to be safeguarded, adapted, and clarified. Citizen submitters expressed concern about a lack of clarity in birthright citizenship conditions in Section 5 of the 2013 Constitution - a concern echoed in the Ministry of Immigration's submission. For Indigenous Fijians and Rotumans, the legislative changes permitting dual citizenship opened a pathway for those who had gained citizenship elsewhere to regain their Fiji citizenship, after having been forced to renounce it under earlier legislation - dual citizenship was not allowed in Fiji until 2009.³² Submitters accepted that dual citizenship is a reality in today's global context, and welcomed the prospect of skilled, capable dual citizens serving in Fiji's economic and political life. They pointed out sections relating to eligibility to stand for election to Parliament in the 2013 Constitution, which requires residence in Fiji for at least two years immediately before nomination - a condition submitters viewed as onerous.

Broadly, the Commission was careful not to be overly prescriptive on citizenship matters already addressed in national legislation. However, to protect prioritised safeguards from vulnerability to legislative change, and to give national legislation clearer direction in line with the desired outcomes people expressed in their submissions, the Commission has recommended several amendments. On birthright citizenship, the Commission looked to international practice in countries such as the Solomon Islands, Australia, and the United Kingdom, countries with modified models of birthright citizenship to include some conditionality - for instance, requiring that one or both parents hold citizenship or permanent residency- making recommendations to this end, similar to the 1997 Constitution. On dual citizenship as it relates to eligibility for

³²Fiji, *Citizenship of Fiji Decree 2009*, Government of the Republic of Fiji, Dec. 2009, unfccc.int/sites/default/files/lhr.pdf.

candidacy in parliamentary elections, the Commission has recommended that residency requirements be left to ordinary statute rather than fixed in the Constitution. The 2013 Constitution is the most electorally prescriptive of Fiji's constitutions, and drawing on the Electoral Law Reform Commission report, as well as a combined submission from the Electoral Commission and Fiji Electoral Office, we have recommended leaving out several electoral provisions that are already covered in statute. Regarding the request from Rotumans seeking to affirm their Fiji citizenship by way of birthright as a distinct Indigenous people in Fiji, the Commission has recommended a separate constitutional chapter on Rotuma, in which Indigenous birthright is recognised independently of citizenship status.

5.3 Recommendations

- Redefine equal status and identity for all “citizens of Fiji” under Section 5 as foundational to equality before the law.
- Include a new Section 6 on National Identity, in which all citizens shall continue to be known as Fijians “until consensus has been reached or a decision made” in accordance with a process set out in the section for an initial interim period of a maximum of 12 months. After broad-based, culturally appropriate consultations with all communities, if no consensus is clear, a referendum will be held within 12 months after the end of the interim period to determine the majority view on a common identity.
- Parliament would enact legislation for the conduct of the consultation process, and the method for determining the majority view.
- Recognise through a separate constitutional chapter on Rotuma that Rotumans are an indigenous community of Fiji (see Chapter 13, 13.2.6 of this report).
- Clarify birthright citizenship in Section 5 by introducing the condition that one parent be a citizen or permanent resident, with permanent residency serving as a pathway to citizenship.

5.4 Alternative Views

Recognising the majority view as the basis of final recommendations after the Commission's deliberations, a minority of Commissioners have provided alternative views with the intention of enriching democratic debate on the matter of national identity.

"...I would recommend that for all Fijians by nationality. The ethnic term iTaukei be removed and replaced with 'Indigenous Fijian' or 'Fijian,' to ensure that all ethnic groups carry an equal hyphenation of 'Fijian' that collectively equates to a common and equal citizenry...I also want to state, for the proponents of the term iTaukei who have made ill-thought equivalences to...[Aotearoa] New Zealand and Australia...We need not take our cue from histories that stand in blood and the ongoing, systematic suffering of Indigenous people...I humbly request the removal of the grammatically incorrect term iTaukei. And I say grammatically incorrect not only as a scholar, but also because the late Ratu Joni [Madraiwiwi] argued very ardently about this mistake." - University Lecturer, Suva

"So I want to bring your attention to the word iTaukei. It's a broader term. iTaukei for what? It can be iTaukei for a house, a land, a car - it's not an identity, the word iTaukei, because it's written as 'Indigenous.' And 'Indigenous' is a group of people. So we need to specify this word - this identity, I mean iTaukei - or let us put it back into its original form, before it was changed." - Submitter, Nadarivatu

5.4.1 National Identity

The commissioners considered the historical origins of ethnic relations in Fiji, particularly the role of colonial history in shaping them. Pre-colonisation, identity was grounded in the concept of Vanua - encompassing land, social, and experiential dimensions. Depending on one's geographical placement and social relationships, a person could be Taukei or Vulagi, each carrying associated obligations: the Taukei extending "conduits for crossovers" to the Vulagi, who in turn showed "fidelity to the place or Vanua they are 'crossing over' to."³³ This reflects the fluid, negotiated nature of indigenous ties, in contrast to the static, ethnicity-based identities imposed under colonisation.

³³Tui Rakuita and Nii K. Plange, *Who is a Vulagi? Unsettling settler imaginaries of 'place' and 'indigeneity' in Fiji's post-colonial context*, 2025, ir.canterbury.ac.nz/server/api/core/bitstreams/c08d9aed-2f57-4db8-b335-9c6230363900/content.

While many submissions from Indigenous Fijians called for the term “Fijian” to be reserved exclusively for them, this view was not unanimous - nor can it be assumed representative, given low attendance at consultations in urban areas, including the Suva-Nausori corridor, home to over 35% of Fiji’s population.³⁴ All submitters who supported common and equal citizenry also fully supported constitutional recognition of Indigenous Fijians as the First Peoples of Fiji. The commissioners hold that a common national identity as “Fijians” is foundational to equality before the law, and that this is fully compatible with recognising Fiji’s diverse ethnic and indigenous identities, including the right to self-identify as one pleases.

The commissioners, fully recognised that adopting “Fijian” as the common name for all citizens in 2013 was prescribed without meaningful consultation, and caused hurt among segments of Indigenous society - partly because it bypassed culturally informed “conduits for crossovers.” A model for such conduits is exemplified by the Tui Noco and the people of Noco’s traditional acceptance of Girmitya descendants as Luvedra na Ratu.³⁵ When the Commission raised this in Nabudrau, Noco, the shared identity of “Fijian” was not contentious for attendees - underscoring the sense that the 2013 imposition denied Indigenous Fijian society (termed iTaukei by decree)³⁶ the chance to reach its own settlement. As one Indigenous Fijian coup participant put it, he had no objection to a common identity, “but it would have been nice if I was asked.”

The commissioners therefore recommend a culturally informed, inclusive process of remedy and reconciliation, facilitated by an independent Commission for National Harmony - comprising three commissioners nominated respectively by the BLV, faith-based institutions, and civil society. It would be mandated to promote racial harmony, tolerance, reconciliation, and national unity. Although racial harmony is stable, it remains fragile³⁷ and subject to structural - not ethnic - stressors, as social cohesion studies in the country are finding; therefore, commissioners believe

³⁴Mansi Chand, “Over 360,000 People in Suva-Nausori Corridor Benefit from Viria Project,” *FijiVillage*, 29 June 2024, www.fijivillage.com/news/Over-360000-people-in-SuvaNausori-corridor-benefit-from-Viria-Project-r5f8x4/.

³⁵Luke Nacei, “New Era for the Luvedra na Ratu,” *The Fiji Times*, 24 Nov. 2019, www.fijitimes.com.fj/new-era-for-the-luvedra-na-ratu/.

³⁶Fiji, *Fijian Affairs (Amendment) Decree 2010*, Government of the Republic of Fiji, 2010, www.paclii.org/cgi-bin/sinodisp/fj/legis/num_act/fad2010210/fad2010210.html?stem=&synonyms=&query=fijian%20affairs%20amendment.

³⁷Kaneta Naimatau, “Racial Harmony Strong, but Fragile,” *Fiji Sun*, 28 Apr. 2026, <https://fijisun.com.fj/news/nation/racial-harmony-strong-but-fragile-survey-reveals>.

the State has an ongoing role in fostering dialogue and understanding between Fiji's communities.

Finally, the commissioners express reservations about a national referendum on identity. Such a referendum would be costly, unpredictable in its impact on national discourse and stability, and would still leave unresolved the separate imposition of the iTaukei identity under the 2010 Decree.³⁸ In Naoero (formerly Nauru), for example, a planned referendum was dropped after thoughtful deliberation in a decision conveyed by President David Adeang.³⁹ While referendums can re-engage citizens in direct democracy (an attractive option, given the disillusionment expressed with the current electoral system), they can also erode democracy by undermining elected representatives or letting officials avoid difficult decisions - risking a more divided, polarised society and relying heavily on a well-crafted question and extensive civic education. In many countries, referendum turnout is lower than national elections,⁴⁰ again posing the question of tremendous cost versus unassured legitimacy.

5.4.2 Alternative Recommendations

- Continue to recognise “Fijian” as a common national identity under Section 5.
- Establish in the Constitution a Commission for National Harmony, with representatives from the Boses Levu Vakaturaga, faith-based institutions, and civil society, mandated by written law to promote tolerance, reconciliation, racial harmony, and national unity.
- Through written law detailing the functions of the Commission for National Harmony, acknowledge the grievance caused by the unilateral adoption of a common name without meaningful consultation with the Indigenous Fijian people, and task the Commission for National Harmony with facilitating a reconciliation process, to address grievances and build a shared way forward.
- Affirm common and equal citizenry under Section 5 and a shared national identity as foundational to equality before the law.

³⁸Fiji, *Fijian Affairs (Amendment) Decree 2010*, Government of the Republic of Fiji, 2010, www.pacii.org/cgi-bin/sinodisp/fj/legis/num_act/fad2010210/fad2010210.html?stem=&synonyms=&query=fijian%20affairs%20amendment.

³⁹“Nauru Officially Changes Name to Republic of Naoero.” ConstitutionNet, 3 Aug. 2026, <https://constitutionnet.org/news/nauru-officially-changes-name-republic-naoero>.

⁴⁰The Electoral Knowledge Network, *The Electoral Knowledge Network*, n.d., aceproject.org/ace-en/topics/es/ese/ese08/ese08a/ese08a03/mobile_browsing/onePag.

- Supplementarily, all above recommendations recognise every person's right to self-identify, independently of national identity.

Chapter 6: Fundamental Rights and Freedoms

6.1 What People Told Us

- The 2013 Constitution's limitations on the Bill of Rights are overly broad, allowing the State to restrict rights "to the extent that is necessary" and, in some cases, barring citizens from challenging those restrictions in court.
- Support for corporal punishment remains high - many wanted it reintroduced in schools and homes as a mechanism for discipline and for preserving cultural traditions, while others opposed it over concerns about child protection, physical abuse, and psychological harm.
- Indigenous communities called for full proprietorship by customary owners, or at the very least, constitutional clarity to ensure a fair and equitable share of royalties from resource extraction and use, relating to land, qoliqoli (fishing grounds), and mineral rights.
- Some submitters demanded the removal of children's and women's rights altogether, claiming these promote insubordination of customary governance and parental or spousal authority.
- Other submitters called for greater protections to achieve better outcomes for equality, safety, and the recognition of vulnerable groups' rights.
- Socioeconomic rights must be justiciable, particularly for housing, tenancy rights, healthcare, education, language rights, and transport (especially in maritime communities), with some submitters pointing to the need for compulsory civic education in schools, affirmative action scholarships, and better health facilities.
- Civil society and non-government organisations, as well as ministries, emphasised the need for the Constitution to enable poverty reduction and disaster-responsive social protection.

"My proposal is about the laws concerning us women - for these laws to be assessed, because this law affects women living in villages and maritime areas. It makes it difficult to exercise authority over women, to mobilise women to support traditional obligations in the village. There are benefits to women's lives, but there are also problems in being able to run and mobilise activities in the village. Maybe these rights should just be for women in urban areas." - Female Submitter, Nairai

"A lot of our children are growing up in violent situations. So all this, we have to take into account when we look at how we address [corporal punishment] - it's not just about treating the tail end of it, which is when the kid misbehaves and what kind of punishment we give... we should invest in the beginning, in the birthing of the child, and that's where family values become important. The government should really invest in family life and in preparing those who are getting married, and also those who are single parents. The church, in general, is against violence. Violence begets violence, and there's a lot of damage done to young people when they are treated violently." - National Faith Organisation Leader, Suva

6.2 The Commission's Approach

6.2.1 Limitations of Rights

Individual and collective submitters spoke to the nature of rights and how they have changed across Fiji's constitutions - expanding from absolute rights to 'second generation' socioeconomic rights. On the limitations and justiciability of rights in the 2013 Constitution, people told the Commission that rights felt recognised with one hand and taken away with the other, due to broad - and in some cases targeted - limitations that allowed State intervention wherever deemed "necessary" and blocked citizens from challenging those limitations in court. Recognising the need for clarity, for citizens and for the courts that interpret the Constitution, the Commission has recommended narrowing these limitations to those that are reasonable and justifiable in a free and democratic society, while ensuring citizens retain the right to have such limitations tested in court. In line with the United Nations Human Rights Committee, and given our Terms of Reference to consider "alignment with international laws and conventions on human rights, political and economic rights," the Commission treated limitations to rights as the exception rather than the norm - and, where applied, must meet the tests of legality, legitimate aim, necessity, and proportionality. Another common instance of limitations of rights is national

emergencies, and this was approached with a recommended broad, justiciable limitation provision based on the Ghai Commission draft for state of emergency limitations.

6.2.2 Absolute and Fundamental Rights

Submitters broadly supported absolute rights, with one main caveat: fundamental rights should be free from arbitrary State intervention and should be justiciable. Rights are not ‘granted’ by the State, but are instead recognised, based on the inherent dignity of all human beings.⁴¹ Sadly, women’s and children’s rights came under significant criticism in submissions, with calls for their recognition to be toned down or removed outright. The Commission’s approach was to ensure the Bill of Rights recognises personhood as applying to all people - children and women included - and that any limitations are reasonable and justifiable in a free and democratic society. Commissioners considered the present-day concerns raised in submissions, looked to Fiji’s context, international best practice - particularly in the region and in countries similar to Fiji’s - and paid closer attention to the independent commissions set out in the Constitution with responsibilities for safeguarding rights, among them the Fiji Human Rights and Anti-Discrimination Commission. Recommendations include transparent, standardised recruitment; plurality in membership; clear and relevant criteria for selection; protection of resourcing from arbitrary cuts; and safeguards against undue influence over these commissions. Contemporary issues understandably loom large in people’s outlook on rights, but the Commission believes strong, independent institutions can help safeguard fundamental rights, ensure justiciability of rights, and openness to judicial interpretation into the future. There were worrying limitations and conditions in provisions relating to the rights of accused or detained persons, for example, that were raised by submitters to be detrimental.

6.2.3 Socioeconomic Rights

People welcomed the recognition of “second generation” socioeconomic rights, particularly those for culture and the environment. Again, submitters pointed out the broad, and in some cases targeted limitations that they saw as significantly weakening these rights. They expressed frustration with unrealised socioeconomic rights that are not justiciable and with failures of

⁴¹What Are Human Rights?," *UN Office of the High Commissioner for Human Rights*, n.d., www.ohchr.org/en/what-are-human-rights.

implementation. Government ministries further sought clarity in the State's role in prioritising and resourcing the progressive realisation of such rights, particularly in relation to housing, sanitation, and education. The Commission is conscious that progressively realising socioeconomic rights relies on enabling and well-resourced legislative and policy frameworks to implement in ways that make these rights real for people. While the State is constrained by the resources at its disposal (including managing public debt in the interests of present and future generations), it should at least not hinder people's efforts in attaining and realising such rights for themselves. As such, the Commission's recommended amendments are aimed at strengthening justiciability, regrouping socioeconomic rights in a separate Part of the Bill of Rights without eroding them, addressing limitations in alignment with the United Nations Human Rights Committee, considering national legislation and international treaties, and adding clarity where submitters have pointed out the need in line with societal changes.

6.2.4 Group Rights

Submitters raised group rights in two main areas that shaped the Commission's approach: Indigenous peoples' rights and minority rights. With this focus, group rights include rights of all groups. A more detailed discussion on group rights relating to Indigenous peoples' customary ownership rights relating to land, qoliqoli, and minerals is discussed in Chapter 13 of this report. The Commission recognised land, fishing, and mineral rights as a foundational concern for customary resource owners - not just ownership, but a fair share of royalties and returns from natural resource use. Indigenous submitters acknowledged that expertise and long-term investment capacity would be vital to realising the full potential of Indigenous customary ownership. Tenants (Indigenous Fijians among them) also sought security of tenure and freedom from arbitrary eviction. The Commission considered the State's role, through its mandated institutions, as trustee, paying close attention to the distinction between ownership and custodianship. After studying how previous constitutional commissions approached these issues, and examining global and regional practice - including similar post-colonial contexts,⁴² within and beyond the region, with comparable collective customary ownership models - the

⁴²Diana Rocio Bernal-Camargo and Ana Isabel Gomez-Cordoba, "Informed Consent as a Human Right in the Inter-American Human Rights System," *PMC*, 31 Dec. 2025, [pmc.ncbi.nlm.nih.gov/articles/PMC12980556/](https://pubmed.ncbi.nlm.nih.gov/articles/PMC12980556/).

Commission recommends recognising indigenous customary ownership of land and qoliqoli, vesting custodianship in the State.

The Commission recommends that mineral ownership would remain with the State, subject to recommended provisions for a duty to consult with respect to land and resources, including free, prior and informed consent (FPIC) for affected persons and customary owners. This would involve clearly outlining the parameters in written law for FPIC and the type or scale of project in line with the UN Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169. The Commission recommends that written law be referred to in terms of how FPIC would be determined as well as the scale of projects involved, to avoid negative impacts on development. A significant number of submissions, both individual and collective, in Indigenous Fijian communities called for the extension of land and qoliqoli rights to encompass subsurface mineral rights, citing the principle of “absolute proprietorship” under Article 4 of the Deed of Cession. Other submitters voiced concerns that transferring mineral ownership rights to individual customary units is in contrast with arrangements in countries with similar contexts in the Pacific (Solomon Islands and Papua New Guinea) and beyond (South Africa and Canada), where minerals are held in trust for the benefit of all citizens, funding service delivery, providing a stable environment for investment, and safeguarding mineral strategic sovereignty. The Commission considered submissions relating to mineral ownership rights as a matter of sovereignty over Fiji as a group of islands that was ceded by chiefs to the British Crown, formalised with the Deed of Cession. On independence, sovereignty was vested in Fiji as a State, governed since then by democratic norms - too often interrupted by coups and short-lived constitutions.

The Commission carefully weighed the submissions from both the Indigenous landowners and the Ministry of Lands and Mineral Resources. While extracting minerals from the earth provides economic opportunities, it can also create risks to sustainable development. Thus, the view of the Commission is that the need to vest authority with the State to ensure efficient management and sustainable utilisation of mineral resources to secure long-term supplies of raw materials and for the benefit of all the people of Fiji. While the Constitution should continue recognising mineral ownership as belonging to the State, it must ensure that the principles of sustainable development in the mining sector are adhered to and that extraction complies with established best-practice

guidelines. This is complemented by recommended provisions for the duty to consult with respect to land and resources, including FPIC in a standalone constitutional chapter on Land and Environment, and Group Rights.

With land and resource ownership a persistent issue in national political discourse and a recurring source of instability, the Commission has aimed to create space for landowners and tenants to proactively address land matters, recommending a National Consultative Land Forum to bring State administrators, landowners, and tenants together to make proposals to the government on policy and legislation and convene for deliberation on land-related matters. Recognising that the Commission also considered group rights in relation to minority groups, making recommendations to safeguard against discrimination, while affirming that indigenous customary rights and ownership remain foundational to national stability and progress. The Commission is of the view that a constitutional chapter on group rights should focus on all aspects of group rights and for all communities.

6.3 Recommendations

The Commission puts forward the following in relation to Chapter 2 of the 2013 Constitution, with a proposed new constitutional chapter on Land and Environment, and Group Rights:

- Align the Constitution's limitations on rights with those that are reasonable and justifiable in an open and democratic society, while ensuring citizens can have such limitations tested in court.
- Maintain protections in the Bill of Rights, in line with recognising personhood and the inherence of human rights as applying to all people regardless of status, including children (Section 41), women, and vulnerable groups (Section 26).
- Strengthen the independence of commissions responsible for safeguarding rights and upholding independence through the separation of powers, including the Fiji Human Rights and Anti-Discrimination Commission.
- Strengthen the justiciability of socioeconomic rights and regroup them as a separate Part of the Bill of Rights chapter without eroding their scope, adding clarity where submitters identified a need, in line with societal changes.
- In a separate constitutional chapter on Land and Environment, and Group Rights, recognise indigenous customary ownership of land and qoliqoli, vesting custodianship in

the State, subject to recommended provisions for a duty to consult with respect to land and resources, including FPIC for affected persons and customary owners (see the following recommendation).

- In the Group Rights chapter, retain State ownership of minerals, subject to aforementioned recommended provisions on the duty to consult, in line with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention No. 169.
- Establish a National Consultative Land Forum in the recommended new Group Rights chapter, convening State administrators, resource owners, and tenants to educate the public, undertake research, propose policy and legislation, and deliberate on land-related matters.
- Safeguard minority groups from discrimination in the Group Rights chapter, and as commissioners were reminded during consultations, Indigenous people are also lease holders and tenants.

Chapter 7: The Rule of Law

7.1 What People Told Us

- Establish a clear separation of powers between the legislative, executive, and judicial branches of government.
- Safeguard in commissions and constitutional offices, primarily the Constitutional Offices Commission (COC) and the Judicial Services Commission (JSC).
- Eliminate the immunity clauses in Chapter 10 to affirm equality under the law and ensure accountability.
- Remove what a submitter called “cancerous decrees” protected in Chapter 12, Section 173 under “Preservation of laws.”
- Seek accountability for individuals who drafted the 2013 Constitution and those who abrogated the 1997 Constitution.
- Review the necessity of the FICAC, abolish it altogether, or consider transferring its prosecutorial duties to existing institutions such as the Director of Public Prosecutions (DPP).
- Propose harsher policing procedures and penalties to address drug trafficking.
- Replace Section 154 of the 2013 Constitution with the public safety standards of the 1997 Constitution.

“We submit that Section 173 of the Constitution be repealed. This section currently shields all laws, decrees, and promulgations made before the enactment of this Constitution... Maybe particularly from subsection four, [or subsections two, three, four and five may have to be repealed.]” - Civil Society Worker and Resident, Raiwaqa, Suva

“On the current immunity - it must go. If we are serious enough about addressing and eradicating the coup culture, there should be no immunity in a new constitution... Not that I desire the perpetrators of 1987 or 2000 to be tried and sent to prison. I have no malice against them, but it is to make clear to those who may dream of seeing their name in the headlines and having their day in the sun, that they will also have their day in court. This is the clearest message to demonstrate our collective repugnance against coups.” - Person Formerly Imprisoned for Coup-Related Offences, Suva

7.2 The Commission's Approach

7.2.2 The Separation of Powers

In their submissions, people raised concerns about political interference in democratic processes that should remain independent. They criticised the concentration of power under the 2013 Constitution, arguing that the system of governance has become overly centralised and dominated by political office holders. The Commission examined ways to safeguard administrative autonomy, evaluating constitutional provisions that require the agreement of or consultation with the Prime Minister, Attorney-General, or a relevant minister in appointments and decisions. Drawing on submissions from constitutional bodies and office holders - including the judiciary, the Electoral Commission, and the Fiji Elections Office - as well as civil society, professional associations, and accountability bodies, the Commission analysed the constitutional provisions governing the composition, resourcing, and interactions of the legislative, executive, and judicial branches of government. The separation of powers was also discussed more broadly in relation to the military and civilian leadership, a theme that featured prominently in public submissions. The Commission recommends rewording Section 131(2) of the 2013 Constitution to explicitly reaffirm the primacy of democratic civilian authority, clarify that the military's focus is on external defence, and require that any domestic assistance the military provides to civil power - such as during natural disasters or emergencies - be confirmed by Parliament.

7.2.3 Independent Commissions and Offices

Commissioners considered how the traditional separation of powers has been reshaped by a “fourth branch of government”⁴³ - responsible for decisions on civil service appointments, removals, and discipline - drawing on the evolution of Fiji's constitutions and resulting governance arrangements, as well as regional and international practice. This “fourth branch” comprises independent constitutional bodies and officeholders designed to insulate accountability roles (such as the Ombudsman, Auditor General, or DPP) and sensitive public offices (such as the police and military) from executive or political control. Such institutions are described sometimes as “electoral, integrity and regulatory institutions” or as “state institutions

⁴³ [Independent Regulatory and Oversight \(Fourth-Branch\) Institutions: International IDEA Constitution-Building Primer 19](#)

supporting constitutional democracy.”⁴⁴ In discerning the desired outcomes sought in people’s submissions, matters for the Commission’s consideration include Fiji’s governance institution landscape, the design, composition and resourcing of these institutions, and the level of detail required in the Constitution in order for them to operate effectively.

7.2.4 Constitutional Offices Commission (COC)

The Commission considered submissions relating to the COC and its role as an independent body overseeing the appointment, integrity, and accountability of constitutional office holders. Submitters criticised the COC’s current composition as politically compromised. Commissioners discussed alternative models of COC composition in light of Fiji’s previous constitutional arrangements and submitters’ recommendations. Under the 1997 model, appointees were nominated by the minister but required approval from the appropriate sector standing committee of the House of Representatives. The 2012 model (Ghai Commission draft) comprised a more diverse body: chaired alternately by the Human Rights Commission Chair and the Ombudsman, alongside the chairs of the Ethics and Electoral Commissions, and four public or civil society representatives (two men and two women) jointly selected by the Prime Minister and Leader of the Opposition. The Commission’s recommendations relating to the COC are intended to enable it to effectively appoint and oversee independent bodies and integral offices of the State, free from interference. The appointing body for the COC arrived at by the Commission included the Vice-Chancellor of the University of the South Pacific (USP), the Executive Director of the Fiji Council of Social Services (FCOSS), and the President of the Fiji Medical Association (FMA). A minority of commissioners suggested an alternative appointing body of: one nominee decided collectively by the three Vice-Chancellors of Fiji’s major universities (Fiji National University, University of Fiji, and USP), one nominee from the Executive Director of FCOSS, and one from the President of the Fiji Law Society (replacing the FMA). The Commission further recommends consolidating the currently scattered removal and disciplinary procedures in the present Constitution into a unified constitutional schedule, giving the COC and similar appointment bodies a standardised, non-subjective role in initiating performance and disciplinary procedures

⁴⁴Elliot Bulmer, *Independent Regulatory and Oversight (Fourth-Branch) Institutions: International IDEA Constitution-Building Primer 19*, International IDEA, 2019, www.idea.int/publications/catalogue/independent-regulatory-and-oversight-fourth-branch-institutions.

such as independent medical or behavioural tribunals for office holders. An important byproduct intended by this restructuring is that anyone reading the Constitution would be able to understand the unified requirements for appointment, composition, discipline, and removal across independent bodies - a clarity that can hopefully restore the much-eroded public trust in institutions supporting constitutional democracy in Fiji.

7.2.5 Unamendable Provisions - Immunity and Transitional

Submissions from both the military and the general public called for the removal of broad, unconditional immunity protecting past coup perpetrators, arguing that it runs contrary to the principle of equality before the law and is profoundly unfair to those who have served prison sentences for similar actions. Submitters described the immunity clauses as an ongoing, practical obstacle to justice and accountability. Chapter 10 provisions are exceptionally broad, protecting individuals irrevocably from any criminal, civil, or professional liability. The Republic of Fiji Military Forces (RFMF) - long acknowledged for its history of both abrogating and safeguarding Fiji's constitutions - called in its submission for "constitutional clarity" on its role, while affirming the supremacy of civilian authority. Their submission also proposed a constitutional "right to truth,"⁴⁵ based on UN principles for remedy and reparation,⁴⁶ and for immunity to be premised on truth-telling.

The Commission discussed the legal and political complexities of removing immunity protections and dedicated significant deliberation and analysis to various pathways and their implications. On the question of legality and the Commission's mandate, its Terms of Reference include investigating and reporting on aspects of "good governance" and "the observance and maintenance of the rule of law."⁴⁷ The Supreme Court, for its part, determined that retrospectively removing immunity would affect stability by exposing the government to constitutional and legal challenges. An important distinction that emerged on close consideration

⁴⁵United Nations, *Resolution adopted by the General Assembly, 68/165 Right to Truth*, 21 Jan. 2014, docs.un.org/en/A/RES/68/165.

⁴⁶United Nations, *Resolution adopted by the General Assembly, 60/147 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 16 Dec. 2005, www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation.

⁴⁷Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

of the submission made by the Republic of the Fiji Military Forces, is that between unconditional and conditional immunity, supporting progress on justice and accountability provided immunity recipients are required to divulge the truth⁴⁸ about what transpired and who was responsible. In the Supreme Court's Advisory Opinion, "unamendable immunities may be - as they probably were in 2012 and 2013 - preconditions to a peaceful transition from military government to democracy. In this way they can be seen to promote democratic values."⁴⁹ While the Supreme Court elaborated "that unamendable immunities have now been a feature of Fiji's constitutional history for the last 35 years and are not inconsistent with international practice,"⁵⁰ the Commission has heard in submissions that unamendable immunities, as they are enshrined in Chapter 10, are no longer politically acceptable.

There was universal support in submissions for the deletion of the 2013 Constitution immunity provisions in Chapter 10, but relatively little attention was paid to transitional provisions in Chapter 12 Part D. A few submissions did raise concerns about provisions protecting promulgations and decrees from challenge for inconsistency with the Constitution, including human rights breaches - these provisions have continuing direct and indirect impacts. It is the Commission's understanding that the Supreme Court Advisory Opinion⁵¹ was primarily focused on the question put to the Court by the Government, hence the focus on the majorities required for Parliament and referendum voting and the limited attention to the protection from amendment of Chapter 10 and Chapter 12 Part D. While there was some discussion of the reasons why the Immunity Chapter should not be amendable, almost nothing was mentioned about Chapter 12 Part D being unamendable. Taken at face value, Chapter 10 and Chapter 12 Part D must be retained without any change in any future constitution, according to the Supreme Court's "binding" Advisory Opinion. That extends to a democratic decision to repeal and replace

⁴⁸United Nations, *Resolution adopted by the General Assembly, 68/165 Right to Truth*, 21 Jan. 2014, docs.un.org/en/A/RES/68/165.

⁴⁹Supreme Court of Fiji, *Miscellaneous Case No 1 of 2025 (Constitution Reference Opinion)*, Supreme Court SC Misc 1, 2025, 29 Aug. 2025, judiciary.gov.fj/wp-content/uploads/2025/09/29.08.25-SC-Misc-1.2025-Constitution-Reference-Opinion.pdf.

⁵⁰Supreme Court of Fiji, *Miscellaneous Case No 1 of 2025 (Constitution Reference Opinion)*, Supreme Court SC Misc 1, 2025, 29 Aug. 2025, judiciary.gov.fj/wp-content/uploads/2025/09/29.08.25-SC-Misc-1.2025-Constitution-Reference-Opinion.pdf.

⁵¹Supreme Court of Fiji, *Miscellaneous Case No 1 of 2025 (Constitution Reference Opinion)*, Supreme Court SC Misc 1, 2025, 29 Aug. 2025, judiciary.gov.fj/wp-content/uploads/2025/09/29.08.25-SC-Misc-1.2025-Constitution-Reference-Opinion.pdf.

the current or any future Fiji Constitution. In the Commission's reading of it, there is no indication in the Supreme Court's reasons for its decision that Section 159 and its entrenchment was adequately taken into account. The Commission has nevertheless decided to follow the overwhelming view expressed in its consultations, and makes a series of recommendations for consideration as part of the democratic process. The first recommendation holds, regardless of whether or not Parliament decides to repeal Chapter 10.

7.2.5.1 Recommendation 1: Future Immunities (Chapter 1)

In relation to prohibiting future immunities, which submissions also mentioned, the Commission recommends, informed by the Ghai Commission draft, including in Chapter 1, Section 2 of the 2013 Constitution a provision for constitutional supremacy that no immunities can lawfully be granted under any law to any person in respect of actions taken or omitted in furtherance of any attempt to establish a government other than in compliance with the Constitution, deeming any such attempt unlawful.

Three alternative recommendations are outlined below:

1. Recommendation 2A, relating to repealing Chapter 10 and Chapter 12 Part D by repealing Section 159.
2. Recommendation 2B, a Supreme Court pathway relating to repealing Chapter 10 and Chapter 12 Part D by repealing Section 159.
3. Recommendation 2C, in the event neither of the above are successful, a harm reduction approach as the third recommendation.

7.2.5.2 Recommendation 2A: Repeal Chapter 10 and Chapter 12 Part D

The Commission's primary recommendation is the repealing of Chapter 10 and Chapter 12 Part D by repealing Section 159. This recommendation recognises it will be a matter for the Government and the Parliament whether to entertain such an amendment in light of the Supreme Court's ruling. The Commission recommends this with great consideration, in abiding by its mandate to inquire into and report on matters including the rule of law. The provisions in question hold serious constitutional and practical implications. Commissioners put forward this recommendation to give effect to the concerns about unamendable immunity provisions

expressed by the people of Fiji in relation to the rule of law and the principle of equality under the law. In light of this, the Commission maintains that its recommendations are not intended to respond to lawlessness with more lawlessness. The Commission recognises that in light of the Supreme Court decision, the Government may hold reservations to such amendments.

7.2.5.3 Recommendation 2B: The Supreme Court Pathway to Repeal Chapter 10 and Chapter 12 Part D

Another avenue the Commission recommends to seek in relation to repealing Chapter 10 and Chapter 12 Part D would be another reference by the Government to the Supreme Court, requesting that the Court revisit its determination about the validity of Section 159, on the basis that: the conclusion that the prohibition on “ever” amending them was not adequately considered by the Court, nor of the implications for future generations of Fiji if the precise current wording of the Chapter 10 and Chapter 12 Part D provisions are to remain into the future. In relation to the protection of Section 173 protecting promulgations and decrees from constitutional challenge, this was only cursorily touched upon in the Court’s decision and the implications of such a permanent prohibition need proper evaluation. The Commission accepts that it is by no means certain that the Government would accept advice to seek another Supreme Court determination, or that such an approach to the Court would necessarily succeed. In light of the possibility that the oncoming democratic process results in not deleting the immunities and preservations provisions, the Commission makes recommendations to minimise the issues arising, if the said provisions remain in place, for other ‘harm reduction’ measures as follows.

7.2.5.4 Recommendation 2C: Harm Reduction Approach (Chapter 10)

If both above recommendations are unsuccessful, to reduce the harmful impacts of Chapter 10, the Commission recommends additional constitutional provisions in relation to the operation of the current immunities. The Ghai Commission draft proposed that immunity beneficiaries swear an *Oath of Reconciliation and Allegiance* (Part C Schedule 3), renouncing past actions and submitting themselves to democracy and the rule of law.

The Commission has made its recommendations with the utmost effort to consider all implications, and put forward pathways for furthering the rule of law.

7.2.6 Fiji Independent Commission Against Corruption (FICAC)

The Commission discussed the FICAC as an institution established in 2007, and recognised in the 2013 Constitution, considering it in the context of delineating between institutional functions and structural independence. Submissions pointed to compromised independence, overlap with pre-existing roles eliminated under the 2013 Constitution (such as the Ombudsman), vulnerability to weaponisation, and the resulting confusion and erosion of public trust. The Commission considered the implications of reporting and accountability structures that tie FICAC to the Attorney-General, and contemplated the broader ecosystem of independent anti-corruption and accountability bodies in Fiji and comparable regional and global contexts. Commissioners recommend separating powers of investigation and prosecution, requiring that independent anti-corruption bodies must not hold prosecutorial powers, and that, to preserve the rule of law and prevent abuse, the authority to prosecute must remain exclusively with the DPP. Under this approach, Commissioners discussed State-related maladministration and corruption may be investigated by the Ombudsman, and, as submissions have reflected, non-State maladministration and corruption by FICAC. Prosecutorial powers would rest solely with the DPP. The Commission further recommends that the FICAC Commissioner be appointed by the Judicial Service Commission, in keeping with broader recommendations to remove consultation with the Attorney-General.

7.3 Recommendations

- Prohibit future immunities by including in Chapter 1, Section 2 of the 2013 Constitution a provision for constitutional supremacy that no immunities can lawfully be granted under any law to any person in respect of actions taken or omitted in furtherance of any attempt to establish a government other than in compliance with the Constitution, deeming any such attempt unlawful.
- Repeal current immunities (Chapter 10), recognising it will be a matter for the Government and the Parliament whether to entertain such an amendment in light of the Supreme Court's ruling.
- Supreme Court pathway to repeal current immunities

- If repealing and Supreme Court unsuccessful, and Chapter 10 and Chapter 12 Part D are retained, introduce an adapted *Oath of Reconciliation and Allegiance* drawing on the Ghai Commission draft to reduce the harm of Chapter 10 immunity provisions and the continued prominence of immunity beneficiaries in Fiji's political life.
- Amend Section 131 provisions to affirm the primacy of civilian authority over the military, with a constitutional focus on external defence, with any military assistance to civil power (such as during natural disasters or emergencies) made subject to written law and Parliament.
- Restructure the JSC (Section 104) and COC (Chapter 6 Part C) via compositions and appointments to strengthen independence of "fourth branch" umbrella bodies, insulating them from political interference and enabling their effective operation.
- Standardise appointment, composition, and removal procedures for independent commissions and constitutional offices by consolidating procedures into unified constitutional schedules on initiating medical or behavioural tribunals.
- Remove political interference via removal or clarity in the role of the Attorney-General, Prime Minister, and political officeholders.
- Restructure JSC membership (Chapter 5 Part A) with the Permanent Secretary for Justice replaced by the Chair of the Public Service Commission (PSC) or the Ombudsman, or alternatively, for the Permanent Secretary to be assigned non-voting status.
- Simplify Section 104 to state only core JSC functions, with procedural details in a separate Act or constitutional schedule.
- Introduce a standalone principle for a right to remedy and truth in the Bill of Rights, incorporating submissions calling for truth-telling regarding past coup-related events to further the rule of law.
- Separate FICAC investigative and prosecutorial powers in Section 115, specifying that it must hold only investigatorial powers.
- Centralise prosecutorial powers, with the authority to prosecute remaining exclusively with the DPP in Section 117.
- Supplementarily, consider distinguishing investigative functions by assigning State-related corruption and maladministration to the Ombudsman (to be re-introduced in recommended provisions), with non-State matters investigated by FICAC.

Chapter 8: The Legislature

8.1 What People Told Us

- Replace the single national constituency system with constituency-based models, including open or multiple constituencies.
- Return the Senate to the legislative process to review legislation and safeguard Indigenous Fijian interests.
- Incorporate constitutional conditions that disallow former coup perpetrators as candidates for election to Parliament.
- Return to the first-past-the-post voting method.
- Limit the number of political parties and parliamentarians.
- Enable more diverse representation in age, gender, and ethnicity in Parliament - through multiple constituencies and methods including Reserved Seats for Women.
- Address the number of ministerial portfolios and the cost to taxpayers of maintaining these.
- Some submitters felt parliamentary candidates must hold only Fijian citizenship and relinquish any secondary/other citizenship, while others accept dual citizenship as a reality that shouldn't hinder service-oriented people from contesting elections.
- Reserve parliamentary seats for Indigenous members, including designated seats for youth and women.

"We believe that for a small country like Fiji, having too many political parties contesting elections may create unnecessary division and confusion among voters. For example, countries such as the United States mainly operate with two major political parties, which many people believe allows for clearer governance and stronger opposition. Therefore, we respectfully request that the Government review the electoral laws and consider limiting or reducing the number of parties contesting elections in Fiji, possibly allowing only a smaller number of major parties to participate. We believe this could contribute to more stable governance, clearer policies, and stronger leadership for the country." - Submitter, Vanua Balavu, Lau

"Members of Parliament who represent youth are not themselves youths - they are older people who will not give true representation of the aspirations of the youth that are there. So that is why representatives of youth should be youths themselves, and there should be one representative

*from each constituency in Parliament. And also one representative for women." - Submitter,
Bua, Vanua Levu*

8.2 The Commission's Approach

8.2.1 Legislative Authority

The Commission's deliberations focused primarily on transitioning Fiji's legislative authority from the unicameral house of the 2013 Constitution to a bicameral system. Commissioners were adamant that this should not simply be a reversion, but rather an adaptation informed by lessons from the previous bicameral arrangement and reflecting Fiji's changing societal context. Reinstating the Senate as a "house of review" was broadly supported by submissions as a second chamber and a vital check against the rushed, unilateral passage of laws - a major grievance under the 2013 framework, where Standing Order 51 was frequently used to fast-track bills, criticised as lacking in robust debate or scrutiny.⁵² The Commission recommends amendments to vest legislative authority in a Parliament consisting of the House of Representatives and the Senate. From hereon, the use of the word Parliament refers to the current Parliament as constituted under the 2013 Constitution.

The notion that strengthening bipartisan standing committees of the Parliament could also do the task for the reason for recommendation of a Senate was considered by the Commission. For example, the role of standing committees in gathering public inputs and contributing to public debate, usually on a unanimous bipartisan basis, has been widely recognised. Moreover, the current provisions in the Standing Orders of the Parliament of Fiji allow amending a Bill and, where amendments have been made, its report to Parliament shall include an amended version of the Bill for tabling in Parliament for further deliberation. However, the majority view in the Commission was that this role would be more effectively carried out by a Senate for two reasons. Firstly, in the current unicameral system there is a possibility that not all Bills may go through

⁵²Repeka Nasiko, "Standing Order 51 Misuse Claim," *The Fiji Times*, 3 Apr. 2019, www.fijitimes.com.fj/standing-order-51-misuse-claim/.

standing committees. Secondly, a unicameral Parliament may lack the political appetite and expertise to carry out an effective 'second' review of Bills.

In addition, and to curtail executive overreach, commissioners discussed placing constitutional limits on Standing Order 51, with proposals including capping the number of bills the government can introduce under these standing orders at three per parliamentary year, restricting their use to genuine natural disasters or state emergencies. Ultimately, the Commission recommended limiting bills to one general topic per the Ghai Commission draft.

8.2.2 Composition of Parliament

In light of submissions, the Commission agreed to recommend that the 2013 Constitution's framework on Parliament and its composition be replaced, as it was written for a unicameral system and a specific electoral system (a single national constituency and d'Hondt method for allocating seats). The Commission's recommendations consolidate around electoral system reform and a bicameral legislature. Paying regard to the Electoral Law Reform Commission's report, the Commission recommends major amendments and introducing a Mixed Member Proportional (MMP) electoral system: a hybrid model featuring constituency-based (first-past-the-post) and proportional party-list seats, enabling both local accountability and national proportionality. An ideal option would be to fix the ratio of electorate seats to list seats at around 60 to 40. This ratio would help maintain the diversity of representation and proportionality in the House of Representatives obtained through the list seats. Given the size of the recommended number of seats in the bicameral House of Representatives and the need to deliver effective parliaments and stable governments, the party vote threshold for the allocation of list seats should be kept at 5%.

Commissioners further expressed support for the mechanisms recommended in the Electoral Law Reform Commission's report to enable representation of the country's age, gender, ethnic, geographic, and cultural diversity in the House of Representatives (such as maritime constituencies and Reserved Seats for Women). Acknowledging public concerns about the cost of a bicameral system, the Commission recommends a smaller House of Representatives. The recommended composition is a 60-seat legislature consisting of 41 members in the House of Representatives and 19 members in the Senate.

Recognising the possibility of political polarisation of the Senate, an increasing reality in the global context, Commissioners deliberated on recommendations to strengthen transparency and independence in the Senate appointment process, which should be based on a record of service, expertise and merit. The Senate should consist of members with the ability to discuss and review bills in a non-partisan manner. The Commission strongly proposes arrangements to ensure minimising the possibility of political appointments in the Senate and requiring senators to be non-partisan and respected individuals drawn from across our society, including women and youth (see Chapter 8, 8.4 of this report). The Commission also recommends amendments to establish an independent Constituency Boundaries Commission, tasked with making any necessary boundary changes after every census (aiming for standard populations of approximately 30,000 voters per seat), dismantling the single national constituency and d'Hondt model.

8.2.3 Institutions and Offices

The Commission's discussions on institutions and offices related to the composition of Parliament aimed at insulating parliamentary offices from political interference, cutting down on administrative bloat, and ensuring transparent corporate governance, as raised in public submissions relating to Parliament and the legislative branch of government.

On the Electoral Commission and Supervisor of Elections, drawing on regional precedents and public submissions - including that of the Electoral Commission and Fiji Elections Office - the Commission recommends amendments merging the Supervisor of Elections and the Electoral Commission into a single structure. The Supervisor of Elections would serve as Chief Executive of the elections office, reporting to a 5-member Electoral Commission as an ex-officio, non-voting member. This corporate governance structure would help ensure the Supervisor of Elections operates in alignment with Electoral Commission directives. To address the concerns relating to the Fiji Elections Office,⁵³ the combined Electoral Commission - rather than the Supervisor of Elections acting as sole registrar - would hold the authority to register, suspend, or deregister political parties, with registry and polling functions kept separate. Reflecting

⁵³Dhanjay Deo, "AG and 5 Political Parties Clash over Saneem's Post and Elections Portfolio Assigned to Sayed-Khaiyum," *FijiVillage*, 18 Feb. 2017, fijivillage.com/news-feature/AG-and-5-Political-Parties-clash-over-Saneems-post-and-elections-portfolio-assigned-to-SayedKhaiyum-92krs5/.

submissions and drawing on the Electoral Law Reform Commission's report, the Commission also recommends amendments to introduce a caretaker government, enhance predictability of election dates by clarifying a timeline for dissolution of Parliament, and restrict major electoral law changes 9 months before the end of a Parliament term. Predictability in the term of Parliament was discussed as part of strengthening electoral integrity - ensuring Parliament's timely dissolution, linking to the calling of the writ for elections and the establishment of caretaker government arrangements.

The Commission also discussed the roles of Speaker and Deputy Speaker, as well as those of a re-introduced Senate President and Vice-President. Reaffirming the traditional, independent role of the Speaker, Commissioners recommend amendments to effect that the Speaker act as President in the President's absence, as under the 1997 Constitution. Under the recommended bicameral layout, a separate recommended section establishes a President and Vice-President of the Senate, elected from within its members.

The Commission addressed procedures for selecting the Leader of the Opposition, recommending amendments to encourage non-government MPs to reach a settlement without imposing an expensive election on the public - a principle that applies equally to the selection of the Prime Minister, addressed separately in Chapter 8 of this report on the executive branch of government.

Turning to the Secretary-General to Parliament, Commissioners deemed the 2013 Constitution overly prescriptive on this role. The Commission recommends deleting the detailed administrative subsections on salaries, and assigning it to the independent Salaries and Benefits Commission. Commissioners also recommend reinstating the 1997 Constitution standard, whereby the Secretary-General to Parliament is appointed by the COC in consultation with the Speaker. Further amendments are recommended for the selection of secretaries-general to Parliament and the Senate, in line with a bicameral legislature.

Public submissions reflected concern that recent salary increases by the Government have exacerbated citizens' worries about the excessive taxpayer cost of parliamentary and ministerial salaries in the current 55-member Parliament - a concern that lies in tension with people's desire for constituency-based local representation, given that the equivalent arrangement under the

1997 Constitution involved a larger membership (71 in Parliament and 32 in the Senate). In discussing remuneration and emoluments under the 2013 Constitution, Commissioners recommend replacing the Parliamentary Emoluments Committee with a single, independent Salaries and Benefits Commission. This Salaries and Benefits Commission - comprising actuarial and accounting experts alongside civil society members - would be chaired by the Chair of the PSC and make use of the PSC as a secretariat. Its mandate would be to set independent pay scales for State office holders (the President, Prime Minister, Members of Parliament, judges, permanent secretaries) to ensure consistency.

On the languages of Parliament, and reflecting public submissions calling for recognition of indigenous languages, the Commission recommends acknowledging English, iTaukei, Rotuman and Hindi, and sign language as official languages for conducting parliamentary business, ensuring that representatives can debate in their mother tongue. While not all languages may be used substantially in parliamentary discourse, they are recognised in the spirit of language preservation, particularly for indigenous languages. The Commission further recommends amendments encouraging the publication of legislative acts in these languages, with the English version prevailing in cases of conflict.

8.2.4 Local Government

Submissions across rural and urban contexts raised matters of community development, especially relating to the recognition, realisation, and justiciability of socioeconomic rights. For this reason, the Commission recommends a separate constitutional chapter on Local Government. This complements the Commission's recommendation for socioeconomic rights to be outlined in a separate Part of the Bill of Rights (see Chapter 6, 6.2.3 of this report). As people sought access to better transport, water and sanitation, and other services in their submissions, the Commission has considered this in light of current municipal governance challenges⁵⁴ and the significant time that has passed since local government elections were held. Recognising many matters are policy and implementation-related, the Commission recommends a

⁵⁴ Anish Chand, "Auditor-General Flags Governance Failures across Municipal Councils," *Fiji Times*, 27 Aug. 2026, <https://www.fijitimes.com.fj/auditor-general-flags-governance-failures-across-municipal-councils/>.

constitutional chapter on local government - outlining its structures, responsibilities, accountability to local communities, and co-operation with the national government.

8.3 Recommendations

The Commission puts forward the following in relation to Chapter 3 of the 2013 Constitution:

- Vest legislative authority in a bicameral Parliament comprising the House of Representatives and the Senate.
- Replace the 2013 Constitution's Parliament framework, which was designed for a unicameral system and the single national constituency.
- Introduce an MMP electoral system, combining 26 constituency-based (first-past-the-post) seats and 15 proportional party-list seats. Under this proposal, the ratio of electorate seats to list seats is 63:37.
- Introduce provisions for a caretaker government, enhance predictability of election dates by specifying the term of Parliament, and restrict major electoral law changes 9 months before the end of a Parliament term.
- Establish a smaller 60-seat Parliament: 41 members in the House of Representatives and 19 in the Senate.
- Minimise partisan appointment of Senate seats by: (1) reducing political appointments (nominees from the PM and Opposition Leader, including the BLV), and (2) requiring appointees to be non-partisan, respected individuals from across Fiji society, reflecting the country's diversity, including women and youth.
- Establish an independent Constituency Boundaries Commission to consider the need to redraw boundaries after every census.
- Merge the Supervisor of Elections and the Electoral Commission (Sections 75 and 76) into a single structure, with the Supervisor serving as CEO reporting to a 5-member Electoral Commission (ex officio, non-voting).
- Give the combined Electoral Commission (not the Supervisor alone) authority to register, suspend, or deregister political parties, keeping registry and polling functions separate.
- Reaffirm the Speaker's role, with the Speaker acting as President in the President's absence (as under the 1997 Constitution).
- Establish a President and Vice-President of the Senate, elected from within its members.

- Amend procedures for selecting the Leader of the Opposition (and, separately, the Prime Minister) to encourage internal settlement, minimising the triggering of costly elections.
- Simplify provisions on the Secretary-General to Parliament, by (1) moving administrative details on salaries/funding to ordinary legislation or Standing Orders, and (2) reinstating the appointment by the COC in consultation with the Speaker.
- Amend selection procedures for secretaries to Parliament and the Senate, reflecting the bicameral structure.
- Replace the Parliamentary Emoluments Committee with an independent Salaries and Benefits Commission: (1) chaired by the Chair of the PSC, using the PSC as secretariat, (2) comprising accounting/economist experts and civil society members, and (3) mandated to set independent pay scales for all public office holders.
- Recognise English, iTaukei, Rotuman, Hindi, and sign language as official languages of Parliament, and promote publication of legislative acts in these languages, with English prevailing in cases of conflict.
- Include a separate constitutional chapter on Local Government, outlining its structures, responsibilities, accountability to local communities, and cooperation with the national government.
- Supplementarily, the Commission supports mechanisms from the Electoral Law Reform Commission's report to ensure diverse representation (e.g. maritime constituencies, Reserved Seats for Women).
- Furthermore, Parliament may wish to consider placing constitutional limits on Standing Order 51, including: (1) capping urgent bills at three per parliamentary year, (2) restricting their use to genuine natural disasters or state emergencies, and (3) requiring formal review of key bills by bipartisan Sector Standing Committees.

8.4 Alternative Views

Recognising the majority view as the basis of final recommendations after the Commission's deliberations, a minority of Commissioners have provided alternative views with the intention of enriching democratic debate on the matter of the legislature.

"...When we look at the challenges we face today, the Great Council of Chiefs believes that we

are simply reaping what we sow. We have taken our eyes off the ball in governing... the number of women represented in the decision-making process is very minimal. Fiji currently sits at 165 out of 181, the lowest number of women represented in Parliament. Women tend to focus on social issues better - education, health, welfare, families - while men tend to focus, in Parliament and in government, on the economy, development, et cetera... so it's little wonder we're facing social challenges today... We are recommending a 40% representation of women in government and in municipal elections." - **Representative, Bose Levu Vakaturaga, Suva**

"...We've got some voices... usually from men... saying, 'Oh, why is it that women get to spare any extra special effort? Let them go and compete, you know, equal on the level playing field with us.' If they're any good... Not every woman candidate in Fiji is in that fortunate position. They can't go around campaigning. You look at the violence against women in the country... the safety concerns... There are urgent economic reasons to strengthen women politically in Parliament... Women have extremely small shares of total wealth, total income, paid formal employment, and even leisure, while doing more than 54% of all work in Fiji, paid and unpaid." - **Retired Economist and Statistician, Suva (Virtual)**

8.4.1 Gender Parity

The Commission's Terms of Reference include the "voting method to be adopted in respect of electing representatives to Parliament" and the "composition of and representational arrangements in Parliament."⁵⁵ Submitters were adamant that the electoral system be changed, and their submissions also pointed to the need for *representative government* - a principle of democratic constitutionalism the Commission has included in its expanded definition of the "democratic deficit" in the 2013 Constitution. The underrepresentation of women in consultations was notable (see Chapter 4, 4.2, and Table 1 of this report), a dimension the Electoral Law Reform Commission also raised from their own community engagement. Submitters called for leaders who reflect the country's age, ethnicity and gender diversity, free from participation in coups, and reflecting the nation's aspirational values and principles.

Gender equity remains a persistent challenge in Fiji, where women's representation in Parliament peaked at a mere 20%⁵⁶ in 2018 and has fallen since. At many consultations, women were present in small numbers, with male participants dominating the conversation. For the

⁵⁵Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

⁵⁶PACWIP, "PACWIP Country Statistics," *PACWIP Fiji*, n.d., www.pacwip.org/fiji/.

commissioners, this illustrated the hurdles women face simply in contributing to decision-making, let alone standing as candidates for elected office. High rates of violence against women and girls,⁵⁷ the normalisation of violence against women, particularly against young males,⁵⁸ combined with women's relatively small share of wealth, income, employment and leisure, mean women in Fiji enter the political arena at a significant disadvantage.

Many organisations and individual submitters called for gender equity as part of broader leadership diversity and better outcomes for citizens. The Commission heard from the Electoral Law Reform Commission on its proposal for Reserved Seats for Women, and from the BLV on the urgent need for women's representation in decision-making bodies, particularly Parliament and local government. Both submissions grounded their case in strong economic and social imperatives, affirming that higher female political participation is linked to more stable economic growth and more inclusive social outcomes for all.⁵⁹ Beyond their own merits and leadership qualities, commissioners note women are active agents of peace, playing integral roles in post-conflict reconciliation and crisis recovery.⁶⁰

Regarding gender equity as vital both to addressing the "democratic deficit" and to the principle of *representative government*, the commissioners recommend provisions in the Constitution's section on the Composition of the House of Representatives (Parliament), calling on the State to address the historic underrepresentation of women in Parliament and tasking Parliament with legislating affirmative measures to ensure equitable representation of women in elected office. The Commission's collective recommendations on party lists and alternating between female and male candidates are welcome; however, they apply only to party list seats - falling far short of what the moment demands for better, more representative decision-making for the people of Fiji. History also shows that decisive mandates deliver results where norm-reliant general measures do not (or are vulnerable to erosion); intentional constitutional intervention is better placed to

⁵⁷Violence against Women and Girls Demand Our Attention," 2023, www.mwcsp.gov.fj/2024/08/20/we-are-here-today-because-the-statistics-on-violence-against-women-and-girls-demand-our-attention-hon-tabuya/.

⁵⁸Rakesh Kumar, "Survey Findings Alarming," *Fiji Times*, 9 May 2026, <https://www.fijitimes.com.fj/survey-findings-alarming/>.

⁵⁹World Economic Forum, "Equity, Diversity and Inclusion: When Women Lead, Economies Leap: Gender Parity Lessons from around the World," *World Economic Forum*, 23 July 2025, www.weforum.org/stories/equity-diversity-and-inclusion/women-economies-progressing-gender-parity/.

⁶⁰Pua Hunter, "A Pacific Reflection on Women, Peace and Security," *The Strategist*, www.aspistrategist.org.au/a-pacific-reflection-on-women-peace-and-security/.

strengthen women's representation. Fiji's social and economic circumstances demand it if the country is to close its inequity gaps and enable better outcomes for all citizens.

8.4.2 Alternative Recommendations

- Incorporate into the Section on the Composition of the House of Representatives (Parliament), provisions that state:
 - *The State shall take affirmative measures to address the historical and continuing under-representation of women in Parliament.*
 - *Parliament shall enact legislation to provide for measures to ensure the effective and equitable representation of women in Parliament.*
 - *Such measures may include reserved seats, electoral quotas, political party quotas or other mechanisms designed to achieve gender-balanced representation.*

Chapter 9: The Executive

9.1 What People Told Us

- The positions of President, Prime Minister, and Attorney-General to be held only by Indigenous individuals, while others called for the opportunity to elect the President as a representative of all peoples of Fiji.
- Distribute executive power from the Prime Minister and Attorney-General to other members of the Cabinet or leave decisions to independent commissions or offices.
- Introduce term limits and retirement ages for the Prime Minister, President, and parliamentarians more broadly.
- Clarify roles, qualifications (including no participation in coups), and non-interference of the executive branch in decisions relating to appointments, disciplinary measures, and dismissals, particularly in relation to constitutional and independent offices.
- Recommend that political figures, including the executive branch, adhere to a Code of Conduct to minimise public division and emphasise social harmony.
- Select the Attorney-General only from among elected members of Parliament.

- That government decisions be made collectively to focus on nation-building and national unity rather than political differences.

"[Chapter 4 of the 2013 Constitution] can be strengthened by amending section 82 to make it clearer that the President is a ceremonial role and that the President cannot act of his or her own accord. The President only acts on advice." - Lawyer, Suva

"Current provisions in the 2013 Constitution demonstrate that the role of the Attorney General is far-reaching. And just to give a very basic example, the Constitution of India, which is a very progressive constitution, a very voluminous document in fact, mentions the Attorney General no more than a dozen times. Ours does so approximately 70 times. And that itself is a demonstration of how pervasive the powers are, and how centralised they are. And that is the opposite of what democracy demands. Limiting powers is about protecting democracy." - Women's Rights Group Representative, Suva

9.2 The Commission's Approach

Reflecting on the desired outcomes expressed in people's submissions, the Commission's deliberations on the executive branch of government focused on the concentration of executive power, check-and-balance systems, and ethical standards for State officials. Considering pre-existing structures and mechanisms, international practice, and feasibility for Fiji's context, commissioners discussed appointment, authority and discretionary powers in executive roles outlined in the 2013 Constitution - namely, that of the President, the Prime Minister, and the Attorney-General, amongst others. While these are discussed below, commissioners wish to reflect that the recommendations are not just aimed at roles but also at creating an enabling environment to uphold the rule of law and separation of powers.

9.2.1 The President

Submissions conveyed the great hopes that people of Fiji hold for the role of the President, seeing the role as a uniting and aspirational position that can move the country forward together. Commissioners were heartened to hear a spectrum of views from people of all backgrounds and generations, and our recommendations are geared towards providing a frame for these aspirations. The Commission suggests a seven-person Presidential Appointment Commission - including cultural, religious, and government representatives - to nominate the President, in a

pluralistic, democratic process. The Presidential Appointment Commission would comprise three representatives of the BLV (potentially one from each confederacy), the Prime Minister, the Leader of Opposition, one representative from the Fiji Council of Churches, and one from non-Christian faiths. Commissioners recommend amendments for clarity in the President's reserve powers to act "in accordance with" the advice of Cabinet, a Minister or a constitutionally prescribed body or authority, to aid in transparency and accountability of decision-making, particularly in stalemates or impasses that may occur in times of crisis or transitions of power. Additionally, the Commission recommends amendments to ensure predictability of the Term of Parliament, in line with submissions from electoral bodies and experts. Submissions were also clear in their desire for a presidency that reflects the highest aspirations of all peoples of Fiji, and this is demonstrated in the Commission's recommendations for qualifications for the office of the President - that nominees must have attributes that reflect a record of service, political neutrality and, recognising that submitters had called for candidates with no history of coup participation. As mentioned earlier, the Commission recommends reinstating the 1997 model for Acting President, in which the Speaker of the House acts in the President's absence instead of the Chief Justice.

9.2.2 The Prime Minister and Cabinet

Beyond the appointment of and powers and responsibilities assigned to the Prime Minister in the Constitution, the Commission deliberated on transitional aspects of the Prime Minister and Cabinet as the executive branch. Submissions called for stability in periods preceding elections and the transition of power, and the Commission recommends provisions for a caretaker government model, in which the Prime Minister and Cabinet operate in a caretaker capacity, without making major public appointments or approving significant spending in the lead-up to elections. As mentioned, the Prime Minister's role in independent commissions and their consultation relating to appointments has been minimised in the Commission's recommendations, with the intent of supporting the separation of powers. Submitters were also adamant that while they seek greater local representation through multiple constituencies, they are also conscious of the costs of a large parliament. The Commission carefully considered how to prevent short-term grievances from shaping long-term outcomes. Its recommendations are aimed at reflecting submissions seeking a stronger parliamentary democracy through a

representative Parliament (House of Representatives) and a Senate (Upper House).

Commissioners have recommended restricting Cabinet to a maximum of 15 members (including the Prime Minister), while ensuring that local representation is supported more broadly in Parliament by an independent Constituency Boundaries Commission.

9.2.3 Attorney-General

The role of the Attorney-General featured prominently in submissions. The Commission considered the Attorney-General's status as a minister and "chief legal adviser" to the Government in the 1997 and 2013 constitutions. With the recommended transition to a bicameral legislature, commissioners also made recommendations on the terms of the Attorney-General's appointment and engagement with a proposed Upper (Senate) and Lower (Parliament) House. To support and clarify legal advice to State organs, the Commission recommends vesting the role of providing "independent legal advice" to Government and to public office holders in the Solicitor General, while the Attorney-General remains the minister responsible for legal policy and legislative direction. The Commission has drawn from global examples starting with the United Kingdom whose governance systems Fiji inherited, and considered recent experience with appointments in these roles. Chapter 10 of this report (The Judiciary) discusses the role of the Solicitor-General in more detail.

9.2.4 Code of Conduct, Ethical Standards and Accountability

Submitters were adamant about the need for a transparent and consistent Code of Conduct for State officials, with people expressing dismay at the protracted public crises stemming from instances of unclear appointments, dismissals and disciplinary measures. While a Code of Conduct is mentioned in the 2013 Constitution applying to public, State, and constitutional offices, this is to be prescribed by a written law recently reviewed by the Fiji Law Reform Commission, yet to be enacted. The Commission has drawn from the Ghai Commission draft to recommend a Code of Conduct directly in the Constitution as a schedule. The proposed Code of Conduct would apply to all offices of the State, including the President, Prime Minister, MPs, and judges, with responsibility for the Code's independent enforcement lying with the Ombudsman. The Commission also recommends a unified constitutional schedule for disciplinary and dismissal procedures for officers of the State, including conditions for automatic

removal. These inclusions and restructuring of codes of conduct that clarify ethical and professional standards, as well as processes and conditions for discipline and dismissal, are recommended with the intent to make standards consistent, transparent, and accessible to readers of the amended constitution. The constitutional Code of Conduct is not intended to conflict with existing codes of conduct in the public service at large, and while pleased that the Code of Conduct Bill has been reviewed, the lack of momentum in thirteen years has demonstrated it might not be a priority governments are incentivised to address, and there is a reasonable precedent exemplified in the Ghai Commission draft. The Commission hopes that doing so would provide a foundation for restoring public trust in State offices and institutions.

9.2.5 Term Limits and Retirement Age

In considering public submissions for clarifying or imposing new term limits and retirement ages in the constitution, the Commission was careful to learn from history, with full recognition of people's desire for greater representation of Fiji's demographic in the executive branch and public service. In commissioners' view, Fiji's experiences with the arbitrary lowering of the public service retirement age delivered mixed results, and commissioners opted to remain flexible by prioritising uniformity (with the recommendation to amend the retirement age of judges, for example) while allowing ordinary legislation to determine retirement age across the public service. Term limits were prioritised by the Commission recommendations relating to the Prime Minister (to be introduced, for two four-year terms) and President (to be retained at two three-year terms). It is not lost on the Commission that people wish to see peaceful and predictable transitions of executive power, for younger, newer perspectives, and for Fiji's aspirations to be reflected in the expression of that power.

9.3 Recommendations

The Commission puts forward the following in relation to Chapters 3 and 4 of the 2013 Constitution:

- Constitutionally establishing a seven-member Presidential Appointment Commission to appoint the President, comprising the Prime Minister, Leader of Opposition, three representatives from the BLV, one representative of the Fiji Council of Churches, and one from interfaith religions.

- Clearly define the President's reserve powers, with particular regard to acting "in accordance with" the advice of Cabinet, a Minister or a constitutionally prescribed body or authority.
- Presidential nominees are to have no criminal convictions carrying a penalty of over 12 months, and be free of political party office or candidacy for at least 8 years (two parliamentary terms).
- If the President is absent or the office is vacant, the Speaker of Parliament is to serve as Acting President.
- Two-term limits for the President (three years per term) and the Prime Minister (four years per term).
- The Cabinet is to comprise 15 members in total, including the Prime Minister and up to 14 ministers.
- The Attorney-General may be appointed from either the Lower or Upper House under the proposed bicameral arrangement, without voting powers when appearing in a House he or she is not a member of.
- Vest the responsibility for "independent legal advice" to the government in the Solicitor General as a civil servant, with the Attorney-General to serve in a ministerial role overseeing matters of justice.
- Reword qualifications for candidates for office who have been found guilty of a "disciplinary offence" by the ILSC to add constitutional clarity.
- Incorporate into the Constitution an enforceable Code of Conduct for State and constitutional offices (including the Executive) to be administered by the Ombudsman.
- Unify removal procedures State and constitutional offices (as above, including the Executive) into a schedule, including clear conditions for automatic removal.

Chapter 10: The Judiciary

10.1 What People Told Us

- Strengthen the independence of the judiciary by removing the need to consult the Attorney-General on membership of the JSC.
- Many submitters called to abolish FICAC (see Chapter 7, 7.2.6 of this report), some sought constitutional clarity on its statutory function, or to separate its investigative and prosecutorial powers.
- The government should first consult the judiciary, the Fiji Law Society, relevant institutions, civil society, and the public, before passing laws that affect lawyers, courts, or the justice system.
- Questioned the role of the ILSC, with concerns that it onerously disqualifies legal practitioners from taking up executive or public appointments, seeking clarity and differentiation from the Fiji Law Society.
- Constitutionalise a Military Court equivalent to the High Court, with a Director of Military Prosecutions (DMP) equivalent to the DPP, for dealing with serious offences by military personnel.
- Standardise retirement age requirements between local and non-citizen judges.
- Amend JSC provisions to allow the Chief Justice and President of the Court of Appeal to appoint a nominee (who must be a judge) to serve as Chair if a conflict of interest arises.

"Let's be overall balanced. One of the reasons people don't admit openly, and aren't being honest, when we talk about the judiciary, is that we're not very easy people to deal with. And by nature, that's the way it should be. But the climate in which we exist has now changed. It's demanding a lot more accountability...I said to them, look, from now on, anyone who comes in must demonstrate the following capacities. Why? Because there are people outside - apart from the politicians, important as they are - the more important ones are the voters. We need to show them that we are marching according to time." - Member of the Judiciary, Suva

"If the JSC is an independent body, isn't it sufficient that its functions and its decisions for the appointment of the DPP do not need to again be consulted with the Attorney General, given that the members have already been placed there on the recommendations of the Attorney General? This is, again, an overreach into the appointment process of the DPP, and it is also subject to

10.2 The Commission's Approach

The Commission considered the level of prescriptiveness in the 2013 Constitution on the judiciary and other branches of government. Affirming democratic norms to keep branches of government separate is foundational to democratic constitutionalism. The Commission is mindful of how prescriptiveness can signal a consolidation of power or be a much-needed guardrail in post-conflict contexts - all possibilities need careful discernment. In this spirit, the Commission's recommendations are aimed at promoting the separation of powers, independence of the judiciary (reflected in the JSC), and clarity of roles and compositions for judicial and legal institutions. Commissioners considered how much prescriptiveness is required in support of these ends in the judiciary. Where matters may be better reflected in ordinary legislation, and where sensitivities may be rife due to recent experience or the need to affirm norms, commissioners endeavoured to take these into account.

10.2.1 Judicial Services Commissions (JSC)

Submissions also scrutinised the JSC and its constitutional framework. The Commission recommends removing the Attorney-General's role in the JSC, aligning with international practice that insulates judicial appointments from political interference. Commissioners also deliberated on the constitutional requirement that the Chief Justice serve as JSC Chair, noting a conflict of interest where the Chief Justice may be called upon to investigate complaints, undertake judicial review, or appoint tribunals concerning JSC appointments - an issue raised by the Chief Justice in the judiciary's submission. Commissioners recommend amendments to allow the Chief Justice and the President of the Court of Appeal to appoint judicial nominees (such as Supreme Court, Court of Appeal, or High Court judges) to chair or sit on the JSC in their place. On the broader composition of the JSC, the Commission discussed replacing the Permanent Secretary for Justice with the Chair of the PSC or the Ombudsman, to ensure a more balanced and independent membership - or, at minimum, assigning the Permanent Secretary non-voting status. Regarding judiciary provisions more generally, the Commission noted that it is one of the longer, more verbose sections of the Constitution, spanning two and a half pages, and

recommended simplifying it to state only its core functions (using Section 135 of the Ghai Commission Draft as a guide), with procedural details moved to a separate constitutional schedule or to ordinary statute.

10.2.2 Judiciary

A submission from members of the judiciary pointed out how constitutional provisions on retirement age work against local judges, demonstrating age-based discrimination pursuant to Section 26 of the 2013 Constitution's Bill of Rights. Commissioners recommend an amendment that addresses this inconsistency and enables the judiciary to benefit from a broad spectrum of judicial wisdom for the benefit of society. Further, as detailed in the above section (see 10.2.1) relating to the JSC, submissions for strengthening the independence of the judiciary centre around the composition of the JSC in ensuring representation, judicial wisdom and legal insight, as well as flexibility in membership for the judicial officers (allowing nominees by the Chief Justice and President of the Court of Appeal) to support independence and avoid conflicts of interest.

10.2.3 Solicitor-General

As discussed in Chapter 9 of this report (the Executive Arm of Government), the Commission recommends vesting the function of "independent legal adviser" to the Government in the Solicitor-General. This marks a clear differentiation from the Attorney-General, who serves as a minister overseeing legal policy as part of the legislature - an amendment intended to clarify the separation between the legislature and judiciary, and to strengthen independence by insulating the Government's legal advisory services from political interference. In keeping with convention, the Solicitor-General would be a judicial office appointed by the JSC, consistent with the Commission's broader recommendation that JSC appointments be free from consultation with the Attorney-General.

10.2.4 Independent Legal Services Commission (ILSC)

The constitutional status of the ILSC was brought to the Commission's attention. Commissioners noted the interpretative difficulties arising from provisions of the 2013 Constitution in relation to provisions disqualifying judicial officers from appointment if "found guilty of any disciplinary

proceeding” as a consequence of section 105(2)(b). The Supreme Court had reflected significant difficulties with the formulation of this provision stating that the relevant words “do not make sense as a matter of English”, explaining that a disciplinary proceeding is a process rather than an outcome and that the provision does not clearly identify the nature of the adverse finding that triggers constitutional ineligibility.⁶¹ Besides stating its establishment by the Legal Practitioners Decree 2009, its continued existence, composition, appointment and tenure of the Commissioner, the ILSC’s role is not expressly articulated in section 114(8) of the Constitution, nor is it clear how its functions are delineated in relation to other legal institutions. Other than its role in disqualifications for legal and judicial appointments, it is difficult to ascertain much else that justifies the ILSC’s constitutional relevance as it leaves its “authority, functions and responsibilities” to written law. On further consideration of its role, particularly in differentiating its functions from the Fiji Law Society’s and adapting its qualification-related provisions in relation to judicial and legal appointments, the Commission recommends that the ILSC function be clearly outlined, and its appointments be determined by an independent JSC - once more, free from consulting with the Attorney-General.

10.2.5 Military Court

The Commission noted the military’s submission detailing its intention to establish a Military Court to replace the present ad hoc general court martial system, along with a DMP. Recognising the unprecedented willingness expressed by the military to institutionalise reforms for accountability, affirm the supremacy of civilian authority, and support the rule of law, the Commission recommends amendments to appoint a DMP, subject to the same constitutional process used to appoint the DPP, and to establish a Military Court equivalent in status to the High Court, including the appointment of military judges (explicitly mandated as sitting High Court judges) to preside on an ad hoc basis, appointed through the same constitutional process as other judges. The intention is for this role to remain independent of military services, ensuring that the rights afforded under the Constitution’s Bill of Rights extend to members of the military who are prosecuted. Public submissions have strongly supported the removal of unconditional immunity provisions, and the military has expressed alignment with these aspirations.

⁶¹Supreme Court of Fiji, Miscellaneous Action No 0001 of 2024 (Constitution Reference Opinion), Supreme Court FJSC 20, 2024, 28 June 2024, www.paclii.org/fj/cases/FJSC/2024/20.pdf.

Accordingly, the Commission sees constitutional recognition of the military's internal reforms as promoting the rule of law and the supremacy of democratically elected civilian authority, while also recognising the independence of the judicial branch of government. The Commission recommends an amendment that ensures military court hearings are open to the public under the same standard as civilian courts and for judges in the Military Court to be assigned from the independent judiciary.

10.3 Recommendations

The Commission puts forward the following in relation to Chapter 5 of the 2013 Constitution:

- Amend constitutional provisions on judicial retirement age under Section 110, as they currently disadvantage local judges and constitute age-based discrimination under Section 26 of the Bill of Rights.
- Pursuant to the above recommendation, ensure uniformity in specified retirement ages where stipulated in the constitution, while leaving the State with flexibility to set different limits in ordinary legislation for the public service.
- Reform the JSC composition to ensure: broad representation, judicial wisdom and legal expertise, flexibility in membership to avoid conflicts of interest by including nominees from the Chief Justice and President of the Court of Appeal.
- Vest the function of “independent legal adviser” to Government in the Solicitor-General, distinct from the Attorney-General’s ministerial and policy role.
- Maintain the appointment of the Solicitor-General as a judicial office through the JSC.
- Ensure JSC appointments across the board are made without consultation with the Attorney-General for judicial independence.
- Establish a DMP, appointed through the same constitutional process as the DPP.
- Establish a Military Court equivalent in status to the High Court.
- Require military judges to be sitting High Court judges from the independent judiciary, appointed on an ad hoc basis through the same constitutional process as High Court judges.
- Require military court hearings to be open to the public under the same standard as all courts and tribunals established by law.

- Supplementarily, Parliament may wish to clearly outline the ILSC's constitutional function.

Chapter 11: Constitutional Office Holders

11.1 What People Told Us

- Strengthen the composition of constitutional commissions by removing political office holders' involvement.
- Clarify the President's reserve powers when acting on the advice of constitutionally specified bodies, such as the COC, in making appointments.
- In affirmation of the Electoral Law Reform Commission's report, the joint submission from the Electoral Commission and Fiji Elections Office called for their merger, clearer delineation of roles, and strengthened independence in how the COC handles their appointment.
- Restore the PSC's power to appoint Permanent Secretaries free from ministerial interference, and insulate the PSC from executive overreach, empowering it to take full responsibility for human resource matters across the public service, including disciplinary and removal mechanisms.
- Empower the Fiji Police Force to combat the drug crisis, including access to arms, with some submissions calling for the involvement of the RFMF.
- Clarify the constitutional role of the RFMF: focusing on external defence, remaining subject to democratic civilian authority, and acting as an aid to civil power only under clearly specified conditions.

"The Commission and the FEO support the merger of the Electoral Commission and the Fiji Elections Office into a single, unified electoral management body. A single body with clear lines of authority would resolve the present division between the Commission, which sets policy, and the office that administers elections - a division that has in the past produced uncertainty and even litigation over the chain of command." - Electoral Commission with the Fiji Elections Office Submission, Suva

“Appointments, promotions, and leadership positions in the public service and constitutional institutions should be based on merit, competence, integrity, and demonstrated capability. It also recommends strengthening the constitutional role of the Public Service Commission to enhance professionalism, institutional continuity, and public confidence in government administration. A professional, merit-based public service is one of the most important investments a country can make in stable governance.” - Professional Association Representative, Suva

11.2 The Commission’s Approach

The role of “fourth branch” independent bodies in supporting the separation of powers and ensuring independence in appointments to constitutional offices was again brought into focus for the Commission. While Chapter 7 of this report (The Rule of Law) addresses the COC in more detail, this chapter outlines the offices and bodies whose appointments fall under its purview.

11.2.1 Public Service Commission (PSC)

The Commission’s deliberations on the PSC reflected submissions calling for the removal of political interference in public service appointments, particularly for Permanent Secretaries. Consultations further pointed to inertia within the public service stemming from political overreach into appointments, leading to a culture of fear and ‘decision paralysis’ that has contributed to the ineffective delivery of State services. The Commission’s recommendations are intended to strengthen the independence of the PSC and ensure its ability to recruit, appoint, discipline, and dismiss staff for the benefit of the public service, public servants, and ultimately citizens.

11.2.2 Electoral Commission and Supervisor of Elections

Recommendations on merging the Electoral Commission and Fiji Elections Office are discussed in Chapter 8 of this report (see 8.2.3), in accordance with the Electoral Commission’s submission and in line with the Electoral Law Reform Commission’s report. In addition to the Constitution Review Commission’s recommendation for a single, unified electoral body, as outlined in the joint submission, an independent COC (excluding political office holders from its membership) would ensure that advice on the appointment of Electoral Commission members is given while upholding the separation of powers.

11.2.3 Speaker, Deputy Speaker, and Secretary-General to Parliament

The Commission debated whether the Speaker should be chosen from within or outside Parliament. One key insight was that, in coalition government contexts, selecting a Speaker from inside the House of Representatives can carry risk in a closely balanced House, since the relevant party would lose a voting member to the Speaker's chair - a particular concern given the smaller Cabinet proposed elsewhere in the Commission's amendments (see Chapter 8, 8.2.3 of this report). Selecting a neutral Speaker from outside the House would avoid this loss of a casting vote. The Commission also recommends retaining the convention of electing the Deputy Speaker from among Members of Parliament who are not ministers. Commissioners considered the level of administrative detail in the provisions relating to the Secretary-General to Parliament excessive. Recommendations have been made to simplify these provisions by transferring the detailed subsections on funding and salaries to a separate section on an independent Salaries and Benefits Commission, leaving the remainder to ordinary legislation or Standing Orders. As discussed, while the Commission recognises that detail and clarity are necessary in a constitution to uphold the rule of law and democratic norms, excessive constitutional prescriptiveness can betray a fragility, consolidation of power, and lack of trust that hinders office holders and bodies from carrying out their duties with confidence and independence. The Commission further recommends retaining the appointment of the Secretary-General by the President on the advice of an independent COC (with its recommended non-political membership), with a modification applying wherever the Constitution states that the President acts "in accordance with" the Cabinet, ministerial or a constitutionally prescribed body or authority's advice. In the Commission's view, this would strengthen the Secretary-General's ability to provide independent procedural advice to the Speaker and Members of Parliament, answerable directly to the Speaker and insulated from government or opposition influence.

11.2.4 Fiji Police Force and Fiji Corrections Service

The Fiji Police Force and Fiji Corrections Service are recognised as two distinct institutions, but are addressed together here due to the similarity in the Commission's recommendations regarding ministerial involvement in their administration and their COC status. With the intent of insulating appointments from political interference, the Commission recommends amending "the

agreement of the Minister” from the COC’s appointment of the Police Commissioner, while retaining the provision requiring the Police Commissioner to act in accordance with the Minister’s general policy directives from time to time, to ensure public safety policy remains under democratic oversight and accountability rests with elected representatives. To simplify the provisions relating to the Police Commissioner’s powers, the Commission recommends a simplified clause giving the Commissioner authority over all matters about the employment of staff within the Fiji Police Force. The Commission also recommends a general section under the disciplined forces provisions, unifying selection processes across the disciplined services.

11.2.5 Republic of Fiji Military Forces (RFMF)

The Commission recommends rewording the provision on the role of the military to affirm the primacy of civilian authority. The amendment, reflecting public submissions - including that of the military - clarifies that the military’s focus is external defence, and that it may act as an aid to civil power domestically only when authorised by Parliament. This addresses the “constitutional guardianship” loophole historically used to justify military interventions in political processes. While one submitter argued that the military should remain guardians of the constitution, the Commission hopes that its recommended amendments - addressing the democratic deficit of the 2013 Constitution, including calls for strengthening the independence of constitutional offices, ensuring accountability, and upholding the separation of powers - will see this guardianship responsibility more broadly shared across all branches of government, public offices, and ultimately the citizenry. Informed by submissions and the above considerations, the Commission recommends ensuring that the Commander’s executive command remains subject to the direction of Cabinet, through the Minister responsible for the RFMF. This is expected to work alongside the Commission’s recommended Military Court, supporting institutional alignment with democratic constitutionalism, and the involvement of the National Security Council in the state of emergency process.

11.3. Recommendations

The Commission puts forward the following in relation to Chapters 3 and 6 of the 2013 Constitution:

- Strengthen the PSC's independence to insulate public service appointments - particularly Permanent Secretaries - from political interference.
- Ensure the PSC retains full authority to recruit, appoint, discipline, and dismiss public service appointees, particularly Permanent Secretaries.
- Merge the Electoral Commission and Fiji Elections Office into a single, unified body (detailed in Chapter 8, 8.2.3 of this report).
- Ensure appointments to the Electoral Commission are advised by an independent COC with a composition free from political office holders.
- Select the Speaker from outside Parliament, to avoid the loss of a voting member in a closely balanced House.
- Retain the convention of electing the Deputy Speaker from among non-ministerial Members of Parliament.
- Simplify constitutional provisions on the Secretary-General to Parliament by: (1) moving detailed funding and salary subsections to a separate section on an independent Salaries and Benefits Commission, and (2) leaving remaining administrative detail to ordinary legislation or Standing Orders.
- Retain appointment of the Secretary-General to Parliament by the President on the advice of an independent COC.
- Apply a consistent modification wherever the Constitution references the President acting "in accordance with" advice from specified bodies or offices (see Chapter 9, 9.2.1 of this report).
- Standardise across all disciplined forces (Police, Corrections, and RFMF) that they be appointed by the President, on the advice of the COC, following consultation with the Minister responsible for each respective disciplinary force.
- Retain the requirement that the Police Commissioner and Commissioner for Corrections act in accordance with the relevant Minister's general policy directives, preserving democratic oversight of public safety policy.
- Introduce a general section under disciplined forces provisions to unify selection processes across the disciplined services.

- Amend the constitutional provision on the military's role to affirm the primacy of democratic civilian authority, clarifying that the military's focus is external defence, with domestic aid to civil power permitted only when authorised by Parliament.
- Retain the Commander's executive command while clarifying it is subject to the direction of Cabinet, through the Minister responsible for the RFMF.
- Make amendments in judiciary-related provisions for a Military Court to reinforce democratic constitutionalism, while ensuring independent trials and protection of accused military personnel under the Bill of Rights.

Chapter 12: State Services, Revenue and Expenditure

12.1 What People Told Us

- Government expenditure and government debt levels are concerning.
- Stagnation and delivery failures in State services can be addressed by greater independence for constitutional bodies like the COC and PSC.
- Ensure governance and institutional integrity by strengthening the PSC, Office of the Auditor-General and Public Accounts Committee.
- Introduce a Code of Conduct for constitutional office holders and institutions to support democratic governance, public confidence, and the rule of law.
- Strengthen the PSC's ability to undertake merit-based recruitment, competitive examinations, promotions, leadership development, and the setting of professional standards across the public service - without political interference.
- Introduce processes for greater transparency in decision-making on government debt, fiscal responsibility and national planning, insulating such decisions from electoral cycles.
- Reintroduce the Ombudsman to investigate maladministration and corruption within the State.
- Implementation of government policies and strategies by Ministries and Agencies is weak and ineffective, and is not achieving service delivery (such as fully functional equipment in hospitals, road maintenance, provision of water, and delivery of social protection assistance) in a timely manner.
- Establish independent commissions - such as a National Planning Commission to ensure strategic and policy planning (including long-term infrastructure plans) linked to public expenditure beyond electoral cycles while ensuring a whole-of-government monitoring and evaluation framework to provide evidence-based feedback on implementation of government policies and projects.

"We must remove provisions of the 2013 Constitution that are contributing to the widening gap between the rich and the poor. We must leave no one behind. The widening gap between the rich

*and the poor threatens Fiji's future political stability. We must reverse this trend now.” -
Political Party Leader, Suva*

“A central theme of the submission is intergenerational equity...decisions made today on public finances, infrastructure, education, national resources, and environmental stewardship will shape the opportunities available to future generations. [We recommend] that the Constitution expressly recognise stewardship of national assets and long-term national development planning. The constitutional question we should ask is: will this decision leave us stronger for the next generation? Constitutional reform should anticipate future challenges, not merely respond to current ones.” - Professional Association Representative, Suva

12.2 The Commission’s Approach

After considering the submissions received regarding government revenue, expenditure, government debt, management of public finance and provision of public services including investment in infrastructure, the Commission agreed that the current provisions in Chapter 7 of the 2013 Constitution contain sufficient provisions to deal with most of the issues raised in the submissions. It is also noted that all these provisions existed in the 1997 Constitution. Thus, all the provisions related to Revenue and Expenditure (Chapter 7, 2013 Constitution) shall be retained. Moreover, the Commission agreed that the Financial Management Act 2004 contains strong provisions regarding managing the financial affairs of the Government in accordance with the requirements of the 2013 Constitution. The principles of responsible fiscal management, as covered in the Financial Management Act 2004 and Financial Management (Amendment) Act 2021 include (a) managing revenue and expenditure in such a way as to achieve prudent levels of debt; (b) managing prudently the fiscal risks of the Government; (c) ensuring that a fiscal strategy considers the likely impact of the fiscal strategy on present and future generations and the interaction between fiscal policy and monetary policy. The Commission is of the view that these provisions should remain in the Act regulating Fiji's public financial management, budgeting, and accountability systems.

It is also clear from the submissions that our people and organizations want greater accountability in the use of taxpayers funds by the Ministries and other government bodies. Existing means of checks and balances of government actions regarding its expenditure include the Office of the Auditor General and the parliamentary Public Accounts Committee. The

Commission sees accountability and transparency of government finance and expenditure mechanisms as fundamental in promoting good governance. In this regard, the roles played by the Office of the Auditor General and Public Accounts Committee has been well established. To promote transparency and accountability in the public sector, the Commission proposes that the current provisions of the Auditor General in the 2013 Constitution (Part C of Chapter 8) should be retained. The powers and mandate as provided for in the Audit Act 2025 are sufficient to ensure the Auditor General is able to effectively carry out its role as the auditor for every public entity. Beyond this, and in order to strengthen accountability and transparency, the Commission recommends that the establishment of the Public Accounts Committee and its structure be provided for in the new constitution. Currently, the establishment of the Public Accounts Committee is through the Standing Orders of the Parliament. Prescribing in the constitution will not only raise the importance of the Public Accounts Committee but also take away the possibility of a simple majority in parliament changing its structure and role. The structure of the Public Accounts Committee currently comprises 5 members, 2 from opposition and 3 from government with the leadership of the committee being held by the government member. Since the leadership (chairperson) holds a critical position, it is strongly recommended that the leadership of the committee should be held by an opposition member to ensure effective oversight focus. This was the arrangement from 2014 until February 2016 when Standing Orders of the Parliament was changed to allow for any member of the committee to be appointed as chairperson.

In addition, and based on some submissions, the Commission deliberated on the need for an independent agency to be responsible for the development of a whole-of-government medium to long-term policies and strategies as part of national development plans. The plans should also have a strong framework for implementation, monitoring and evaluation with greater accountability on the delivery of planned outputs and outcomes. Currently, this role and function is carried out by the Ministry of Strategic Planning, National Development and Statistics. However, the Ministry lacks the institutional mandate to carry out its task in an effective manner. While the National Development Plan 2025-2029 outlines a clear framework of accountability mechanisms for monitoring and evaluation, a constitutional provision and subsequent legislation will provide the independent agency with the institutional framework required to effectively enforce a whole-of-government implementation process and data collection towards evidence-

based monitoring and evaluation. Financial implications of this recommended commission should not be an issue, as the current Ministry of Strategic Planning and National Development resources and capacity can be converted into the new National Planning Commission. Moreover, some of the other roles under the Ministry of Strategic Planning, National Development and Statistics include infrastructure and large project planning. This can continue under the proposed National Planning Commission but extend focus to encompass an independent advisory role on nationally significant transport, water, energy, communications and social infrastructure investment planning and project prioritisation. The alternative will be to create a separate and independent Infrastructure Commission for the purpose of planning and advising the government on national infrastructure.

12.3 Recommendations

The Commission puts forward the following in relation to Chapters 7 and 8 of the 2013 Constitution:

- Retain all the provisions of Chapter 7 (Revenue and Expenditure) of the 2013 Constitution.
- Retain Part C (Auditor General) and Part D (Reserve Bank of Fiji) of Chapter 8 (Accountability) of the 2013 Constitution.
- Constitutionalise and enact an independent National Planning Commission for formulating National Development Plans, preparing and implementing a whole-of-government monitoring and evaluation strategy, and delivering annual whole-of-government monitoring and evaluation reports to the Prime Minister, Cabinet and Parliament.
- Embed an independent advisory role on nationally significant infrastructure investment planning and project prioritisation within the proposed National Planning Commission.
- Introduce provisions for the Public Accounts Committee in the Constitution, chaired by a member of the Opposition in the House of Representatives.

Chapter 13: Rights, Interests, and Concerns of Indigenous Fijians and Rotumans

13.1 What People Told Us

- Formally recognise village bylaws in the Constitution to assist in local administration and order.
- The Rotuman people expressed a desire for autonomy and self-governance, representation in governance arrangements, and legal protection of their rights and interests.
- Customary ownership of land and qoliqoli must extend below six feet underground to include mineral rights.
- Reserve the term “Fijian” exclusively for Indigenous individuals registered in the Vola ni Kawa Bula (VKB), suggesting names such as “Fiji Citizen” or “Fiji Islander” for non-Indigenous citizens.
- Participants objected to exceptions in the Constitution for permanent land alienation to the State, requesting unrestricted customary ownership over land, water, air, and resources.
- The government must facilitate buyback schemes to purchase freehold land and return it to customary owners.
- Individual human, women’s, and children’s rights have reduced traditional authority, impacted village communal activities, and affected village relationships.
- Village maritime boundaries must be legally recognised, with various proposals for how, such as extending 200 meters seaward from the reef breakers, while submitters requested ownership of the shoreline up to 200 square meters.

“The Rotuman people are entitled to a seat in Parliament, elected by the Rotumans for Rotuma. If a Senate is established in the amended constitution, one member is to be appointed on the nomination of the [Rotuma Island Council]... In making laws or policies affecting Rotuma, Parliament and the government of Fiji must have special regard to the views of the RIC and the Rotuman people, which shall be paramount.” - Chief, Rotuma

"So that is the first proposal - for rights to be given to the landowners, so that all vessels that berth at their coastline are permitted by them. Secondly, is the return of the rights and powers of landowners over the exploitation of the land and minerals, oceans, and qoliqoli, so that they can get a fair share of the returns on things that are found - minerals and other things found on their land and in their qoliqoli. And thirdly, is the voice of the people to be heard before major developments are undertaken in their villages and on their land." - Submitter, Kadavu

13.2 The Commission's Approach

A significant number of Indigenous Fijian participants in consultations conveyed that they felt particularly pained by the 2013 Constitution. In village consultations, Commissioners heard that people felt not only denied the opportunity to contribute to the development of the 2013 Constitution, but also that their cultural, heritage, and natural resource ownership rights had been compromised by it. The Commission acknowledges the depth of the grievances expressed to us. We have also done our best to ensure that the hurt and trauma of the present - while vital to address directly and meaningfully - do not overshadow longer-term potential or hinder progress. There was also much wisdom and understanding shared by Indigenous communities, along with a willingness to embrace peaceful co-existence. For the most part, in seeking recognition of their indigenous rights, Indigenous Fijian and Rotuman communities were equally committed to recognising the rights of all other communities. In rural areas, Indigenous communities often opened consultations by calling for the 2013 Constitution to be discarded and replaced with the 1997 Constitution. Others in urban areas called for reference to the Ghai Commission draft constitution, while still others called for arrangements outside any precedent constitutional model. Again, commissioners recognise how sentiment amongst consultation participants is shaped by context and lived experience, keeping in mind how the much-maligned 1997 Constitution in the late nineties and early 2000s has now returned as the preferred alternative. Still, 1997 was 30 years ago, and much has changed in Fiji society since. Across consultations, people of all backgrounds recognised in their submissions the generational harm caused by coups and abrogating constitutions, and the value of understanding that constitutions can be changed lawfully to reflect society. Overall, the Commission approached its deliberations mindful of its Terms of Reference: to inquire into and report on recommendations for the "protection and guarantee under the Constitution of the rights, interests, concerns of the Indigenous Fijian and

Rotuman people, and ensuring that the rights of other communities and groups are fully respected.”⁶²

13.2.1 Recognition of Village Bylaws

Commissioners discussed Indigenous Fijian public submissions proposing the formal recognition of village bylaws in the Constitution to empower village leadership in maintaining order and safety. Concluding that this is primarily an implementation and administrative issue instead of a constitutional one, the Commission notes that the iTaukei Affairs Act already legally provides for such measures. The Commission recognises that, in addition to a recommendation to return the iTaukei Affairs Act to entrenchment status, and for amendments to constitutionally recognise the BLV, comprehensive work is underway at the legislation level and needs to continue to ensure village bylaw alignment with the Bill of Rights and remaining culturally informed and relevant in progressing harmony, cohesion and safety in villages. A concern voiced by some commissioners is also the value of ensuring customary law is subservient to the Bill of Rights.

13.2.2 Mineral Rights

As previous commissions have done before us, the Commission paid careful attention to a constitutional arrangement that would best acknowledge sovereignty in a framework that would benefit all citizens while recognising the origins of said sovereignty with a fair share of royalties. The Commission recommends the State retain administrative ownership of mineral resources, but that the Constitution requires FPIC from customary owners with details to be prescribed in written law. Details are in Chapter 6 (see 6.2.4).

13.2.3 “Fijian” as National Identity

The common name “Fijian” was a point of contention during consultations, with significant submissions from Indigenous Fijian communities arguing that the name should be reserved exclusively for Indigenous people registered in the Vola ni Kawa Bula, while non-Indigenous citizens should instead be called Fiji citizens, Fiji Islanders, or Fiji nationals. Commissioners, for their part, highlighted the foundational value of a common and equal citizenry, along with the

⁶²Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

growing acceptance of “Fijian” among generations of citizens, including those in the diaspora. The Commission also recognised the hurt caused by the lack of initial consultation with Indigenous Fijians, and by the failure to engage proper cultural protocols. Indeed, many Indigenous Fijians who spoke to the Commission said they did not mind sharing the name, but would have liked to have been asked. In light of this, the Commission recommends retaining the name “Fijian” for an interim period while constitutionally outlining an inclusive, structured, and culturally informed process between the State, the BLV, and civil society to build consensus and progress towards a settlement on national identity. Acknowledging diverging views on how this may be achieved, the Commission shares the belief that a common identity can emerge through intentional, sustained efforts to build on shared commonalities, aspirations, and values - while celebrating the diversity that makes every community unique.

13.2.4 Land, Maritime and Shoreline Customary Rights

Submitters called for scaling up government buyback schemes to purchase freehold land formerly belonging to extinct landowning units or sold through historically dubious schemes and returning it to customary owners. They also objected to a constitutional exception under the Bill of Rights to allow alienation of customary land to the State. Commissioners cautioned against mandating a blanket buyback scheme in the Constitution, taking into account the fact that there are efforts already underway at the national level, as well as implications for economic stability and citizen freeholder and tenant security. With the recommendation to include a constitutional requirement for FPIC, the Commission is of the view that this would encapsulate more concrete expressions of customary ownership rights, requiring consent (aligning with existing national protocols and strengthening others) before any State acquisition or commercial extraction of resources. Regarding submissions from coastal communities for full, recognised ownership of their marine spaces, the Commission recommends vesting marine and fishing ground ownership with customary owners.

13.2.5 Individual Rights, Traditional Authority, and Communal Relationships

Consultations raised concerns among rural communities that individual human, women’s, and children’s rights have weakened communal, familial, and cultural authority. Submissions focused particularly on corporal punishment and domestic violence restraining orders (DVROs),

while other submitters emphasised that a progressive constitution must protect all people - including vulnerable groups such as women and children - from all forms of violence. In deliberations, some commissioners argued that banning “any form of violence” would criminalise parents and teachers for disciplining children in their care. Others, however, emphasised that a progressive constitution must protect all people from any form of violence, and that it must in particular safeguard children and women from physical abuse, in keeping with international treaties such as the UN Convention on the Rights of the Child (UNCRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Commission also noted that corporal punishment had already been banned under the Education Act through a bipartisan parliamentary process. Ultimately, the Commission recommends leaving individual rights against violence intact as they are.

13.2.6 Rotuma

The Commission considered submissions on Rotuma calling for measures to address State encroachment, protect Rotuman land and resources, recognise Rotumans as an Indigenous people of Fiji, and secure self-governance within the framework of the State. In deliberating on these issues, Commissioners examined Rotuma's unique history with the British Crown, including the historical developments that led to its annexation by Britain to Fiji in 1881. The Commission also considered submissions reflecting the Rotuman people's desire for autonomy and self-governance, representation in governance arrangements, and the protection of legislation relating to their rights and interests. Commissioners understand that, as expressed by the Rotuma Island Council (RIC), Rotuma does not seek separation from Fiji, but rather representation in the House of Representatives and in the proposed Senate, alongside a proposed constitutional right to initiate a self-determination process modelled on free association pathways similar to those of the Cook Islands and Tokelau. In addition, Rotumans who appeared before the Commission asked for birthright citizenship rights, aligning with efforts by Fiji citizens in the diaspora to reclaim citizenship under dual citizenship arrangements after having been compelled to renounce Fiji citizenship under previous laws. The Commission recommends a dedicated chapter in the Constitution on Rotuma, detailing the self-governance arrangements proposed in the submissions and recognising the RIC as primary custodian of Rotuman land, seas, custom, and customary law. Additionally, Commissioners noted that the Constitution itself must be translated into the

Rotuman language (with the English version prevailing in cases of conflict), to ensure accessibility of the supreme law and, as Rotuman submitters have raised, to contribute to their indigenous language protection.

13.3 Recommendations

- Return the 1997 list of legislations to entrenched status and constitutionally recognise the BLV.
- Enshrine the duty to consult with respect to land and resources under the recommended constitutional chapter on Land and Environment, and Group Rights, as a constitutional requirement.
- Land and rights over foreshore, seabed, reefs and riverbeds is to remain with customary owners.
- Create a dedicated, standalone chapter for Rotuma's governance to safeguard its unique identity, lands, resources, and administrative systems.
- Guarantee a constitutional right for Rotuma to initiate a formal process of self-determination or negotiate its status (such as a compact of free association or a treaty of friendship) with Fiji, and that any transition toward self-determination must not be unilateral; it would require a two-thirds supermajority in Parliament, a national referendum, and thorough, good-faith consultation with the Fiji Government.
- Enshrine mechanisms where any constitutional provision or legislation concerning Indigenous Fijians and Rotumans cannot be altered without special supermajorities and review by mandated bodies, e.g. the RIC.
- Constitutionally establish the RIC as the self-governing administrative body of Rotuma, ensuring that State administrative initiatives on the island go directly through the Council.

Chapter 14: The Bose Levu Vakaturaga (BLV)

14.1 What People Told Us

- The BLV must be formally restored and recognised in the Constitution, seeing it as a guardian of indigenous custom and concerns.
- The BLV must be the body responsible for selecting the President of Fiji.
- Restore the Senate and include members of the BLV, in alignment with the 1997 Constitution's composition model.
- Recognising the value of the BLV to Indigenous Fijians, caution regarding the involvement of an unelected body such as the BLV in democratic processes and political interference was also expressed (including by Indigenous Fijians).
- Some submissions expressed doubt that the BLV has the capabilities and diversity required to represent the interests of Indigenous Fijians as well as all communities of Fiji.
- Submitters pointed out the potential for the BLV to modernise and reflect the diversity of the community it claims to represent.

"Protection and alteration of laws affecting iTaukei proprietary rights - these need to be entrenched by the inclusion of the Senate in Parliament, akin to that found in the 1997 Constitution. Customary laws and customary rights: it is the belief of the Bose Levu Vakaturaga that this protection is to be re-included into the 2013 Constitution amendment. Fijian land tenure and entitlement to chiefly titles are dictated by custom. The Fijian communal system is progressed by custom, and yet customary laws are ignored in our supreme rule. The Bose Levu Vakaturaga ladies and gentlemen, is to be included in the constitution. This was done in the past constitutions, but excluded in the 2013." - Representative, Bose Levu Vakaturaga, Suva

"A power to protect: no law passed by Parliament that changes or weakens the iTaukei Land Trust Act, the Fisheries Act, or the iTaukei Affairs Act can become law without a two-thirds majority approval from the Bose Levu Vakaturaga first. Why does this matter? Putting the Bose Levu Vakaturaga back in the Constitution shields indigenous rights from changing political moods in Parliament." - Submitter, Yasawa Islands

14.2 The Commission's Approach

Commissioners discussed constitutional recognition of the BLV, as set out in the Commission's gazetted Terms of Reference. The Commission noted that under the 1990 and 1997 Constitutions, the GCC's recognition was limited, leaving its composition, functions and resourcing vulnerable to change through national legislation. Some Commissioners also raised the GCC's involvement in various aspects of the country's political development, including coups and instability. Commissioners acknowledged that many in Indigenous rural communities place their hopes and aspirations in the GCC as a custodian of Indigenous Fijian interests, while recognising that this is not a universally held view among Fiji's citizens, including Indigenous Fijians themselves who made submissions. Overall, the Commission agreed to recommend recognising the GCC in the Constitution while ensuring its accountability - mindful that Indigenous Fijians are often reluctant to hold chiefs to account, and that a culture of silence prevails in Indigenous Fijian society around instances of chiefly misconduct.⁶³ It is the Commission's view that strong accountability mechanisms would benefit both the GCC and citizens alike, serving democratic constitutionalism while furthering the GCC's own goals: improving the well-being and cultural sovereignty of Indigenous Fijians, and strengthening social cohesion and harmony among all communities of Fiji.

14.2.1 Role of the Bose Levu Vakaturaga

As custodian of custom, languages, cultural governance, and well-being among Indigenous Fijians, the Commission recommends an independent role for the GCC. This would require clarity around its role, functions and structure, in line with other independent bodies, as well as accountability standards equivalent to those applied to every such body. Commissioners deliberated on whether involvement by the President, Prime Minister, and Minister responsible for Indigenous affairs might signal political interference in GCC operations, but concluded that a Government presence is necessary for coordination with State decision-making. The Commission further recommends defining the GCC's role in contributing to the legislature through its nomination of eight members to the Senate. While some submissions called for the

⁶³RNZ, "Fiji Senators Walk Out over Handling of the Upper House," *Radio New Zealand*, 16 Dec. 2004, www.rnz.co.nz/news/pacific/152347/fiji-senators-walk-out-over-handling-of-the-upper-house.

GCC to select the President, this was not a uniform view among submitters. The Commission instead chose an approach that recognises the President's role as ceremonial, and one of great significance in encapsulating the hopes and aspirations of Fiji as a whole. It therefore recommends a Presidential Appointment Commission comprising seven representatives - two from Government, two from faith bodies, and three from the GCC - to put forward upstanding nominees with a record of service, and to select a President who would uphold the greatest hopes and aspirations of all Fijians. There are also statutory bodies relating to Indigenous Fijian culture, resources, and well-being on which the GCC would nominate representatives. These bodies are not provided for in the Constitution, but the Commission recognises them as pathways for custodianship, and hopes they will represent a constructive contribution to the betterment of Indigenous Fijians - it will be for the GCC to demonstrate this to the people of Fiji, and the Commission has recommended that like every other constitutional body, the GCC be accountable in undertaking its role.

14.2.2 Accountability of the Bose Levu Vakaturaga

Commissioners recommend provisions that recognise the demonstrated willingness for change in the GCC to modernise its outlook and approach for the betterment of its constituents, by mandating that one seat for each province be specifically reserved for a woman. To prevent governments from cutting off funding as a form of political retaliation (which occurred historically when the council opposed state land bills), the Commission recommended that the GCC aim for complete financial independence. This is to be achieved by recognising the funding relationship between the GCC and the iTaukei Trust Fund Board established under the iTaukei Trust Fund Act of 2004. In exchange for this constitutional autonomy, the Commission recommends the GCC and its secretariat be bound by the constitutional Code of Conduct, utilise its own independent secretariat, and submit annual reports to Parliament. Drawing from the GCC's own submissions, the Commission proposed giving it a constitutional mandate to monitor sources of division and foster social cohesion between all of Fiji's diverse communities, promoting a modern role where they act as "chiefs for everyone."

14.3 Recommendations

The Commission puts forward the following in relation to a recommended new chapter dedicated to the BLV, with related recommendations in Chapter 8 of this report (The Legislature):

- Reconstitute the BLV as a constitutionally recognised, independent body with its own chapter of the Constitution.
- Members of the BLV must be subject to a recommended constitutional Code of Conduct.
- Retain the core membership framework, recognising the President, Prime Minister, and Minister for iTaukei Affairs as ex officio, non-voting members.
- Ensure that provincial nominees are selected from the four traditionally installed chief categories (such as Turaga iTaukei, Marama iTaukei, and Liuliu ni Yavusa/Mataqali), possess exemplary leadership qualities, and have actively served their province.
- The BLV nominates eight members to the 19-member proposed Senate and three members to the proposed Presidential Appointment Commission.
- Nominate BLV representatives to crucial customary and administrative bodies, including the iTaukei Affairs Board, the iTaukei Lands Trust Board (TLTB), the iTaukei Trust Fund Board (TTFB), and the iTaukei Lands and Fisheries Commission (TLFC).
- Subject to the Constitution and to civilian authority, entrust the BLV with the oversight of customary law, the provincial council system, and the authority to propose and formalise village bylaws for registered iTaukei villages.
- Entrust the BLV with a modern, national mandate to monitor sources of social division and actively foster dialogue, cohesion, and unity across all of Fiji's diverse communities.
- In exchange for constitutional and financial autonomy, require the BLV to establish its own independent secretariat, submit annual financial and operational reports to Parliament, and bind all BLV members and its secretariat to the constitutional Code of Conduct.

14.4 Alternative Views

Recognising the majority view as the basis of final recommendations after the Commission's deliberations, a minority of Commissioners have provided alternative views with the intention of enriching democratic debate on the matter of the BLV.

"You can ask yourself, how well are the chiefs looking after the iTaukei people...?...Honestly, whatever their good intentions may be, I believe that the iTaukei people who are educated and qualified now for the modern global economy, I believe they are the people who should lead the iTaukei people. Relying on a traditional chiefly system, which mostly brings up men as leaders, means there are very few women as leaders in the GCC...I've noticed that the GCC has not made any attempt to bring good commoners into GCC leadership positions...In the British House of Lords, there used to be hereditary lords and all that, but they also nominated commoners of ability to go into the House of Lords, depending on their contribution to society." - Retired Academic, Overseas

"The Great Council of Chiefs is not in the 2013 Constitution and should remain out of it. The GCC or BLV, I would respectfully submit, should perhaps commission reports into iTaukei education, iTaukei youth needs, drug abuse and village administration. I would also suggest that the GCC actively take part in the law reform process by applying an indigenous or iTaukei lens to all Bills, Laws and Reports." - Lawyers (Written Submission), Suva

14.4.1 Power and Primogeniture

The "recognition of the Great Council of Chiefs [Bose Levu Vakaturaga] in the national affairs of the State under the Constitution"⁶⁴ is in the Commission's Terms of Reference and was considered carefully in deliberations. The BLV opened and closed the submissions process, delivering recommendations that were broadly echoed throughout consultations, particularly with rural Indigenous Fijian communities. The 2013 Constitution marked a stark departure from the normalised recognition of the BLV, and commissioners fully recognise the value of traditional leaders to Indigenous Fijian society. We offer the following alternative views as part of our duty to report "faithfully and impartially,"⁶⁵ with the intention of prioritising the well-

⁶⁴Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

⁶⁵Fiji, *Commissions of Inquiry Act 1946*, Government of the Republic of Fiji, 1946, www.pacilii.org/fj/legis/consol_act_OK/coia283/.

being of Indigenous Fijians and all communities of Fiji - what we believe to be foundational to the BLV's legitimacy.

It is heartening to hear the BLV's willingness, voiced in its submissions and signalled in its organisational moves, to modernise in the interests of Indigenous Fijian well-being, culture and heritage. The commissioners take the BLV at its word when its representatives speak of enriching its composition with greater representativeness and expertise - including gender parity. Recommendation 7 of the BLV's 2023 review report is that "one out of the three seats per province is allocated for women," urging observer status for "ordinary citizens and youth representatives."⁶⁶ While the broader Commission membership was understandably reluctant to put this forward, we submit that the BLV stands to benefit immensely from the merits, qualities, and wisdom of Indigenous Fijian women, be they chiefs, of chiefly heritage, or otherwise. Traditionally installed female chiefs are few and far between in a country where male-preferred primogeniture is expected, hence the "if possible" in recommended provisions for membership falls short. The commissioners believe that provisions for female representation (independent of chiefly status) in the Constitution would not be insubordinate, but rather a reflection of the BLV's own commitments. Given the BLV's concern about "social challenges" facing Indigenous Fijians (see Chapter 8, 8.4 of this report), a more representative, diverse, and well-informed membership can better enable addressing said challenges.

Commissioners acknowledge that chiefs have shown great moral fortitude, foresight and generosity. However, reflecting a minority of submissions, commissioners caution that overestimating the wisdom of chiefs may also be detrimental. Taking care not to conflate intelligence with wisdom, commissioners note that wisdom is bound by neither age nor lineage. For consideration, institutions like the House of Lords in the UK Parliament have moved away from hereditary membership.⁶⁷ As they acknowledged themselves in their submission, the BLV would be re-entering constitutional recognition after an extended period of disenfranchisement, into a country and society much changed. The commissioners recommend that provisions for

⁶⁶Baledrokadroka, Jone, et al. Great Council of Chiefs Review Report 2023. Ministry of iTaukei Affairs, 2023, www.itaukeiaffairs.gov.fj/images/gcc/GCC_report_Final.pdf.

⁶⁷Merritt, Eve Collyer. "House of Lords Reform: Hereditary Members at the End of the 2024–26 Session." House of Lords Library, UK Parliament, 23 July 2026, lordslibrary.parliament.uk/house-of-lords-reform-hereditary-members-march-2026/.

accountability under the Code of Conduct (in the Commission's recommended provisions for Parts A and B for Independent Institutions and Governance) be maintained for the BLV, as for any other such constitutional body. As an accompanying recommendation, with full appreciation for the entrenchment of laws relating to customary ownership and related rights, commissioners recommend that due recognition and respect be given to the Bill of Rights on provisions for customary law and village by-laws as they relate to the BLV.

Indigenous Fijians are strongly socialised to defer to chiefs. While this may be well-intentioned, it can produce detrimental results both for people's well-being and for chiefdom itself. The hierarchy of chiefdom in Indigenous Fijian society often transcends personal, professional and political spheres - hence introducing a person of chiefly status into a pluralistic body, while important for representation, is bound to alter power dynamics. While respecting the BLV as chiefs and traditional leaders, a prevailing argument has been that the BLV should not have a political role as it is a non-elected body. This view was also contemplated in the BLV 2023 review report,⁶⁸ in which it was stated: "The political crises of 1987, 2000 and 2006 saw the BLV-GCC engage in partisan politics of the times and at a juncture become placed in an unfamiliar political mediator role that tarnished its image." The BLV's constitutional recognition may be a natural progression since its reinstatement under the iTaukei Affairs (Amendment) Act 2023,⁶⁹ but commissioners recommend this inclusion be managed carefully. If Fiji sincerely wishes to see Indigenous Fijians flourish, preconditions for accountability of chiefs must be set. The commissioners further recommend constitutional clarity on the link between the BLV and the iTaukei Trust Fund Board, to ensure sound financial and fiduciary practice is followed, the iTaukei Trust Fund Board is insulated from financial co-optation, and can innovate and grow for the benefit of Indigenous Fijian people, and the economy as a whole.

14.4.2 Alternative Recommendations

- Recognising the BLV in the Constitution, but cautioning that this recognition be managed carefully.

⁶⁸Baledrokadroka, Jone, et al. Great Council of Chiefs Review Report 2023. Ministry of iTaukei Affairs, 2023, www.itaukeiaffairs.gov.fj/images/gcc/GCC_report_Final.pdf.

⁶⁹Fiji, *iTaukei Affairs (Amendment) Act 2023*, Government of the Republic of Fiji, 2023, www.pacii.org/cgi-bin/sinodisp/fj/legis/num_act/iaa2023223/index.html?stem=&synonyms=&query=itaukei%20affairs%20act.

- Recommend prescribing in the Constitution that one of every three provincial representatives to the BLV be a woman (beyond the narrow traditionally installed requirement), building on the BLV's own 2023 review proposal, to ensure a more representative, diverse and well-informed membership.
- Holding chiefs accountable under the same Code of Conduct and standards as any other constitutionally recognised body.
- That provisions on customary law and village by-laws be made with due recognition and respect to the Bill of Rights, and not used as a shield for eroding rights.
- Constitutional clarity on the link between the BLV and the iTaukei Trust Fund Board, ensuring sound financial and fiduciary practice is followed, and the Board is insulated from financial co-optation.

Chapter 15: Constitutional Supremacy: Its Review or Alteration

15.1 What People Told Us

- Repealing or replacing the 2013 Constitution in entirety, with several proposing a reinstatement of the 1997 Constitution with amendments - and whatever the outcome of this process, to change its name from the 2013 Constitution.
- Reduce the parliamentary majority threshold required to amend the Constitution under Chapter 11 from three-quarters to two-thirds (which the Commission informed them had been accomplished with the Advisory Opinion of the Supreme Court).
- Adapt to changing circumstances, by incorporating constitutional mechanisms for periodic reviews, such as every 20 years.
- Submitters expressed varying views on a referendum as part of amending constitutions, with some seeing it as vital and others as costly and unnecessary.

"I am proposing that part of the constitution state that it should be reviewed through the process that we are following here today. So, as part of the constitution, it should state that it be reviewed and given to the people, so they have the opportunity to review our constitution."

Chief, Bua, Vanua Levu

"Our recommendations are: one, absolute constitutional clarity. We establish a framework that leaves no room for interpretation regarding the military's mandate. Two, the supremacy of civilian authority. Formally anchor the RFMF's role under the mandated authority of elected civilian leadership. And third, the removal of ambiguity...strip away the vague legal justifications historically used to invite or excuse military intervention."

**Republic of Fiji
Military Forces Representative, Suva**

15.2 The Commission's Approach

Commissioners deliberated with the hard-won understanding that no constitution can prevent instability - Fiji's painful history with constitution-making has taught us that. We also know the tremendous cost of disrespecting democratic constitutionalism, with abrogations following

coups. Everywhere the Commission went, one consensus rang out: people want no more coups, and no more impunity for those who carry them out. Frustrations with constitutions have surfaced at various points in our history, but ultimately it is the people of Fiji who will decide whether to adopt, uphold, and protect the Constitution that emerges from the political process following this review. It is the Commission's greatest hope that Fiji has learned from its past, and that the political process to follow upholds democracy and popular sovereignty to deliver a Constitution that provides a firm foundation for progress.

15.2.1 An Enabling Environment

In recommending limits and separation of powers, mechanisms for accountability, and pathways for redress, the Commission hopes to affirm that while officers of the State bear responsibility for upholding and protecting the Constitution, this duty is ultimately shared by every citizen. That aspiration is perhaps most directly expressed in the opening provisions of Chapters 1 and 11 of the Draft Bill, but the Commission sees the Constitution's supremacy as resting on a range of interlocking factors, not on any single provision. Our recommendations seek to make that supremacy clear, to address the inherent jurisdiction of the courts, and to ensure that offices of the State are clearly defined - by their functions, by independent appointment processes, by eligibility requirements, and by their powers, enforceable codes of conduct, and accountability mechanisms (including discipline and dismissal). Together, the Commission hopes, these can be enabling factors of a lasting Constitution.

15.2.2 Amendability

Importantly to the Commission, one process Fiji should hopefully come to adopt as a norm in the years ahead is the lawful amendment of the Constitution. This Constitution should reflect a society that has changed a great deal since independence - and in the decades to come, it will change again in ways none of us can predict. The Commission draws its approach here from the Supreme Court's Advisory Opinion on the Chapter 11 amendment provisions, and will abide by it in good faith. A constitution - especially given Fiji's history - is a document that all citizens, in all their diversity, deserve a say in. It should be reasonably amendable, to reflect a consensus as it forms, while remaining rigid enough to protect rights and protections from erosion. This tension goes to the heart of the democratic deficit the Supreme Court identified. The

Commission has recommended the Constitution be reviewed every ten years by a Constitution Review Commission, with super majorities required for the Bill of Rights and select provisions.

15.2.3 Ownership of the Constitution

Though tangential to the Constitution's text itself, Commissioners believe that recognising the languages of Indigenous and all communities in Fiji is vital to nation-building. Translating Fiji's major languages - iTaukei, Hindi, and Rotuman - is a starting point for what can hopefully grow into a robust civic education program, one that informs not only the referendum process ahead but the broader socialisation of the Constitution and its principles among all people of Fiji. The Commission recalls the considerable consternation among Indigenous communities that Commissioners traced back to meaning lost in translation between the English and iTaukei versions of the 2013 Constitution. Once the Constitution emerges from the Supreme Court-prescribed Parliamentary debate and referendum, and is adopted by the people of Fiji, the Commission believes citizens would be more likely to defend and uphold a Constitution they can understand - one in which they see themselves, their responsibilities, and their rights clearly. Given more time, the Commission would have prioritised simplifying the Constitution's language, and, importantly, made further recommendations to ensure that gaps in translation do not unnecessarily erode citizens' understanding of it.

15.2.4 The Supremacy of Democratic Civilian Rule

One submission called for the military to remain custodian of the Constitution. On further deliberation, the Commission decided that this role of custodian is shared by all officers of the State and all citizens alike. Institutions like the disciplined forces do carry unique responsibilities in upholding the rule of law, and submitters called for clarity in their roles, functions, and powers, along with accountability and appropriate independence in exercising executive authority. Fear of the military, given its responsibility for coups in Fiji's past, cast a shadow over earlier efforts at constitutional reform. Many submissions emphasised the need to delineate the military's external-facing role and to limit any abuse of power; others saw the military as a source of support in times of crisis; still others called for its role to adapt over time, with a corresponding reduction in numbers, and potentially the adoption of a national service program. The RFMF, in its own submission to the Commission, called for "constitutional clarity" on their

role, affirming that they are subject to civilian rule. Commissioners recommend amendments to the provisions relating to the military, specifically Section 131, to ensure the military's subordination to civilian rule, to clarify its role in addressing external threats, and to define its function as an aid to civil power, as determined by Parliament. The Commission also recommends establishing in the Constitution an independent DMP and a Military Court, open to the public and staffed by Military Judges who are sitting High Court Judges, to deal with major offences committed by members of the military. This will ensure that military personnel remain subject to the Constitution, while also being protected by the Bill of Rights as accused persons, and in any other relevant way.

15.3 Recommendations

- Strengthen constitutional supremacy provisions in Section 2, ruling out immunity for any future contravention attempts.
- Address and clarify the inherent jurisdiction of the courts.
- Clearly define offices of the State by their functions, independent appointment processes, eligibility requirements, powers, an enforceable Code of Conduct (within the constitution) overseen by the Ombudsman, and accountability mechanisms (including discipline, dismissal and automatic removal).
- Abide by the approach set out in the Supreme Court's Advisory Opinion on the Chapter 11 amendment provisions (see 7.2.5 of this report).
- Ensure the Constitution is reasonably amendable to reflect evolving societal consensus, while keeping core rights and protections sufficiently rigid by requiring super-majorities for amendments to specific chapters and provisions (e.g. the Bill of Rights).
- Require the Constitution to be reviewed every ten years by a Constitution Review Commission.
- Translate the Constitution into Fiji's major languages - iTaukei, Hindi, and Rotuman.
- Amend provisions relating to the military to ensure its clear subordination to civilian rule, clarify the military's role as addressing external threats, and define its function as an aid to civil power in states of emergency, to be called by Cabinet on the recommendation of the National Security Council, and confirmed by Parliament (see 11.2.5 and 11.3 of this report).

- Establish an independent DMP and a Military Court, open to the public and staffed by sitting High Court Judges acting as Military Judges, to handle major offences by military personnel (again, per 11.2.5 and 11.3 of this report).
- Ensure military personnel remain subject to the Constitution and protected by the Bill of Rights as accused persons.
- Supplementarily, simplifying the language of the Constitution is a priority the Commission would have pursued further with more time.

Chapter 16: Concluding Reflections

The Commission makes its recommendation in accordance with its Terms of Reference,⁷⁰ and in acknowledgement of the constitutional principles⁷¹ of democracy, rule of law, separation of powers, and nationhood. We have put forward to the best of our ability the reasoning and intentions of our recommendations, upon inquiring into and reporting “faithfully and impartially”⁷² on the matters raised by citizen submitters and as gazetted by His Excellency the President. We commissioners submit this report for scrutiny as part of the democratic process, having done our utmost to address the “democratic deficit” through the lens of democratic constitutionalism, founded on *representative government* and *protection of rights*.

16.1 Closing Overview and Supplementary Recommendations

Recognising that *protection of rights* and *representative government* as foundational principles of democratic constitutionalism, scrutinisers of this report are invited to deliberate and debate on the recommended new chapters on Land and Environment, and Group Rights; Local Government; the BLV; Independent Institutions and Governance; Code of Conduct and Removal of Officers of the State; and Rotuma. In these six new chapters, it is the Commission’s intention that rights, protections, and justiciability are recognised and enabled for all Fiji’s communities, representative local government is strengthened, recognition of the BLV is restored alongside accountability, that a deepened mutually-affirmed relationship between Fiji and Rotuma is ensured, and the separation of powers is promoted. The chapter on Parliament involved electoral system changes and a bicameral legislature that involved extensive changes, and may be read as new.

The Commission heard many submissions about failures in service delivery, and the inequities hindering progress towards a more cohesive society. As we have been careful to acknowledge, no constitution is self-executing - an enabling legislative and policy framework will be needed,

⁷⁰Government of Fiji, *Government of Fiji Gazette*, vol. 27, no. 21, 27 Mar. 2026.

⁷¹Elliot Bulmer, *What is a Constitution? Principles and Concepts: International IDEA Constitution-Building Primer I*, International IDEA, 2017, www.idea.int/sites/default/files/publications/what-is-a-constitution-primer.pdf.

⁷²Fiji, *Commissions of Inquiry Act 1946*, Government of the Republic of Fiji, 1946, www.pacii.org/fj/legis/consol_act_OK/coia283/.

and ultimately, people will decide on its acceptance - through their elected representatives and directly through the referendum. A constitution should deliver material progress for citizens, provide entry points for their engagement in civic and political life, ensure the justiciability of rights, and that leadership reflects the diversity and aspirations of all people of Fiji. Recognising the limits to what a constitution can settle, the Commission has endeavoured to include forums and processes to invite citizens to continue dialogue, foster goodwill, and reach a collective settlement that best reflects their needs and concerns. Acknowledging the social, political, and economic constraints raised in submissions, the Commission has also done its best to ensure equity and representation, recognising a *representative government* as foundational to democratic constitutionalism. This has informed commissioners' recommendations for pluralistic, diverse compositions of constitutional bodies, and protecting the separation of powers across the three branches of government as well as "fourth branch" independent bodies.

On the referendum to follow, we offer supplementary recommendations:

1. That civic education, in all of Fiji's major languages be prioritised, to inform a long-term constitution and civics curriculum aimed at schools and communities. Given the foundational role of the constitution and with Fiji's specific history, submissions also supported the importance of citizens knowing and taking custodianship of their constitution. The Commission believes this longer term approach would further benefit future reviews. In translating the constitution, the Commission also recommends every effort be made to minimise translation gaps and ensure that the spirit of the document is captured for the benefit of citizens' understanding.
2. On matters of birthright citizenship, the Commission has deemed this best dealt with in ordinary legislation, and fully recognises the gravity and relevance of this matter as Fiji's Indigenous citizens make up a vast number of the country's growing diaspora. Recognising the links of all Fiji's communities as part of a global community, and that their enduring goodwill for their homeland will continue to be an asset, the Commission hopes this is reflected in the spirit of its recommendations.
3. The Commission has approached limitations to rights as the exception rather than the norm, a matter raised in submissions about the broadness, and in some cases the targeted nature, of limitations under the current Constitution's Bill of Rights. Recommendations

have been made with the aim of requiring that any limitation meet the tests of legality, legitimate aim, necessity, and proportionality.

16.2 Gratitude and Acknowledgement

The Commission conveys its gratitude to the citizens of Fiji who engaged in this process, who participated in public discourse conveying a wide range of views, and to His Excellency the President for the faith placed in us to undertake this important task. It has been an honour to work together as commissioners, and we sincerely appreciate the instrumental dedication and support shown by the Secretariat:

Kesaia Baleiwai	Taraivini Nakauciri
Tevita Cagilaba	Apimeleki Nodrakoro
Lanieta Degei	Sapeta Peters
Leah Duru	Luke Rawalai
Leighton Fatiaki	Luisa Sera
Tira Kasami	Manasa Tawake
Litia Matanisigadrau	Miriama Tikoigau
Biu Matavou	Emosi Toga
Samuela Moce	Vilisi Vuki
Atasa Moceituba	Peni Yabakivou
Jone Naituivau	Noleen Narayan

Appendix

Appendix A: Draft Constitution

Annexes (enclosed as a separate document)

Annex A: Rules of Proceedings

Annex B: CRC Resolutions for Admission of Evidence (Submissions)

Annex C:

Exhibit 1 - CRC-E1-Online Public Submissions Received Through The Constitution Review Commission Online Web Portal

Exhibit 2 - CRC-E2-Written Submissions Received by Electronic Mail and Hard Copy Delivery to the Secretariat on Behalf of Individuals

Exhibit 3 - CRC-E3-Written Submissions Received on Behalf of Groups and Organisations via Electronic Mail and Hard Copy Delivery to the Secretariat

Exhibit 4 - CRC-E4-Submissions Presented to the Commission at Level 9 Suvavou House (In Person and Virtual)

Exhibit 5 - CRC-E5-Team 1 Nationwide Consultation Transcripts and Written Submissions (Volumes 1-5)

Exhibit 6 - CRC-E6-Team 2 Nationwide Consultation Transcripts and Written Submissions (Volumes 1-4)



**CONSTITUTION
OF
THE REPUBLIC OF FIJI
2026**

**Draft
31 August 2026**

CONSTITUTION OF THE REPUBLIC OF FIJI

CONTENTS

PREAMBLE.....	10
CHAPTER 1—THE STATE AND FOUNDING PROVISIONS	11
1 The Republic of Fiji	11
2 Supremacy of the Constitution.....	11
3 Principles of constitutional interpretation	11
4 Religious liberty	12
5 Citizenship	12
6 National Identity	13
7 Distribution of Sovereign Authority	14
CHAPTER 2—BILL OF RIGHTS.....	15
PART A – APPLICATION, INTERPRETATION AND ENFORCEMENT	15
8 Application.....	15
9 Limitation of Rights under law	15
10 Interpretation of this Chapter	16
11 Enforcement.....	16
PART B – CIVIL AND POLITICAL RIGHTS.....	17
12 Right to life	17
13 Right to personal liberty	17
14 Freedom from slavery, servitude, forced labour and human trafficking.....	18
15 Freedom from cruel and degrading treatment.....	18
16 Right to remedy and truth	19
17 Freedom from unreasonable search and seizure	19
18 Rights of arrested and detained persons.....	19
19 Rights of accused persons	20
20 Access to courts or tribunals	22
21 Executive and administrative justice.....	22
22 Freedom of speech, expression and publication	23
23 Freedom of assembly	24
24 Freedom of association	24
25 Employment relations	24
26 Freedom of movement and residence	25

27	Freedom of religion, conscience and belief	26
28	Political rights	26
29	Right to privacy.....	27
30	Access to information	27
31	Right to equality and freedom from discrimination.....	28
32	Freedom from compulsory or arbitrary acquisition of property	29
PART C SOCIAL, ECONOMIC AND CULTURAL RIGHTS		30
33	Application.....	30
34	Right to education	30
35	Right to economic participation	30
36	Right to work and a just minimum wage	30
37	Right to reasonable access to transportation	30
38	Right to housing and sanitation and freedom from arbitrary evictions.....	30
39	Right to adequate food and water.....	30
40	Right to social security schemes	31
41	Right to health.....	31
42	Rights of children.....	31
43	Rights of persons with disabilities	31
44	Human Rights and Anti-Discrimination Commission	32
CHAPTER 3—LAND AND ENVIRONMENT, AND GROUP RIGHTS		33
Part A – LAND AND ENVIRONMENT		33
45	Principles of land use and environmental protection	33
46	Duty to consult with respect to land and resources.....	33
47	National Consultative Land Forum.....	34
48	Environmental rights.....	34
49	Ownership of minerals	34
50	Land: iTaukei, Rotuman and Banaban.....	35
51	Land: Freehold and rights of lessees and tenants.....	35
52	Entrenchment of statutes on land and natural resources	36
Part B – GROUP RIGHTS.....		37
53	Respect for rights of all individuals, communities and groups.....	37
54	Languages of Fiji and its communities	37
55	Recognition of customary law	37
56	Heritage and cultures of all communities of Fiji.....	38

CHAPTER 4—PARLIAMENT	39
Part A—COMPOSITION AND LEGISLATIVE AUTHORITY OF PARLIAMENT	39
57 Legislative power.....	39
58 Composition of Parliament	39
59 Term of Parliament	39
60 Early dissolution of Parliament.....	39
61 Exercise of legislative powers.....	39
62 Money Bills.....	40
63 Limitation on powers of Senate with respect to money Bills	40
64 Presidential assent.....	41
65 Coming into force of laws.....	41
66 Subordinate laws.....	41
67 Parliamentary authority over international treaties and conventions	41
Part B—HOUSE OF REPRESENTATIVES	41
68 Members of the House of Representatives.....	41
69 Composition of the House of Representatives	41
70 Qualifications for candidates for election to House of Representatives	42
71 Writ for election	43
72 Dates of nomination and polling.....	43
73 Vacation of seat of member of House of Representatives	43
74 Vacancies	44
75 By-elections	44
76 Speaker and Deputy Speaker of Parliament.....	45
77 Leader of the Opposition.....	46
Part C—SENATE.....	47
78 Role of the Senate	47
79 Members of the Senate.....	47
80 Vacation of seat of member of Senate	47
81 Vacancies	48
82 President and Vice-President of the Senate	48
Part D—PARLIAMENTARY SITTINGS, BUSINESS AND ADMINISTRATION	49
83 Standing orders and rules.....	49
84 Sessions of Parliament	49
85 Committees	50

86	Quorum	50
87	Voting	50
88	Powers, privileges, immunities and discipline	50
89	Vacancies in House membership	51
90	Power to call for evidence.....	51
91	Petitions, public access and participation.....	51
92	Languages of Parliament.....	51
93	Secretary-General to the House of Representatives and Secretary-General to the Senate and staff	51
Part E—ELECTORAL INSTITUTIONS AND OTHER ELECTORAL MATTERS		52
94	Electoral Commission	52
95	Supervisor of Elections	52
96	Constituency Boundaries Commission	53
97	Registration of voters	54
98	Requirements for political parties	54
99	Political party funding.....	55
100	Campaigning.....	55
101	Written law on political parties.....	55
102	Limits on enactment of major new election laws 9 months before election.....	55
103	Court of Disputed Returns	55
CHAPTER 5—THE EXECUTIVE.....		57
Part A—THE PRESIDENT		57
104	The President of Fiji	57
105	The responsibilities of the President.....	57
106	President acts on advice.....	57
107	Qualification for appointment.....	58
108	Nomination and appointment of President	58
109	Term of office and remuneration	59
110	Oath of office.....	59
111	Resignation	59
112	Speaker to perform functions in absence of President.....	59
Part B—PRIME MINISTER AND CABINET		59
113	Responsible Government.....	59
114	Cabinet.....	59
115	Office of the Prime Minister	60

116	Appointment of Prime Minister	60
117	Motion of no confidence	61
118	Appointment of Ministers	62
119	Caretaker government	62
120	Attorney-General	62
CHAPTER 6—JUDICIARY		64
Part A—COURTS AND JUDICIAL OFFICERS		64
121	Judicial authority	64
122	Proceedings concerning the Constitution	64
123	Constitutional determinations	64
124	Judicial independence	65
125	Jurisdiction of courts of State	66
126	Supreme Court	66
127	Court of Appeal	66
128	High Court	67
129	Military Court	68
130	Magistrates Court	68
131	Other courts	68
132	Court rules and procedures	68
133	Judicial Services Commission	68
134	Qualifications for appointment to judicial offices	69
135	Appointment of Judges	70
136	Other appointments	70
137	Oath of office	71
138	Term of office of Judges	71
Part B—INDEPENDENT JUDICIAL AND LEGAL INSTITUTIONS		71
139	Independent Legal Services Commission	71
140	Fiji Independent Commission Against Corruption	72
141	Solicitor-General	72
142	Director of Public Prosecutions	73
143	Director of Military Prosecutions	73
144	Legal Aid Commission	74
145	Fiji Law Reform Commission	74
146	Mercy Commission	74

147	Existing appointments	75
CHAPTER 7—STATE SERVICES.....		89
Part A—PUBLIC SERVICE.....		89
148	Values and principles.....	89
149	Public officers must be citizens	89
150	Public Service Commission.....	90
151	Functions of the Public Service Commission.....	90
152	Permanent secretaries	90
153	Appointment of ambassadors	91
Part B—DISCIPLINED FORCES		91
154	Fiji Police Force.....	91
155	Fiji Corrections Service	92
156	Republic of Fiji Military Forces	92
CHAPTER 8—BOSE LEVU VAKATURAGA (BLV)		94
157	Establishment and composition of the BLV	94
158	Independence of the BLV	94
159	Responsibilities, authorities and functions of the BLV	94
CHAPTER 9—ROTUMA.....		96
160	Recognition of Rotuma and the Rotuman people.....	96
161	Autonomy and self-government	96
162	Right to initiate an external self-determination process	96
163	Entrenchment of constitutional arrangements	97
CHAPTER 10—LOCAL GOVERNMENT.....		97
164	System of local government	97
165	Local government responsibility and accountability	98
166	Government co-operation	98
CHAPTER 11—REVENUE AND EXPENDITURE AND ACCOUNTABILITY		99
Part A—REVENUE AND EXPENDITURE		99
167	Principles of public finance	99
168	Raising of revenue	99
169	Consolidated Fund.....	99
170	Appropriations to be authorised by law	100
171	Authorisation of expenditure in advance of appropriation	100
172	Appropriation and taxing measures require ministerial consent.....	100

173	Annual budget.....	100
174	Guarantees by Government	100
175	Public moneys to be accounted for	100
176	Control of public money and tendering	101
177	Standing appropriation of Consolidated Fund for payment of certain salaries and allowances 101	
178	Standing appropriation of Consolidated Fund for other purposes	102
Part B—FINANCIAL ACCOUNTABILITY		102
179	Auditor-General.....	102
180	Functions of Auditor-General.....	102
181	Reserve Bank of Fiji	103
182	Salaries and Benefits Commission	103
183	National Planning Commission	104
184	National Infrastructure Council	104
185	Public Accounts Committee	104
CHAPTER 12—CODE OF CONDUCT AND REMOVAL OF OFFICERS OF THE STATE		106
Part A – CODE OF CONDUCT		106
186	Application	106
187	Interpretation	106
188	General duties of officers of the State	106
189	Attendance at meetings.....	107
190	Confidentiality and discretion.....	107
191	Finances, property and employment.....	107
192	Gifts	107
193	Corrupt practices.....	108
194	Use of inside information for private purposes	108
195	Conflicts of interest.....	108
196	Declaration of financial interests.....	109
197	Complaints.....	110
Part B – REMOVAL OF OFFICERS OF THE STATE		110
198	Application and general principle.....	110
199	Removal of the President on grounds of incapacity	110
200	Removal of other officers of the State on grounds of incapacity	111
201	Performance of functions of tribunals	112
PART C—REMOVAL OR OTHER SANCTION FOR MISCONDUCT OR WRONGDOING.....		112

202	Automatic removal for commission of serious criminal offence.....	112
203	Investigation and sanction for breach of Code of Conduct.....	113
204	Investigation and sanction of former officer of the State	114
CHAPTER 13—INDEPENDENT INSTITUTIONS AND GOVERNANCE.....		115
Part A – PRINCIPLES AND APPLICATION.....		115
205	General guiding principles.....	115
206	Leadership principles.....	115
Part B – INDEPENDENT COMMISSIONS, OFFICES AND BODIES.....		115
207	Independent Commissions, Offices and Bodies	115
208	Constitutional Offices Commission.....	116
209	Constitutional Offices Commission Appointments Committee	117
210	Qualifications.....	117
211	Term of office.....	117
212	Procedures and standards for removal from office.....	118
213	Freedom from direction and control	118
214	Remuneration and allowances	118
215	State to provide adequate funding and resources.....	118
216	Control of own budget.....	118
217	Employment of staff	118
218	Decisions of Independent Commission	118
219	Validity of transaction of business in an Independent Commission.....	119
220	Regulation of procedures	119
221	Further provision for authority, functions and responsibilities.....	119
222	Annual report.....	119
223	Investigative and enforcement functions and associated powers	119
Part C – GOVERNANCE		119
224	Conduct of officers of the State: Code of Conduct.....	119
225	Discipline and removal from office.....	120
226	Process for access to information	120
227	Protection of whistle blowers	120
228	Ombudsman.....	120
229	Authority of the Ombudsman	121
230	Complaints and investigation by Ombudsman	122
Part D—PROVISIONS RELATING TO CERTAIN PUBLIC OFFICES.....		123

231	Application	123
232	Terms and conditions of office	123
233	Remuneration and allowances	123
234	Procedures and standards for removal from office	123
CHAPTER 14—EMERGENCY POWERS		124
235	State of emergency	124
236	Summoning the House of Representatives	124
237	Limitation of rights under states of emergency	125
238	National Security Council	125
CHAPTER 15—IMMUNITY		127
CHAPTER 16—AMENDMENT OF CONSTITUTION		128
239	Amendment of Constitution	128
240	Procedure for amendment	128
CHAPTER 17—COMMENCEMENT, INTERPRETATION, REPEALS AND TRANSITIONAL PROVISIONS		129
Part A—SHORT TITLE AND COMMENCEMENT		129
241	Short title and commencement	129
Part B—INTERPRETATION		129
242	Interpretation	129
243	Aid to interpretation	135
Part C—TRANSITIONAL RELATING TO CONSTITUTION AMENDMENT ACT 2026		135
244	Interpretation	135
245	Constitution Implementation Commission	135
246	Constitutional Implementation Oversight Committee	136
247	Electoral Commission	136
248	Constituency Boundaries Commission	137
249	Mercy Commission	137
250	Constitutional Offices Commission	137
SCHEDULE—OATHS AND AFFIRMATIONS		139

PREAMBLE

WE, THE PEOPLE OF FIJI,

SEEKING the blessing of God who has always watched over these islands and people of this Nation:

RECALLING the events in our history that have made us what we are, especially the settlement of the islands by the ancestors of the iTaukei and Rotuman people; the arrival of forebearers of subsequent settlers, including Banabans and other Pacific Islanders, Europeans, Indians and Chinese: the conversion of indigenous inhabitants of these islands to Christianity; the development of these islands through the enduring influence of Christianity and its contribution, along with that of other faiths, to the spiritual life of Fiji:

ACKNOWLEDGING our unique constitutional history:

(a) first the Deed of Cession of 10 October 1874 when Ratu Epenisa Seru Cakobau and the High Chiefs of Fiji, signifying their loyalty and devotion to God and the rule of law, ceded Fiji to Great Britain, followed by the cession in May 1881 to Great Britain of Rotuma by the Chiefs of Rotuma;

(b) secondly, our becoming an independent sovereign State upon the promulgation of the Fiji Independence Order 1970 under which the Constitution of Fiji of 1970 came into being;

(c) thirdly, the abrogation of the 1970 Constitution in 1987 followed by the enactment of the 1990 Constitution;

(d) fourthly, the review of the 1990 Constitution and enactment of the 1997 Constitution as a result of that review;

(e) fifthly, the abrogation of the 1997 Constitution in 2009 and its replacement by the 2013 Constitution;

(f) sixthly, the review of the 2013 Constitution undertaken in 2026 involving wide consultations with citizens of Fiji:

RECOGNISING that descendants of all those who chose and continue to make their homes in Fiji form our multicultural society:

AFFIRMING the contributions of all communities to the well-being of that society, and the rich variety of their faiths, traditions, languages and cultures:

TAKING PRIDE in our common citizenship and in the development of our economy and political institutions:

COMMITTING ourselves anew to living in truth, harmony and unity, promoting social justice and economic and social advancement of all communities, respecting their rights and interests and strengthening our institutions of government:

REAFFIRMING our recognition of human rights and fundamental freedoms of all individuals and groups, safeguarded by the bill of rights and the rule of law, and our respect for human dignity and for the importance of family:

RECOGNISING this Constitution as the supreme law of our country:

WITH GOD AS OUR WITNESS, GIVE OURSELVES THIS CONSTITUTION.

CHAPTER 1—THE STATE AND FOUNDING PROVISIONS

1 The Republic of Fiji

The Republic of Fiji is a sovereign democratic State founded on the values of—

- (a) common and equal citizenry and national unity;
- (b) respect for human rights, freedom and the rule of law;
- (c) an independent, impartial, competent and accessible system of justice;
- (d) equality for all and care for the less fortunate based on the values inherent in this section and in the Bill of Rights contained in Chapter 2;
- (e) human dignity, respect for the individual, personal integrity and responsibility, civic involvement and mutual support;
- (f) good governance, including the limitation and separation of powers;
- (g) transparency and accountability; and
- (h) a prudent, efficient and sustainable relationship with nature.

2 Supremacy of the Constitution

- (1) This Constitution is the supreme law of the State.
- (2) Any law inconsistent with this Constitution is invalid to the extent of the inconsistency.
- (3) This Constitution shall be upheld and respected by all citizens of Fiji and the State, including all persons holding public office, and the obligations imposed by this Constitution must be fulfilled.
- (4) This Constitution shall be enforced through the courts, to ensure that—
 - (a) laws and conduct are consistent with this Constitution;
 - (b) rights and freedoms are protected; and
 - (c) duties under this Constitution are performed.
- (5) This Constitution cannot be abrogated or suspended by any person and may only be amended in accordance with the procedures prescribed in this Constitution.
- (7) Any attempt to establish a Government other than in compliance with this Constitution shall be unlawful, and—
 - (a) anything done to further that attempt is invalid and of no force or effect; and
 - (b) no immunities can lawfully be granted under any law to any person in respect of actions taken or omitted in furtherance of such an attempt.

3 Principles of constitutional interpretation

- (1) Any person interpreting or applying this Constitution must promote the spirit, purpose and objects of this Constitution as a whole, and the values that underlie a democratic society based on human dignity, equality and freedom.
- (2) If a law appears to be inconsistent with a provision of this Constitution, the court must adopt a reasonable interpretation of that law that is consistent with the provisions of this

Constitution over an interpretation that is inconsistent with this Constitution.

- (3) This Constitution is to be adopted in the English language and translations in the iTaukei, Rotuman and Hindi languages are to be made available.
- (4) If there is an apparent difference between the meaning of the English version of a provision of this Constitution, and its meaning in the iTaukei, Rotuman and Hindi versions, the English version prevails.
- (5) Every person who transacts business with a department, an office in the public service or a local government body has the right to do so in English, iTaukei, Rotuman or Hindi, either directly or through an interpreter.

4 **Religious liberty**

- (1) Religious liberty is a founding principle of the State.
- (2) Religious belief is personal.
- (3) Religious liberty means—
 - (a) the State and all persons holding public office must treat all religions equally;
 - (b) the State and all persons holding public office must not dictate any religious belief;
 - (c) the State and all persons holding public office must not prefer or advance, by any means, any particular religion, religious denomination, religious belief, or religious practice over another, or over any non-religious belief;
 - (d) no person shall assert any religious belief as a legal reason to disregard this Constitution or any other law; and
 - (e) no person shall impose any religious practices or control over another other than in accordance with law.

5 **Citizenship**

- (1) Subject to the provisions of this Constitution, all citizens of Fiji have equal status and identity, which means that they are equally—
 - (a) entitled to all the rights, privileges and benefits of citizenship; and
 - (b) subject to the duties and responsibilities of citizenship.
- (2) Citizenship of Fiji shall only be acquired by—
 - (a) birth;
 - (b) registration; or
 - (c) naturalisation.
- (3) Every child born in Fiji becomes a citizen at the date of birth unless, at the date of birth—
 - (a) a parent of the child is a diplomatic representative of a foreign state; and
 - (b) neither parent is a citizen.
- (4) A child born outside Fiji may become a citizen by registration if, at the date of the child's birth, either parent was a citizen and written law may make further provision in relation to citizenship by registration.

- (5) A person may become a citizen by naturalisation, but it is a condition of naturalisation that the person has been lawfully present in Fiji for a total of 5 of the 10 years immediately before the application for naturalisation is made.
- (6) Citizens of Fiji may hold multiple citizenship, which means that—
 - (a) upon accepting the citizenship of a foreign country, a person remains a citizen of Fiji unless he or she renounces that status;
 - (b) a former citizen of Fiji, who lost that citizenship upon acquiring foreign citizenship, may regain citizenship of Fiji, while retaining that foreign citizenship unless the laws of that foreign country provide otherwise; and
 - (c) upon becoming a citizen of Fiji, a foreign person may retain his or her existing citizenship unless the laws of that foreign country provide otherwise.
- (7) A written law shall make provision for matters relating to citizenship, including the following—
 - (a) the conditions upon which citizenship of Fiji may be acquired and the conditions upon which a person may become a citizen of Fiji;
 - (b) procedures relating to the making of applications for citizenship by registration or naturalisation;
 - (c) conditions relating to the right to enter and reside in Fiji;
 - (d) provisions for the prevention of statelessness;
 - (e) rules for the calculation of periods of a person's lawful presence in Fiji for the purpose of determining citizenship;
 - (f) provisions relating to the renunciation and deprivation of citizenship; and
 - (g) such other matters as are necessary to regulate the granting of citizenship.
- (8) A written law made under subsection (7)(f) must provide that the person concerned is accorded procedural fairness.

6 National Identity

- (1) All citizens of Fiji shall continue to be known as Fijians until consensus has been reached or a final decision made in accordance with the process set out in this section and any written law.
- (2) During an initial interim period of a maximum of 12 months a broad-based and culturally appropriate consultative process shall be conducted with all Fiji's communities in relation to the use of the term "Fijian" to refer to all citizens of Fiji.
- (3) If, at the end of the interim period, national consensus has not been achieved on the question of the most appropriate term for the national identity of citizens of Fiji, a referendum shall be conducted within 12 months after the end of the interim period to determine the majority view of the citizens of Fiji on the most appropriate common term by which citizens of Fiji should be known.
- (4) Parliament shall enact written law providing for the conduct of the consultation process and, if necessary, the method for determining a majority view.

7 **Distribution of Sovereign Authority**

- (1) The Sovereign authority of the people of Fiji is exercised under this Constitution in accordance with the principles and values recognised in this Chapter.
- (2) To secure democracy under the principles of limiting and separating powers, this Constitution distributes the authority of the people of Fiji among—
 - (a) the President, who is the Head of State and symbolises the unity of the nation and the sovereignty of the people, and has the powers set out in Part A of Chapter 5;
 - (b) Parliament, which manifests the diversity and unity of the nation, represents the will of the people, oversees the Government and enacts written laws, in the manner provided in Chapter 4;
 - (c) the Prime Minister, Cabinet and the Leaders of the Opposition, which collectively manage the Government and administer the laws enacted by Parliament, in the manner set out in Part B of Chapter 4 and Part B of Chapter 5;
 - (d) the courts and other tribunals, which administer justice, safeguard the rule of law and protect the rights and freedoms recognised in Chapter 2 by exercising judicial authority of the State in accordance with Chapter 6;
 - (e) autonomous and democratic local governments, which must be established by written law to deliver services and ensure that the needs of the entire community, including youth, women, minorities and the disabled are considered in local government decisions;
 - (f) Independent Commissions, Offices and Bodies, as provided in Chapter 13, which secure and protect constitutional democracy, promote the observance of democratic principles and values by all State bodies, and maintain constitutionality and integrity by insulating essential democratic functions from improper influence, manipulation or interference;
 - (g) the public service, which carries out the policies of the Government and delivers services to the people with high standards of professionalism, ethics, integrity and transparency, in accordance with the principles set out in Part A of Chapter 7;
 - (h) the iTaukei and Rotuman communities and their coordinating entities the BLV and RIC, which maintain and enhance the indigenous sovereignty of those communities, including nurturing their culture, traditions, values and heritages and their internal governance in accordance with Chapter 8 and Chapter 9; and
 - (i) the disciplined forces, provided for in Part B of Chapter 7, which promote the goal of the people to live in peace and harmony among themselves, to be free from fear and to live peaceably with all other nations.

CHAPTER 2—BILL OF RIGHTS

PART A – APPLICATION, INTERPRETATION AND ENFORCEMENT

8 Application

- (1) This Chapter binds the legislative, executive and judicial branches of government at all levels, and every person performing the functions of any public office.
- (2) The State and every person holding public office must respect, protect, promote and fulfil the rights and freedoms recognised in this Chapter.
- (3) A provision of this Chapter binds a natural or legal person, taking into account—
 - (a) the nature of the right or freedom recognised in that provision; and
 - (b) the nature of any restraint or duty imposed by that provision.
- (4) A legal person has the rights and freedoms recognised in this Chapter, to the extent required by the nature of the right or freedom, and the nature of the particular legal person.
- (5) Subject to the provisions of this Constitution, this Chapter applies to all laws in force at the commencement of this Constitution.
- (6) Subject to the provisions of this Constitution, laws made, and administrative and judicial actions taken, after the commencement of this Constitution, are subject to the provisions of this Chapter.
- (7) To the extent that it is capable of doing so, this Chapter extends to things done or actions taken outside Fiji.

9 Limitation of Rights under law

- (1) A right or freedom set out in this Chapter must not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—
 - (a) the nature of the right or freedom;
 - (b) the importance of the purpose of the limitation;
 - (c) the nature and extent of the limitation;
 - (d) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.
- (2) The State or a person seeking to justify a particular limitation must demonstrate to the court, tribunal, or other authority that the requirements of this section have been satisfied.
- (3) A proposed law must be accompanied by explanatory material outlining the anticipated implication of the law on the human rights and freedoms contained in this Chapter.
- (4) When considering a proposed law intending to limit a right or freedom, Parliament must consider whether the proposed law involves an objective that would justify interference with that right or freedom.

10 Interpretation of this Chapter

- (1) In addition to complying with section 3, when interpreting and applying this Chapter, a court, tribunal or other authority—
 - (a) must promote the values that underlie a democratic society based on human dignity, equality and freedom; and
 - (b) must, if relevant, consider international law, applicable to the protection of the rights and freedoms in this Chapter.
- (2) This Chapter does not deny, or prevent the recognition of, any other right or freedom recognised or conferred by common law or written law, except to the extent that it is inconsistent with this Chapter.
- (3) A law that limits a right or freedom set out in this Chapter is not invalid solely because the law exceeds the limits imposed by this Chapter if the law is reasonably capable of a more restricted interpretation that does not exceed those limits, and in that case, the law must be construed in accordance with the more restricted interpretation.
- (4) When deciding any matter according to common law, a court must apply and, where necessary, develop common law in a manner that respects the rights and freedoms recognised in this Chapter.

11 Enforcement

- (1) A right or freedom is enforceable in the High Court either on its own initiative or on application by a person if that person considers that any of the provisions of this Chapter has been or is likely to be contravened and that person—
 - (a) has an interest in enforcement of the right or freedom; or
 - (b) has an interest in the protection and enforcement of the right or freedom acting on behalf of a person unable to fully and freely exercise that right or freedom.
- (2) The right of a person to make application to the High Court under subsection (1) is without prejudice to any other action with respect to the matter that the person concerned may have.
- (3) The High Court has original jurisdiction—
 - (a) to hear and determine applications under subsection (1); and
 - (b) to determine questions that are referred to it under subsection (5), and may make such orders and give such directions as it considers appropriate.
- (4) The High Court may exercise its discretion not to grant relief in relation to an application or referral made under this section if it considers that an adequate alternative remedy is available to the person concerned.
- (5) If in any proceedings in a subordinate court any question arises as to the contravention of any of the provisions of this Chapter, the member presiding in the proceedings may, and must if a party to the proceedings so requests, refer the question to the High Court unless, in the member's opinion (which is final and not subject to appeal), the raising of the question is frivolous or vexatious.
- (6) When the High Court gives its decision on a question referred to it under this section, the court in which the question arose must dispose of the case in accordance with—

- (a) the decision; or
 - (b) if the decision is the subject of appeal to the Court of Appeal or to the Supreme Court, the decision of the Court of Appeal or the Supreme Court, as the case may be.
- (7) The State may intervene in proceedings before the High Court that relates to a matter concerning a provision of this Chapter.
 - (8) If the proceedings before the High Court relate to a matter concerning a provision of this Chapter, the High Court must not proceed to hear and determine the matter until it is satisfied that notice of the matter has been given to the State and a reasonable time has elapsed since the giving of the notice for consideration by the State of the question of intervention in the proceedings.
 - (9) A notice under subsection (8) is not required to be given to the State if the State is a party to the proceedings.
 - (10) The High Court may order that no legal costs be awarded against the applicant to enforcement proceedings if, in the opinion of the High Court, the enforcement proceedings are in the interests of justice or the public interest.
 - (11) The Chief Justice may make rules for the purposes of this section with respect to the practice and procedure of the High Court (including rules with respect to the time within which applications are to be made to the High Court).

PART B – CIVIL AND POLITICAL RIGHTS

12 Right to life

Every person has the right to life, and a person must not be arbitrarily deprived of life.

13 Right to personal liberty

- (1) A person must not be deprived of personal liberty except—
 - (a) for the purpose of executing the sentence or order of a court, whether handed down or made in Fiji or elsewhere, in respect of an offence of which the person had been convicted;
 - (b) for the purpose of executing an order of a court punishing the person for contempt of the court or of another court or tribunal;
 - (c) for the purpose of executing an order of a court made to secure the fulfilment of an obligation imposed on the person by law;
 - (d) for the purpose of bringing the person before a court in execution of an order of a court;
 - (e) if the person is reasonably suspected of having committed an offence;
 - (f) with the consent of the person's parent or lawful guardian or upon an order made by a court, for the purpose of the person's education or welfare during any period ending not later than the date of his or her 18th birthday;
 - (g) for the purpose of preventing the spread of an infectious or contagious disease;
 - (h) for the purpose of the person's care or treatment or for the protection of the

community if he or she is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant; or

- (i) for the purpose of preventing the unlawful entry of the person into Fiji or of effecting the expulsion, extradition or other lawful removal of the person from Fiji.
- (2) Subsection (1)(c) does not permit a court to make an order depriving a person of personal liberty on the ground of failure to pay maintenance or a debt, fine or tax, unless the court considers that the person has willfully refused to pay despite having the means to do so.
- (3) If a person is detained pursuant to a measure authorised under a state of emergency—
 - (a) the person must, as soon as is reasonably practicable and in any event within 7 days after the start of the detention, be given a statement in writing, in a language that the person understands, specifying the grounds of the detention;
 - (b) the person must be given the opportunity to communicate with, and to be visited by—
 - (i) his or her spouse, partner or next-of-kin;
 - (ii) a legal practitioner;
 - (iii) a religious counsellor or a social worker; and
 - (iv) a medical practitioner;
 - (c) the person must be given reasonable facilities to consult with a legal practitioner of his or her choice;
 - (d) the detention must, within one month and thereafter at intervals of not more than one month, be reviewed by a court; and
 - (e) at any review by a court, the person may appear in person or be represented by a legal practitioner.
- (4) At any review of the detention under subsection (3), the court may make orders as to the continued detention of the person.

14 Freedom from slavery, servitude, forced labour and human trafficking

- (1) A person must not be held in slavery or servitude, or subjected to forced labour or human trafficking.
- (2) In this section, “forced labour” does not include—
 - (a) labour required in consequence of a sentence or order of a court;
 - (b) labour reasonably required of a person serving a term of imprisonment, whether or not required for the hygiene or maintenance of the prison;
 - (c) labour required of a member of a disciplined force as part of his or her duties; or
 - (d) labour reasonably required as part of reasonable and normal communal or civic obligations.

15 Freedom from cruel and degrading treatment

- (1) Every person has the right to freedom from torture of any kind, whether physical, mental or emotional, and from cruel, inhumane, degrading or disproportionately severe treatment

or punishment.

- (2) Every person has the right to security of the person, which includes the right to be free from any form of violence from any source, at home, school, work or in any other place.
- (3) Every person has the right to freedom from scientific or medical treatment or procedures without an order of the court or without his or her informed consent, or if he or she is incapable of giving informed consent, without the informed consent of a lawful guardian.

16 Right to remedy and truth

- (1) Every person whose human rights have been violated shall have a remedy, which includes—
 - (a) prompt, impartial and thorough investigation of the alleged violation; and
 - (b) verification of facts and disclosure of truth and reparations to affected persons, their relatives and communities.
- (2) In order to give effect to the right, the State and its agencies shall—
 - (a) preserve documentary and electronic evidence of human rights violations for the purposes of investigation, commemoration and remembrance; and
 - (b) ensure adequate access to archives containing information on human rights violations.
- (3) Relatives of victims and affected communities shall have the right to commemorate and mourn the loss in a culturally appropriate manner, free from interference, intimidation or discrimination.

17 Freedom from unreasonable search and seizure

- (1) Every person has the right to be secure against unreasonable search of his or her person or property and against unreasonable seizure of his or her property.
- (2) Search or seizure is not permissible otherwise than under the authority of the law.

18 Rights of arrested and detained persons

- (1) Every person who is arrested or detained has the right—
 - (a) to be informed promptly, in a language that he or she understands, of—
 - (i) the reason for the arrest or detention and the nature of any charge that may be brought against that person;
 - (ii) the right to remain silent; and
 - (iii) the consequences of not remaining silent;
 - (b) to communicate with a legal practitioner of his or her choice in private in the place where he or she is detained, to be informed of that right promptly and, if he or she does not have sufficient means to engage a legal practitioner and the interests of justice so require, to be given the services of a legal practitioner under a scheme for legal aid by the Legal Aid Commission;
 - (c) to be promptly released if not charged;
 - (d) to be brought before a court as soon as reasonably possible, and in a case of an

adult, no later than 48 hours, and in case of a child no later than 24 hours, after the time of arrest or if that is not reasonably possible as soon as possible thereafter.

- (e) at the first court appearance, to be charged or informed of the reasons for the detention to continue, or to be released;
 - (f) to be released on reasonable terms and conditions, pending a charge or trial, unless the interests of justice otherwise require;
 - (g) not to be compelled to make any confession or admission that could be used in evidence against that person;
 - (h) to be held separately from persons who are serving a sentence, and in the case of a child, to be kept separate from adults unless that is not in the best interests of the child;
 - (i) to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;
 - (j) to conditions of detention that are consistent with human dignity, including at least the opportunity to exercise regularly and the provision, at State expense, of adequate accommodation, nutrition, and medical treatment; and
 - (k) to communicate with, and be visited by,—
 - (i) his or her spouse or partner or next-of-kin; and
 - (ii) a religious counsellor or a social worker.
- (2) Whenever this section requires information to be given to a person, that information must be given simply and clearly in a language that the person understands.
- (3) A person who is deprived of liberty by being detained, held in custody or imprisoned under any law retains all the rights and freedoms set out in this Chapter, except to the extent that any particular right or freedom is incompatible with the fact of being so deprived of liberty.

19 Rights of accused persons

- (1) A person shall not be tried for—
- (a) any act or omission that was not an offence under either domestic or international law at the time it was committed or omitted; or
 - (b) an offence in respect of an act or omission for which that person has previously been either acquitted or convicted.
- (2) Every person charged with an offence has the right—
- (a) to be presumed innocent until proven guilty according to law;
 - (b) to be informed in legible writing, in a language that he or she understands, of the nature of and reasons for the charge;
 - (c) to be given adequate time and facilities to prepare a defence, including if he or she so requests, a right of access to witness statements;
 - (d) to defend himself or herself in person or to be represented at his or her own expense by a legal practitioner of his or her own choice, and to be informed promptly of this right or, if he or she does not have sufficient means to engage a

legal practitioner and the interests of justice so require, to be given the services of a legal practitioner under a scheme for legal aid by the Legal Aid Commission, and to be informed promptly of this right;

- (e) to be informed in advance of the evidence on which the prosecution intends to rely, to disclosure of all other evidence regardless of whether the prosecution intends to rely on it and to have reasonable access to all evidence;
 - (f) to a public trial before a court of law, unless the interests of justice otherwise require;
 - (g) to have the trial begin and conclude without unreasonable delay;
 - (h) to be present when being tried, unless—
 - (i) the court is satisfied that the person has been served with a summons or similar process requiring his or her attendance at the trial, and has chosen not to attend; or
 - (ii) the conduct of the person is such that the continuation of the proceedings in his or her presence is impracticable and the court has ordered him or her to be removed and the trial to proceed in his or her absence;
 - (i) to be tried in a language that the person understands or, if that is not practicable, to have the proceedings interpreted in such a language at State expense;
 - (j) to remain silent, not to testify during the proceedings, and not to be compelled to give self-incriminating evidence, and not to have adverse inference drawn from the exercise of any of these rights;
 - (k) not to have unlawfully obtained evidence adduced against him or her unless the interests of justice require it to be admitted;
 - (l) to call witnesses and present evidence, and to challenge evidence presented against him or her;
 - (m) to a copy of the record of proceedings within a reasonable period of time and on payment of a reasonably prescribed fee;
 - (n) to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time the offence was committed and the time of sentencing; and
 - (o) of appeal to, or review by, a higher court.
- (3) Whenever this section requires information to be given to a person, that information must be given as simply and clearly as practicable, in a language that the person understands.
- (4) A law is not inconsistent with subsection (1)(b) to the extent that it—
- (a) authorises a court to try a member of a disciplined force for a criminal offence despite his or her trial and conviction or acquittal under a disciplinary law; and
 - (b) requires the court, in passing sentence, to take into account any punishment awarded against the member under the disciplinary law.

20 Access to courts or tribunals

- (1) Every person charged with an offence has the right to a fair trial before a court of law.
- (2) Every party to a civil dispute has the right to have the matter determined by a court of law or if appropriate, by an independent and impartial tribunal.
- (3) Every person charged with an offence and every party to a civil dispute has the right to have the case determined within a reasonable time.
- (4) The hearings of courts and tribunals established by law must be open to the public unless the interests of justice require otherwise.
- (5) Subsection (4) does not prevent—
 - (a) the making of laws relating to the trials of children, or to the determination of family or domestic disputes, in a closed court; or
 - (b) the exclusion by a court or tribunal from particular proceedings (except the announcement of the decision of the court or tribunal) of a person other than parties and their legal representatives if a law empowers it to do so in the interests of justice, public morality, the welfare of children, personal privacy, national security, public safety or public order.
- (6) Every person charged with an offence, every party to civil proceedings, and every witness in criminal or civil proceedings has the right to give evidence and to be questioned in a language that he or she understands.
- (7) Every person charged with an offence and every party to civil proceedings has the right to follow the proceedings in a language that he or she understands.
- (8) To give effect to the rights referred to in subsections (6) and (7), the court or tribunal concerned must, when the interests of justice so require, provide, without cost to the person concerned, the services of an interpreter or of a person competent in sign language.
- (9) If a child is called as a witness in criminal proceedings, arrangements for the taking of the child's evidence must have due regard to the child's age.
- (10) The State, through law and other measures, must provide legal aid through the Legal Aid Commission to those who cannot afford to pursue justice on the strength of their own resources, if injustice would otherwise result.
- (11) If any fee is required to access a court or tribunal, it must be reasonable and must not impede access to justice.
- (12) In any proceedings, evidence obtained in a manner that infringes any right in this Chapter, or any other law, must be excluded.

21 Executive and administrative justice

- (1) Subject to the provisions of this Constitution and such other limitations as may be prescribed by law—
 - (a) every person has the right to executive or administrative action that is lawful, rational, proportionate, procedurally fair, and reasonably prompt;
 - (b) every person who has been adversely affected by any executive or administrative action has the right to be given written reasons for the action; and

- (c) any executive or administrative action may be reviewed by a court, or if appropriate, another independent and impartial tribunal, in accordance with law.
- (2) The rights mentioned in subsection (1) shall not be exercised against any company registered under a law governing companies.
- (3) This section shall not have retrospective effect and shall only apply to executive and administrative actions taken after the first sitting of the first Parliament elected under this Constitution.

22 Freedom of speech, expression and publication

- (1) Every person has the right to freedom of speech, expression, thought, opinion and publication, which includes—
 - (a) freedom to seek, receive and impart information, knowledge and ideas;
 - (b) freedom of the press, including print, electronic and other media;
 - (c) freedom of imagination and creativity; and
 - (d) academic freedom and freedom of scientific research.
- (2) Freedom of speech, expression, thought, opinion and publication does not protect—
 - (a) propaganda for war;
 - (b) incitement to violence or insurrection against this Constitution; or
 - (c) advocacy of hatred that—
 - (i) is based on any prohibited ground of discrimination listed or prescribed under section 31; and
 - (ii) constitutes incitement to cause harm.
- (3) A law may limit, or may authorise the limitation of, the rights and freedoms mentioned in subsection (1) in the interests of—
 - (a) national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) the protection or maintenance of the reputation, privacy, dignity, rights or freedoms of other persons, including—
 - (i) the right to be free from hate speech, whether directed against individuals or groups; and
 - (ii) the rights of persons injured by inaccurate or offensive media reports to have a correction published on reasonable conditions established by law;
 - (c) preventing the disclosure, as appropriate, of information received in confidence;
 - (d) preventing attacks on the dignity of individuals, groups of individuals or respected offices or institutions in a manner likely to promote ill will between ethnic or religious groups or the oppression of, or discrimination against, any person or group of persons;
 - (e) maintaining the authority and independence of the courts;
 - (f) imposing reasonable restrictions on the holders of public offices in order to secure their impartial and confidential service;

- (g) regulating the technical administration of telecommunications.
- (4) In this section, “hate speech” means an expression in whatever form that encourages, or has the effect of encouraging discrimination on a ground listed or prescribed under section 31.

23 Freedom of assembly

- (1) Every person has the right, peaceably and unarmed, to assemble, demonstrate, picket and to present petitions.
- (2) A law may limit, or may authorise the limitation of, the right mentioned in subsection (1)—
 - (a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) for the purpose of protecting the rights and freedoms of others; or
 - (c) for the purpose of imposing restrictions on the holders of public offices in order to secure their impartial and confidential service.

24 Freedom of association

- (1) Every person has the right to freedom of association.
- (2) A law may limit, or may authorise the limitation of, the right mentioned in subsection (1)—
 - (a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) for the purpose of protecting the rights and freedoms of others; or
 - (c) for the purpose of imposing reasonable restrictions on the holders of public offices in order to secure their impartial and confidential service.

25 Employment relations

- (1) Every person has the right to fair employment practices, including humane treatment and proper working conditions.
- (2) Every worker has the right to form or join a trade union, to participate in its activities and programmes and to strike.
- (3) Every employer has the right to form or join an employers’ organisation, and to participate in its activities and programmes.
- (4) Trade unions and employers have the right to bargain collectively.
- (5) A law may limit, or may authorise the limitation of, the rights mentioned in this section—
 - (a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) for the purposes of protecting the rights and freedoms of others; or
 - (c) for the purpose of imposing reasonable restrictions on the members of a disciplined force.

26 Freedom of movement and residence

- (1) Every person has the right to freedom of movement.
- (2) Every citizen has the right to apply for and be issued a passport or similar travel document, in accordance with any condition prescribed by written law.
- (3) Every citizen, and every other person lawfully in Fiji, has the right to move freely throughout Fiji and the right to leave Fiji.
- (4) Every citizen, and every other person who has a right to reside in Fiji, has the right to reside in any part of Fiji.
- (5) Every person who is not a citizen but is lawfully in Fiji has the right not to be expelled from Fiji except pursuant to an order of a court or a decision of the Minister responsible for immigration on a ground prescribed by law.
- (6) A law, or anything done under the authority of a law, is not inconsistent with the rights granted by this section to the extent that the law—
 - (a) provides for the detention of the person or enables a restraint to be placed on the person's movements, whether—
 - (i) for the purpose of ensuring his or her appearance before a court for trial or other proceedings;
 - (ii) in consequence of his or her conviction for an offence; or
 - (iii) for the purpose of protecting another person from apprehended violence;
 - (b) provides for a person who is a non-citizen to be detained or restrained as a consequence of his or her arrival in Fiji without the prescribed entry documentation;
 - (c) provides for the extradition, on the order of the High Court, of a person from Fiji;
 - (d) provides for the removal from Fiji, on the order of the High Court, of any child who had previously been unlawfully removed from another country, for the purpose of restoring the child to the lawful custody of his or her parent or lawful guardian;
 - (e) provides for the removal from Fiji of a person who is not a citizen for the purpose of enabling the person to serve a sentence of imprisonment in the country of the person's citizenship in relation to a criminal offence of which he or she has been convicted in Fiji; or
 - (f) regulates, controls or prohibits the entry of persons on to land or property owned or occupied by others.
- (7) A law may limit, or may authorise the limitation of, the rights mentioned in this section—
 - (a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) for the purpose of protecting the rights and freedoms of others;
 - (c) for the purpose of implementing a decision of customary authorities under the iTaukei Affairs Act made in the interests of maintaining peace and good order in the community;

- (d) for the purpose of protecting the economy of a particular area or the ecology or distinctive culture of an area;
 - (e) for the purpose of imposing a restriction on the person that is reasonably required to secure the fulfilment of an obligation imposed on the person by law; or
 - (f) for the purpose of imposing reasonable restrictions on the holders of public offices as part of the terms and conditions of their employment.
- (8) Section 13(3) and (4) apply to a person whose right to freedom of movement is restricted pursuant to a measure authorised under a state of emergency in the same way as they apply to a person detained pursuant to such a measure.

27 Freedom of religion, conscience and belief

- (1) Every person has the right to freedom of religion, conscience and belief.
- (2) Every person has the right, either individually or in community with others, in private or in public, to manifest and practice their religion or belief in worship, observance, practice or teaching.
- (3) Every person has the right not to be compelled to—
 - (a) act in any manner that is contrary to the person's religion or belief; or
 - (b) take an oath, or take an oath in a manner, that—
 - (i) is contrary to the person's religion or belief; or
 - (ii) requires the person to express a belief that the person does not hold.
- (4) Every religious community or denomination, and every cultural or social community, has the right to establish, maintain and manage places of education whether or not it receives financial assistance from the State, provided that the educational institution maintains any standard prescribed by law.
- (5) In exercising its rights under subsection (4), a religious community or denomination has the right to provide religious instruction as part of any education that it provides, whether or not it receives financial assistance from the State for the provision of that education.
- (6) Except with his or her consent or, in the case of a child, the consent of a parent or lawful guardian, a person attending a place of education is not required to receive religious instruction or to take part in or attend a religious ceremony or observance if the instruction, ceremony or observance relates to a religion that is not his or her own or if he or she does not hold any religious belief.
- (7) The rights and freedoms set out in this section may be made subject to such limitations prescribed by law—
 - (a) to protect—
 - (i) the rights and freedoms of other persons; or
 - (ii) public safety, public order, public morality or public health; or
 - (b) to prevent public nuisance.

28 Political rights

- (1) Every citizen has the freedom to make political choices, and the right to—

- (a) form or join a political party;
- (b) participate in the activities of, or recruit members for, a political party; and
- (c) campaign for a political party, candidate or cause.
- (2) Every citizen has the right to free, fair and regular elections for any elective institution or office established under this Constitution.
- (3) Every citizen who has reached the age of 18 years has the right—
 - (a) to be registered as a voter;
 - (b) to vote by secret ballot in any election or referendum under this Constitution;
 - (c) to be a candidate for public office, or office within a political party of which the citizen is a member, subject to satisfying any qualifications for such an office; and
 - (d) if elected, to hold office.
- (4) A law may limit, or may authorise the limitation of, the rights mentioned in this section—
 - (a) for the purpose of regulating the registration of voters, and prescribing persons who do not have or have ceased to have the right to be registered as a voter;
 - (b) for the purpose of regulating the registration of political parties and prescribing persons who do not have the rights prescribed under subsection (1) and subsection (3)(c) and (d);
 - (c) for the purpose of regulating persons who are not eligible to contest for a place in Parliament or in a public office, or an office within a political party; or
 - (d) for the purpose of imposing restrictions on the holders of public offices (as defined in any such law) from the rights set out in this section.

29 Right to privacy

Every person has the right to personal privacy, which includes the right to—

- (a) confidentiality of their personal information and data;
- (b) confidentiality of their communications; and
- (c) respect for their private and family life.

30 Access to information

- (1) Every person has the right of access to—
 - (a) information held by any public office; and
 - (b) information held by another person and required for the exercise or protection of any legal right.
- (2) Every person has the right to the correction or deletion of false or misleading information that affects that person.
- (3) The State shall publish and publicize any significant information affecting the nation that would ordinarily be published in a free and democratic society.
- (4) A law may regulate the procedure under which information held by a public office may be made available.

31 Right to equality and freedom from discrimination

- (1) Every person is equal before the law and has the right to equal protection, treatment and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms recognised in this Chapter or any other written law.
- (3) A person must not be unfairly discriminated against, directly or indirectly on the grounds of his or her—
 - (a) actual or supposed personal characteristics or circumstances, including race, culture, ethnic or social origin, colour, place of origin, sex, gender, sexual orientation, gender identity and expression, birth, primary language, economic or social or health status, disability, age, religion, conscience, marital status or pregnancy; or
 - (b) opinions or beliefs, except to the extent that those opinions or beliefs involve harm to others or the diminution of the rights or freedoms of others, or on any other ground prohibited by this Constitution.
- (4) A law or an administrative action taken under a law may not directly or indirectly impose a limitation or restriction on any person on a prohibited ground.
- (5) Every person has the right of access, membership or admission, without discrimination on a prohibited ground, to shops, hotels, lodging-houses, public restaurants, places of public entertainment, clubs, education institutions, public transportation services, taxis and public places.
- (6) The proprietor of a place or service referred to in subsection (5) must facilitate reasonable access for persons with disabilities to the extent prescribed by law.
- (7) Treating one person differently from another on any of the grounds prescribed under subsection (3) is discrimination, unless it can be established that the difference in treatment is not unfair in the circumstances.
- (8) A law, or an administrative action taken under a law, is not inconsistent with the rights mentioned in this section on the ground that it—
 - (a) appropriates revenues or other moneys for particular purposes;
 - (b) imposes a retirement age on a person;
 - (c) imposes restrictions on persons who are not citizens, or confers on them a privilege or advantage, not imposed or conferred on citizens;
 - (d) makes provision with respect to adoption, marriage, devolution of property on death, and pension;
 - (e) limits a right or freedom in accordance with subsections (9), (10) and (11) (relating to communal ownership of iTaukei, Rotuman and Banaban lands and access to marine resources, or the bestowing of iTaukei, Rotuman and Banaban chiefly title or rank).
- (9) A law, or an administrative action taken under a law, may limit a right or a freedom for the purpose of:
 - (a) providing for the application of the customs of iTaukei or Rotuman or of the

Banaban community:

- (i) to the holding, use or transmission of, or the distribution of the produce of, land or fishing rights; or
 - (ii) to the entitlement of any person to any chiefly title or rank:
 - (b) imposing a restriction on the alienation of land or fishing rights held in accordance with iTaukei or Rotuman custom or in accordance with Banaban custom:
 - (c) permitting the temporary alienation of that land or those rights without the consent of the owners.
- (10) To the extent permitted by subsection (10), a law or an administrative action taken under a law, may limit a right or a freedom set out in this section for the purpose of providing for the governance of iTaukei or Rotuman or of the Banaban community and of other persons living as members of an iTaukei, Rotuman or Banaban community.
- (11) A limitation referred to in subsection (10) is valid only if it:
- (a) accords to every person to whom it applies the right to equality before the law without discrimination other than on the ground of race or ethnic origin; and
 - (b) does not infringe a right or freedom set out in any other section of this Chapter.

32 Freedom from compulsory or arbitrary acquisition of property

- (1) Every person has the right not to be deprived of property by the State other than in accordance with a written law referred to in subsection (2), and no law may permit arbitrary acquisition or expropriation of any interest in any property.
- (2) A written law may authorise compulsory acquisition of property—
 - (a) when necessary for a public purpose; and
 - (b) on the basis that the owner will be promptly paid the agreed compensation for the property, or failing agreement, just and equitable compensation as determined by a court or tribunal, after considering all relevant factors, including—
 - (i) the public purpose for which the property is being acquired;
 - (ii) the history of its acquisition by the owner;
 - (iii) the market value of the property;
 - (iv) the interests of any person affected by the acquisition; and
 - (v) any hardship to the owner.
- (3) Nothing contained in, or done under the authority of, a law is inconsistent with this section to the extent that the law makes provision for the acquisition of property by way of—
 - (a) taxation;
 - (b) sequestration of bankrupt estates;
 - (c) confiscation of the proceeds of crime;
 - (d) penalty for breach of the law;

- (e) satisfaction of a mortgage, charge or lien; or
- (f) execution of a judgment of a court or tribunal.

PART C SOCIAL, ECONOMIC AND CULTURAL RIGHTS

33 Application

In applying any right under this Part, the State must take reasonable measures within its available resources to achieve the progressive realisation of the right.

34 Right to education

- (1) Every person has the right to—
 - (a) free early childhood education;
 - (b) free primary and secondary education; and
 - (c) free further education for persons who were unable to complete their primary and secondary education.
- (2) Conversational and contemporary iTaukei, Rotuman and Hindi languages shall be taught in all primary schools.
- (3) The State may direct any educational institution to teach subjects pertaining to health, civic education and issues of national interest, and any educational institution must comply with any such directions made by the State.

35 Right to economic participation

Every person has the right to full and free participation in the economic life of the State, which includes the right to choose their own work, trade, occupation, profession or other means of livelihood.

36 Right to work and a just minimum wage

Every person has the right to work and to a just minimum wage.

37 Right to reasonable access to transportation

Every person has the right to have reasonable access to transportation.

38 Right to housing and sanitation and freedom from arbitrary evictions

- (1) Every person has the right to—
 - (a) accessible and adequate housing and sanitation; and
 - (b) freedom from arbitrary evictions from his or her home or to have his or her home demolished, without an order of a court made after considering all the relevant circumstances.
- (2) No law may permit arbitrary evictions.

39 Right to adequate food and water

Every person has the right to be free from hunger, to have adequate food of acceptable quality and to clean and safe water in adequate quantities.

40 Right to social security schemes

Every person has the right to social security schemes, whether private or public, for their support in times of need, including the right to such support from public resources if they are unable to support themselves and their dependents.

41 Right to health

- (1) The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to health, and to the conditions and facilities necessary to good health, and to health care services, including reproductive health care.
- (2) A person must not be denied emergency medical treatment.

42 Rights of children

- (1) Every child has the right—
 - (a) to be registered at or soon after birth, and to have a name and nationality;
 - (b) to basic nutrition, clothing, shelter, sanitation and health care;
 - (c) to family care, protection and guidance, which includes the equal responsibility of the child's parents to provide for the child—
 - (i) whether or not the parents are, or have ever been, married to each other; and
 - (ii) whether or not the parents are living together, have lived together, or are separated;
 - (d) to be protected from abuse, neglect, harmful cultural practices, any form of violence, inhumane treatment and punishment, and hazardous or exploitative labour; and
 - (e) not to be detained, except as a measure of last resort, and when detained, to be held—
 - (i) only for such period of time as is necessary; and
 - (ii) separate from adults, and in conditions that take account of the child's sex and age.
- (2) The best interests of a child are the primary consideration in every matter concerning the child.

43 Rights of persons with disabilities

- (1) A person with any disability has the right—
 - (a) to reasonable access to all places, public transport and information;
 - (b) to use sign language, Braille or other appropriate means of communication; and
 - (c) to reasonable access to necessary materials, substances and devices relating to the person's disability.
- (2) A person with any disability has the right to reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures, to enable

their full participation in society and the effective realisation of their rights.

- (3) A law or an administrative action taken under a law may limit, or may authorise the limitation of, the rights set out in this section.

44 Human Rights and Anti-Discrimination Commission

- (1) There is a Human Rights and Anti- Discrimination Commission.
- (2) The Commission consists of—
 - (a) a chairperson, who must be a person who is or is qualified to be appointed as a judge; and
 - (b) 4 other members, appointed by the President on the advice of the Constitutional Offices Commission.
- (3) In advising the President as to the person to be appointed as chairperson or other members of the Commission, the Constitutional Offices Commission must have regard not only to their personal attributes but also to their knowledge or experience of the various aspects of matters likely to come before the Commission.
- (4) Subject to this Constitution, the Commission is responsible for—
 - (a) promoting the protection and observance of, and respect for, human rights in public and private institutions, and to develop a culture of human rights in Fiji;
 - (b) education about the rights and freedoms recognised in this Chapter, as well as other internationally recognised rights and freedoms;
 - (c) monitoring, investigating and reporting on the observance of human rights in all spheres of life;
 - (d) making recommendations to Government concerning matters affecting the rights and freedoms recognised in this Chapter, including recommendations concerning existing or proposed laws;
 - (e) receiving and investigating complaints about alleged abuses of human rights and take steps to secure appropriate redress if human rights have been violated, including making applications to court for redress or for other forms of relief or remedies;
 - (f) investigating or researching, on its own initiative or on the basis of a complaint, any matter in respect of human rights, and make recommendations to improve the functioning of public or private entities;
 - (g) monitoring compliance by the State with obligations under treaties and conventions relating to human rights; and
 - (h) performing any other functions or exercising any powers as are conferred on the Commission by a written law.
- (5) Subject to this Constitution, any person has the right to lodge a complaint with the Commission, alleging that a right or freedom in this Chapter has been denied, violated or infringed, or is threatened.
- (6) The Commission may apply for a determination from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

CHAPTER 3—LAND AND ENVIRONMENT, AND GROUP RIGHTS

Part A – LAND AND ENVIRONMENT

45 Principles of land use and environmental protection

- (1) Security of land rights shall be assured for all legitimate users and occupiers.
- (2) All foreshore land, being land between low spring tide to mean high spring tide, is public land.
- (3) All land and natural resources must be protected and managed for the benefit of present and future generations in a manner that—
 - (a) promotes conservation; and
 - (b) protects biodiversity, genetic resources and ecologically sensitive areas.
- (4) The State may—
 - (a) promote good land use; and
 - (b) regulate the use of any land, or any interest in or right of way over any land, to promote public safety, public order, public health or sound rural or urban development.
- (5) Land use planning laws, and procedures for granting permits, must require owners to provide reasonable notice to neighbouring owners and occupiers before undertaking any alteration in land use that may be anticipated to affect their rights or interests.
- (6) Land administration, including land records, land use consultation, planning, procedures for granting permits and environmental impact studies, must be participatory, transparent, accessible and cost effective.

46 Duty to consult with respect to land and resources

- (1) If any project is proposed to develop infrastructure, or to develop or extract resources, on any land in a manner that may reasonably be anticipated to adversely affect the rights or interests of other persons or a community with respect to that land or any other land, the State and the proponent of the project have a joint duty, before licensing, permitting or undertaking that project to—
 - (a) inform those persons or that community about the project in sufficient detail for the affected persons to assess the possible effects of the project on their rights and interests;
 - (b) engage in constructive discussions with the affected persons to identify any reservations they may have about the effects of the project;
 - (c) obtain the free, prior and informed consent of the affected persons or communities, which consent must in accordance with their traditions and customs; and
 - (d) seek consensus with the affected persons by making any reasonable and necessary modifications to the project to protect their rights and interests and accommodate their reservations.
- (2) State bodies, when licensing or permitting a project, must impose conditions which, so far

as reasonably possible, protect the rights and interests and accommodate the reservations of the affected person with respect to the project.

- (3) The duty to obtain consent, as required in subsection (1)(c), only applies to large, proposed projects.
- (4) The duty to consult, as set out in subsection (1), continues while the project is underway, so long as it affects the rights or interests of other persons or communities.

47 National Consultative Land Forum

- (1) Parliament must enact a law to establish a National Consultative Land Forum.
- (2) The Forum must—
 - (a) be chaired by a person with knowledge of land law or land administration in Fiji, who is not a holder of any public office, and not a representative of the interests of either landowners or tenants; and
 - (b) otherwise consist of an equal number of persons drawn from each of the three following stakeholder groups:
 - (i) State bodies or enterprises engaged in land policy, land management or the administration of land law, including local government bodies;
 - (ii) land owners, with a balance between owners of freehold and customary land owners;
 - (iii) tenants, reflecting the diversity of urban and rural tenants, tenants of freehold, customary and public land, and agricultural, commercial and residential users.
- (3) The purposes of the National Consultative Land Forum are to—
 - (a) educate the public on land ownership, land use and land administration;
 - (b) research issues respecting land, land use and land administration;
 - (c) convene meetings for deliberation of land issues in the broader social and economic context, and seek to reach consensus on any issue;
 - (d) make proposals to the government on matters of policy or law concerning land and related institutions; and
 - (e) review and express advisory opinions on policy or legislative proposals of the Government with respect to land.

48 Environmental rights

- (1) Every person has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations through legislative and other measures.
- (2) In applying an environmental right under this section, the State must make reasonable measures within its available resources to achieve the progressive realisation of the right.

49 Ownership of minerals

- (1) All minerals in or under any land or water, are owned by the State, provided however, that

the owners of any particular land (whether customary or freehold), or of any particular registered customary fishing rights shall be entitled to receive a fair share of royalties or other money paid to the State in respect of the grant by the State of rights to extract minerals from that land or the seabed in the area of those fishing rights.

- (2) Any distribution of royalties amongst the owners of land or fishing rights must be fair and equitable in respect of the product of the extraction of minerals from the land or seabed.
- (3) A written law may determine the framework for calculating fair shares under subsection (1), taking into account all relevant factors, including the following—
 - (a) any benefit that the owners received or may receive as a result of mineral exploration or exploitation;
 - (b) the risk of environmental damage;
 - (c) any legal obligation of the State to contribute to a fund to meet the cost of preventing, repairing or compensating for any environmental damage;
 - (d) the cost to the State of administering exploration or exploitation rights; and
 - (e) the appropriate contribution to the general revenue of the State to be made by any person granted exploration or exploitation rights.

50 Land: iTaukei, Rotuman and Banaban

- (1) The ownership of iTaukei land and rights over foreshore, seabed, reefs and riverbeds shall remain with the customary owners and iTaukei land and rights over foreshore, seabed, reefs and riverbeds shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 32.
- (2) Any iTaukei land acquired by the State for a public purpose after the commencement of this Constitution in accordance with section 32 shall revert to the customary owners if the land is no longer required by the State.
- (3) The ownership of Rotuman land and rights over foreshore, seabed, reefs and riverbeds shall remain with the customary owners and Rotuman land and rights over foreshore, seabed, reefs and riverbeds shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 32.
- (4) Any Rotuman land acquired by the State for a public purpose after the commencement of this Constitution in accordance with section 32 shall revert to the customary owners if the land is no longer required by the State.
- (5) The ownership of Banaban land and rights over foreshore, seabed, reefs and riverbeds shall remain with the customary owners and Rotuman land and rights over foreshore, seabed, reefs and riverbeds shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 32.
- (6) Any Banaban land acquired by the State for a public purpose after the commencement of this Constitution in accordance with section 32 shall revert to the customary owners if the land is no longer required by the State.

51 Land: Freehold and rights of lessees and tenants

- (1) All ownership of land, and all rights and interests in land leases and land tenancies that existed immediately before the commencement of this Constitution shall continue to exist

under this Constitution.

- (2) All land that existed as freehold land immediately before the commencement of this Constitution shall remain as freehold land even if it is sold or purchased, unless it is sold to the State or is acquired by the State for a public purpose in accordance with section 32.
- (3) No law shall be made to diminish or adversely affect the rights and interests in land leases and land tenancies, whether existing immediately before the commencement of this Constitution or made or issued after the commencement of this Constitution.
- (4) All land leases and land tenants have the right to not have their land leases or land tenancies terminated other than in accordance with their land leases or land tenancies.
- (5) Parliament and Cabinet, through legislative and other measures, must ensure that all land leases and land tenancies provide for a fair and equitable return to the landowners while protecting the rights of land lessees and land tenants, including security and protection of tenure of land leases and land tenancies and terms and conditions of land leases and land tenancies which must be just, fair and reasonable.
- (6) For the purposes of this section—
 “land leases” or “land tenancies” includes sub-leases, sub-tenancies and tenancies-at-will, but shall not include leases, agreements or tenancies for any building, structure or dwelling, whether used for residential, commercial, industrial or for tourism purposes, and shall not include any leases, agreements or tenancies for any fixture, equipment, plant or fittings on any land;
 “land lessees” or “land tenants” includes sub-lessees, sub-tenants or tenants-at-will of land leases or land tenancies.

52 Entrenchment of statutes on land and natural resources

- (1) A Bill that alters any of the Acts listed in subsection (2), including a Bill prepared in consequence of the enactment of this Constitution:
 - (a) must be expressed as a Bill for an Act to alter the Act concerned;
 - (b) must not be presented for the President’s assent unless it has been read 3 times in each House and motions for the second and third readings are carried in each House; and
 - (c) at its third reading it is supported by the votes of at least 2 thirds of the members of the House of Representatives and 2 thirds of the members of the Senate.
- (2) The Acts are:
 - (a) iTaukei Affairs Act;
 - (b) iTaukei Development Fund Act;
 - (c) iTaukei Lands Act;
 - (d) iTaukei Land Trust Act;
 - (e) Rotuma Act;
 - (f) Rotuma Lands Act;
 - (g) Banaban Lands Act;

- (h) Banaban Settlement Act.
- (3) A Bill that alters the Agricultural Landlord and Tenant Act:
 - (a) must be expressed as a Bill for an Act to alter that Act; and
 - (b) must not be presented for the President's assent unless:
 - (i) it has been read 3 times in each House and motions for the second and third readings are carried in each House; and
 - (ii) at its third reading in that House it is supported by the votes of at least 2 thirds of the members of the House of Representatives and 2 thirds of the members of the Senate.

Part B – GROUP RIGHTS

53 Respect for rights of all individuals, communities and groups

The people of Fiji recognise that, within the framework of this Constitution and other laws of the State, the conduct of government is based on the following principles:

- (a) the rights of all individuals, communities and groups are fully respected; and
- (b) as citizens, the members of all communities enjoy equal rights, including the right to make their permanent homes in Fiji.

54 Languages of Fiji and its communities

- (1) iTaukei and Rotuman are indigenous languages and all State bodies must respect, protect and promote the use of indigenous languages.
- (2) English, iTaukei, Rotuman and Hindi have equal status in Fiji.
- (3) This Constitution is to be adopted in English but translations in iTaukei, Rotuman and Hindi are to be available.
- (4) The official language of Parliament is English but a member of either House may address the person presiding in iTaukei, Rotuman or Hindi.
- (5) Acts of Parliament must be enacted in English, and may be published in English, iTaukei, Rotuman and Hindi.
- (6) Every person who transacts business with a State body has the right to do so in English, iTaukei, Rotuman and Hindi either directly or through a competent interpreter.
- (7) All other languages used in Fiji must be recognised and respected.

55 Recognition of customary law

- (1) Parliament recognises iTaukei and Rotuman custom as a source of law for the iTaukei and Rotuman communities, subject to this Constitution and any written law, including in relation to:
 - (a) customary land, management of resources in, on or under the land and customary fishing rights;
 - (b) the right of the iTaukei and Rotuman people to governance through their separate administrative systems, including those provided in the iTaukei Affairs Act and

any other relevant written law relating to those systems.

- (2) Parliament may make provision for the application of customary law.
- (3) In doing so, Parliament may have regard to the customs, traditions, usages, values and aspirations of the iTaukei and Rotuman people.
- (4) This section does not deny, or prevent recognition of, any other right or freedom recognised or conferred by common law or written law, except to the extent it is inconsistent with this section.

56 Heritage and cultures of all communities of Fiji

- (1) The people of Fiji recognise the contribution of all communities to the unity, harmony and wellbeing of Fiji derived from the language, arts, customs, festival traditions and histories of each of Fiji's communities.
- (2) The State and all of Fiji's communities recognise the need to—
 - (a) respect the equal rights of all communities to the recognition, use of, and respect for their respective cultures and heritage and heritage infrastructure; and
 - (b) nurture the heritage and culture of all communities by—
 - (i) promoting increased awareness of Fiji and its history and cultures; and
 - (ii) protecting sites of historical, spiritual or cultural significance and cultural artefacts.
- (3) The State, in consultation with all of Fiji's communities, must develop policies, programmes and law to give effect to this section.

CHAPTER 4—PARLIAMENT

Part A—COMPOSITION AND LEGISLATIVE AUTHORITY OF PARLIAMENT

57 Legislative power

The power to make laws for the State is vested in Parliament.

58 Composition of Parliament

Parliament consists of—

- (a) the House of Representatives; and
- (b) the Senate.

59 Term of Parliament

- (1) Subject to this section, Parliament unless, sooner dissolved in accordance with this Constitution, continues for 4 years from the date of its first meeting after a general election of the members of the House of Representatives.
- (2) The President shall, acting on the advice of the Prime Minister, dissolve Parliament by proclamation, but only after a lapse of 3 years and 6 months from the date of its first meeting after a general election of the members of the House of Representatives.

60 Early dissolution of Parliament

- (1) Notwithstanding section 59(1), the President must declare Parliament dissolved early if the House of Representatives has adopted a resolution to dissolve early, supported by at least 2 thirds of the members of the House of Representatives.
- (2) A resolution for early dissolution of the House of Representatives under subsection (1) may be moved—
 - (a) only on the grounds that the Government lacks the confidence of the House of Representatives;
 - (b) only by the Leader of the Opposition; and
 - (c) only if the House of Representatives has first rejected a motion of no confidence in the Prime Minister under section 117.
- (3) No motion for early dissolution may be moved within—
 - (a) 18 months immediately after the beginning of the House of Representative's term; or
 - (b) 6 months immediately before the end of the House of Representative's ordinary 4 year term.

61 Exercise of legislative powers

- (1) Any member of the House of Representatives may introduce a Bill in the House of Representatives, but only the Minister responsible for finance, or another Minister authorised by Cabinet, may introduce a Money Bill, as described in section 62.
- (2) Parliament may proceed to consider any Bill in accordance with its standing orders, which

must provide—

- (a) a structured process for the introduction, deliberation, amendment and enactment of Bills; and
 - (b) sufficient time to elapse between the steps in the process for members and committees to give due consideration to each Bill.
- (3) A Bill may proceed more quickly than permitted by the standing orders and be presented to the President for assent (with amendments, if any agreed to by both Houses) if—
- (a) the Prime Minister certifies in writing to the President of the Senate that a Bill passed by the House of Representatives is an urgent measure;
 - (b) the Bill is sent to the Senate at least 7 sitting days before the end of the session; and
 - (c) the Senate does not pass the Bill within a period of 7 sitting days after the Senate receives it, or the Senate passes it with an amendment to which the House of Representatives does not agree within that period.

62 Money Bills

A money Bill is any Bill that—

- (a) imposes, increases, alters, remits, grants exemptions from, reduces or abolishes taxes;
- (b) imposes charges on a public fund or varies or repeals any of those charges;
- (c) appropriates public money or otherwise relates to public moneys;
- (d) raises or guarantees any loan, or its repayment;
- (e) deals with the receipt, custody, investment, issue or audit of money; or
- (f) deals with anything incidental to those matters.

63 Limitation on powers of Senate with respect to money Bills

- (1) The Senate may not amend Bills imposing taxation or appropriating revenue or moneys.
- (2) The Senate may not amend any Bill so as to increase any proposed charge or burden on the people.
- (3) A Bill must, unless the House of Representatives otherwise resolves, be presented to the President for assent if
 - (a) the Bill passed by the House of Representatives is certified by the Speaker as an appropriation Bill; and
 - (b) the Bill is not passed by the Senate without amendment by the end of the sitting day after the day on which it was sent to the Senate.
- (4) A Bill must, unless the House of Representatives otherwise resolves, be presented to the President for assent if
 - (a) a money Bill (other than a Bill referred to in subsection (3)) passed by the House of Representatives is certified by the Speaker as a money Bill;
 - (b) the Bill is sent to the Senate at least 21 sitting days before the end of the session;

and

- (c) the Bill is not passed by the Senate without amendment within 21 sitting days after it was sent to the Senate.

64 Presidential assent

- (1) When a Bill has been passed by both Houses, the Speaker must present it to the President for assent.
- (2) Within 7 days after receipt of a Bill, the President must provide his or her assent.
- (3) If the President does not assent to a Bill within the period set out in subsection (2), the Bill will be taken to have been assented to on the expiry of that period.

65 Coming into force of laws

- (1) Within 7 days after a Bill has been assented to, the Bill must be published in the Gazette as an Act of Parliament.
- (2) An Act of Parliament comes into force—
 - (a) on a date determined by or in accordance with the Act; or
 - (b) on the 7th day after its publication in the Gazette, if the Act does not determine a date or does not provide for a date to be determined.

66 Subordinate laws

- (1) No person may make subordinate laws, except as expressly authorised by this Constitution or an Act of Parliament.
- (2) A person making any subordinate laws must, so far as practicable, provide reasonable opportunity for public participation in the development and review of the law before it is made.

67 Parliamentary authority over international treaties and conventions

An international treaty or convention binds the State only after it has been approved by Parliament.

Part B—HOUSE OF REPRESENTATIVES

68 Members of the House of Representatives

The House of Representatives is chosen by secret ballot in free and fair elections administered by the Electoral Commission, in accordance with this Constitution and any written law governing elections.

69 Composition of the House of Representatives

- (1) The House of Representatives shall be composed in a manner that reflects, as closely as practicable, the proportion of votes cast for political parties.
- (2) The election of members of the House of Representatives comprises the following—
 - (a) 26 constituency members, which includes 5 maritime constituencies listed in subsection (9), chosen directly by the registered voters of those constituencies;

and

- (b) 15 party list members allocated to political parties in proportion to the total number of votes for the candidates of that party in the constituency seats.
- (3) A political party shall be entitled to proportional representation if it secures not less than 5% of the party vote or wins at least one constituency seat.
- (4) Constituency seats won shall be deducted from each party's proportional entitlement, with the balance filled from party lists.
- (5) Party list seats shall be allocated in accordance with a written law prescribing an appropriate mathematical rounding method (which rounds fractions to whole numbers) to determine seat allocations.
- (6) Candidates unaffiliated with a political party may contest constituency seats, and if elected, shall serve as independent members without affecting proportional allocation.
- (7) A candidate of a party can stand for election in a constituency seat and be included in the party's list for a party list seat.
- (8) The party lists must alternate between female and male candidates to ensure, as far as possible, equal numbers of male and female candidates and the first of the alternate candidates must be female.
- (9) The maritime constituencies are Rotuma, Yasawa, Kadavu, Lomaiviti and Lau.

70 Qualifications for candidates for election to House of Representatives

- (1) A candidate for election to the House of Representatives must be either nominated by a registered political party or nominated as an independent candidate in accordance with the laws governing elections.
- (2) A person may be a candidate for election to the House of Representatives only if the person—
 - (a) is a citizen of Fiji;
 - (b) is qualified to be registered as a voter and is registered on the Register of Voters;
 - (c) is ordinarily resident in Fiji for at least 2 years immediately before being nominated;
 - (d) is not an undischarged bankrupt;
 - (e) is not a member of the Electoral Commission and has not been a member of that Commission at any time during the 4 years immediately before being nominated;
 - (f) is not subject to a sentence of imprisonment when nominated;
 - (g) has not, at any time during the 8 years immediately before being nominated, been convicted of an offence under any law for which the maximum penalty is a term of imprisonment of 12 months or more; and
 - (h) has not been found guilty of any offence under a law relating to elections, registration of political parties or registration of voters.
- (3) The total number of candidates which a political party may nominate for any general election must not be more than the total number of seats in the House of Representatives, and the total number of candidates which a political party may nominate for any by-

election must not be more than the total number of vacant seats in the House of Representatives for which the by-election is held.

- (4) A written law may make provision relating to the nomination of candidates for election to the House of Representatives.
- (5) Every candidate, and every political party nominating a candidate, must comply with any written law governing elections.

71 Writ for election

- (1) The writ for the election of members of the House of Representatives shall be issued by the President on the advice of the Prime Minister.
- (2) The writ for a general election must be issued within 7 days from the expiry of the House of Representatives or from the date of the proclamation of its dissolution by the President.
- (3) The writ for a by-election must be issued within 7 days from the date when a constituency seat in the House of Representatives becomes vacant, or within 7 days from the date of determination by the Court of Disputed Returns if an application is made to it under section 73(4) or section 103.

72 Dates of nomination and polling

- (1) The last day for the receipt of a nomination of a candidate for election to the House of Representatives is 14 days after the date of the issue of the writ.
- (2) Polling commences no later than 30 days after the last day for the receipt of nominations.

73 Vacation of seat of member of House of Representatives

- (1) The constituency seat of a member of the House of Representatives becomes vacant if the member—
 - (a) dies, or resigns by giving to the Speaker a signed resignation;
 - (b) ceases to have the right to be a registered voter in an election to the House of Representatives;
 - (c) is convicted of an offence punishable by imprisonment for 12 months or longer;
 - (d) is an undischarged bankrupt;
 - (e) is absent from 2 consecutive sittings of the House of Representatives without having obtained the permission of the Speaker;
 - (f) resigns from the political party for which he or she was a candidate at the time he or she was elected to the House of Representatives within 18 months from a Prime Minister taking office;
 - (g) votes or abstains from voting in the House of Representatives contrary to any direction issued by the political party for which he or she was a candidate at the time he or she was elected to the House of Representatives, without obtaining the prior permission of the political party within 18 months after a Prime Minister takes office; or
 - (h) is expelled from the political party for which he or she was a candidate at the time he or she was elected to the House of Representatives within 18 months from a

Prime Minister taking office and—

- (i) the expulsion was in accordance with the rules of the political party relating to party discipline; and
- (ii) the expulsion did not relate to any action taken by the member in his or her capacity as a member of a committee of Parliament; or
- (i) is appointed as a member of the Senate.
- (2) The constituency seat of a member of the House of Representatives becomes vacant on the day immediately before the first sitting of the House of Representatives after a general election.
- (3) The seat of a member of the House of Representatives becomes vacant on receipt by the Speaker of a written notification signed by the leader and the secretary of the political party notifying the Speaker that—
 - (a) the member has resigned from the political party;
 - (b) the member has voted or abstained from voting in the House of Representatives contrary to any direction issued by the political party, without obtaining the prior permission of the political party; or
 - (c) the member has been expelled from the political party.
- (4) If a member of the House of Representatives whose seat becomes vacant under subsection (1) seeks to question or challenge the validity of his or her seat in the House of Representatives becoming vacant, the member must, within 7 days of the member's seat becoming vacant, by way of a proceeding, make an application to the Court of Disputed Returns for a declaration on whether the seat of the member has become vacant.
- (5) Any application made to the Court of Disputed Returns under this section must be determined by the Court of Disputed Returns within 21 days of the date when the application is made to it.
- (6) A determination by the Court of Disputed Returns under this section is final and not subject to any appeal.
- (7) If the member of the House of Representatives whose seat becomes vacant under subsection (1) makes an application to the Court of Disputed Returns under subsection (4), the member is taken to be suspended from the House of Representatives pending the determination by the Court of Disputed Returns.

74 Vacancies

If a seat in the House of Representatives becomes vacant, the vacancy shall be filled—

- (a) in the case of a constituency seat, by a by-election; and
- (b) in the case of a party list seat, by the next candidate on the party list.

75 By-elections

If the seat of a member of the House of Representatives in a constituency seat becomes vacant before the end of his or her service, an election must be held for the purpose of filling the seat of the member for the remainder of the term unless the vacancy occurs more than 3 years and 6 months after the first meeting of the House following the last

general election.

76 Speaker and Deputy Speaker of Parliament

- (1) The House of Representatives must, at its first sitting after a general election and whenever required to fill a vacancy, elect, with support of the votes of a majority of the members of the House of Representatives—
 - (a) a Speaker, who is not a member of the House but who is qualified to be a candidate for election as a member of the House; and
 - (b) a Deputy Speaker from amongst the members of the House (excluding Ministers).
- (2) The Speaker and the Deputy Speaker assume office by taking the oath or affirmation of allegiance and office set out in the Schedule, as administered by the Secretary-General to the House of Representatives or the Secretary-General to the Senate, as the case may be.
- (3) The Speaker shall preside over every sitting of the House of Representatives.
- (4) The Deputy Speaker shall perform the duties of the Speaker if the Speaker is absent from duty or from Fiji or is, for any other reason, unable to perform those duties.
- (5) If neither the Speaker or the Deputy Speaker is able to perform the duties of the Speaker, the members of the House of Representatives must elect one of their members to preside at meetings of the House.
- (6) The Speaker, Deputy Speaker, or any other person presiding at any time, in the performance of the functions of the Speaker—
 - (a) is independent and subject only to this Constitution and any other law;
 - (b) serves to secure the honour and dignity of Parliament;
 - (c) is responsible for ensuring—
 - (i) the rights and privileges of all members; and
 - (ii) public access to the proceedings of the House of Representatives and its committees;
 - (d) has authority to maintain order and decorum in the House of Representatives, in accordance with its standing orders and parliamentary tradition; and
 - (e) must act impartially, and without fear, favour or prejudice.
- (7) The office of the Speaker becomes vacant—
 - (a) on the day immediately before the first sitting of the House of Representatives after a general election; or
 - (b) if, before that day, the Speaker—
 - (i) resigns by giving to the President a written notice of resignation;
 - (ii) becomes the holder of another public office;
 - (iii) ceases to have the right to be registered as a voter in an election to the House of Representatives;
 - (iv) is absent without leave from 2 consecutive sittings of the House of Representatives; or

- (v) is removed from office by a resolution supported by not less than 2 thirds of the members of the House of Representatives.
- (8) The office of the Deputy Speaker becomes vacant if the Deputy Speaker—
 - (a) resigns by giving to the Speaker a written notice of resignation;
 - (b) vacates his or her seat as a member of the House of Representatives;
 - (c) is appointed as a Minister; or
 - (d) is removed from office by a resolution supported by a majority of the members of the House of Representatives.

77 **Leader of the Opposition**

- (1) The members of the House of Representatives who—
 - (a) do not belong to the Prime Minister's political party or any party which is in coalition with, or which supports, the Prime Minister's political party; or
 - (b) are independent candidates who do not support the Prime Minister or the Prime Minister's political party,
 must elect a person from amongst themselves to be the Leader of the Opposition, in accordance with this section.
- (2) At the first sitting of the House of Representatives after a general election, the Speaker must call for nominations from those members of the House mentioned in subsection (1), and, if only one person is nominated and seconded, the Speaker shall declare that person elected as the Leader of the Opposition, but if more than one person is nominated and seconded, the Speaker must conduct a vote, as follows—
 - (a) if after the first vote, any nominee has the support of the majority of the members of the House of Representatives referred to in subsection (1), the Speaker shall declare that person elected as the Leader of the Opposition; and
 - (b) if no nominee in the first vote receives the support of the majority of the members of the House of Representatives referred to in subsection (1), a second vote must be held within 24 hours of the first vote and the nominee who has the support of the majority of the members of the House of Representatives in the second vote shall be declared by the Speaker as being elected as the Leader of the Opposition.
- (3) If after the second vote held under subsection (2), no person receives the support of the majority of the members of the House of Representatives mentioned in subsection (1), the position of the Leader of the Opposition shall remain vacant until such time the majority of the members of the House of Representatives write to the Speaker requesting him or her to call for fresh nominations for the election of the Leader of the Opposition in accordance with the procedure set out in subsection (2).
- (4) If a majority of the members mentioned in subsection (1) consider that the person who is the Leader of the Opposition should no longer hold the position of the Leader of the Opposition, then they shall inform the Speaker of their decision and they may elect another member of the House of Representatives, in accordance with the procedure set out in subsection (2).
- (5) On the expiry or dissolution of Parliament, the Leader of the Opposition continues in

office until the next appointment of a Prime Minister.

- (6) If a Leader of the Opposition is unable to be elected in accordance with this section, then the provisions of this Constitution providing for any action by the Leader of the Opposition, including any advice, nomination or consultation of the Leader of the Opposition, are of no effect, and an appointment may be made or action may be taken under a provision of this Constitution without reference to the Leader of the Opposition.
- (7) For the purposes of this section any members who do not support the Prime Minister's political party and who wish to be independent are not to be included in the group of members referred to in subsections (2) to (5).

Part C—SENATE

78 Role of the Senate

The purpose of the Senate is to review Bills that have been passed by the House of Representatives and any other purposes and responsibilities that are provided for in this Constitution or prescribed by written law.

79 Members of the Senate

- (1) The Senate consists of 19 members, of whom—
 - (a) 8 are appointed by the BLV;
 - (b) 5 are appointed by the Prime Minister;
 - (c) 4 are appointed by the Leader of the Opposition;
 - (d) 1 is appointed by the Rotuma Island Council; and
 - (e) 1 is appointed by the Rabi Council of Leaders.
- (2) Appointments made by the BLV, the Prime Minister and the Leader of the Opposition shall reflect the diversity of Fiji, including its minority groups.
- (3) If, at the time when an appointment is to be made to the Senate, the position of Leader of the Opposition is vacant, the Prime Minister must adopt the role of the Leader of the Opposition as to the 4 persons proposed for appointment under paragraph (1)(c).
- (4) A person is not eligible to be appointed as a member of the Senate unless he or she is eligible to be a candidate in elections in the House of Representatives.

80 Vacation of seat of member of Senate

- (1) The seat of a member of the Senate (other than the President of the Senate) becomes vacant if the member—
 - (a) dies, or resigns by giving to the Speaker a signed resignation;
 - (b) is convicted of an offence punishable by imprisonment for 12 months or longer;
 - (c) ceases to have the right to be a registered voter in an election to the House of Representatives;
 - (d) is absent from 2 consecutive sittings of the Senate without having obtained the permission of the President or the Vice-President; or

- (e) is nominated as a candidate for election to the House of Representatives.
- (2) The seat of a member of the Senate becomes vacant on the day immediately before the first sitting of the Senate after a general election.

81 Vacancies

If the seat of a Senator becomes vacant before the end of his or her term of service, an appointment to fill the vacancy may be made under section 79(1) under which the Senator was appointed.

82 President and Vice-President of the Senate

- (1) The members of the Senate must, at its first sitting after a general election for members of the House of Representatives and whenever the office of President of the Senate is vacant, elect from their members a President of the Senate.
- (2) A person elected as President of the Senate must make an Oath of Allegiance before the Secretary-General to the Senate.
- (3) The members of the Senate must, at their first sitting after a general election for members of the House of Representatives and whenever the office of Vice-President of the Senate is vacant, elect one of their members as Vice-President of the Senate.
- (4) The Vice-President of the Senate shall perform the duties of President of the Senate if the President of the Senate is absent from duty or from Fiji or is, for any other reason, unable to perform those duties.
- (5) If neither the President nor the Vice-President is able to perform the duties of the Senate, the members of the Senate must elect one of their members to preside at meetings of the Senate.
- (6) The office of President of the Senate does not become vacant on the expiry of the term of the Senate but becomes vacant:
 - (a) on the day immediately before the first sitting of the Senate after a general election for members of the House of Representatives; or
 - (b) if, before that day, the President of the Senate:
 - (i) resigns by giving to the Secretary-General to the Senate a signed resignation;
 - (ii) with the consent of the President of the Senate, becomes the holder of another public office;
 - (iii) would, if he or she were a member of the House of Representatives, vacate his or her place by reason of the operation of section 73;
 - (iv) is absent from 2 consecutive sittings of the Senate;
 - (v) is nominated as a candidate for the election to the House of Representatives;
 - (vi) is appointed as Attorney-General; or
 - (vii) is removed from office by a resolution supported by not less than two-thirds of the members of the Senate.

- (7) The office of Vice-President of the Senate becomes vacant if the Vice-President:
- (a) resigns by giving to the President of the Senate a signed resignation;
 - (b) vacates his or her place in the Senate;
 - (c) is appointed as Attorney-General; or
 - (d) is removed from office by a resolution supported by not less than two-thirds of the members of the Senate.

Part D—PARLIAMENTARY SITTINGS, BUSINESS AND ADMINISTRATION

83 Standing orders and rules

Each House may make standing orders and rules with respect to—

- (a) the way in which its powers, privileges and immunities may be exercised and upheld; and
- (b) the order and conduct of its business and proceedings either separately or jointly with the other House and its committees.

84 Sessions of Parliament

- (1) After a general election of members of the House of Representatives, the Parliament shall be summoned to meet by the President no later than 14 days after the announcement of the results of the general election.
- (2) At the first meeting, the agenda of business shall include—
 - (a) swearing-in of members, presided over by the Secretary-General to the House of Representatives;
 - (b) the election of the Speaker in accordance with section 76, presided over by the Secretary-General to the House of Representatives;
 - (c) swearing-in of the Speaker, presided over by the Secretary-General to the House of Representatives;
 - (d) the election and swearing-in of the Deputy Speaker, presided over by the Speaker;
 - (e) in the event that the Prime Minister has not assumed office under section 116(2), the appointment of the Prime Minister by the members of the House of Representatives in accordance with section 116(3); and
 - (f) the election of the Leader of the Opposition, presided over by the Speaker, and conducted in accordance with section 77.
- (3) Other sessions of Parliament commence on a date appointed by the President on the advice of the Prime Minister but no longer than 6 months must elapse between the end of one session and the start of another.
- (4) If—
 - (a) Parliament is not in session; and
 - (b) the President receives a request in writing from not less than one-third of the members of the House of Representatives requesting that Parliament be summoned to meet to consider without delay a matter of public importance,

the President shall summon Parliament to meet.

- (5) If—
 - (a) Parliament is in session but more than 2 months have elapsed between the sittings of the House of Representatives; and
 - (b) the Speaker receives a request in writing from the Prime Minister or from not less than one-third of the members of House of Representatives requesting that a sitting be held to consider without delay a matter of public importance,

the Speaker must call a sitting of the House of Representatives within one week of the date on which the request was made.
- (6) Subject to this section, the sittings of each House of Parliament are held at such times and places as the House determines in accordance with its rules and orders.

85 Committees

- (1) Parliament must, under its rules and orders, establish committees with the functions of scrutinising Government administration and examining Bills and subordinate legislation and such other functions as are specified from time to time in its rules and orders.
- (2) Members of the House of Representatives and the Senate may serve on any committees.
- (3) Ministers are not eligible for election to committees of the House of Representatives or the Senate.

86 Quorum

- (1) A sitting of either House may not begin, or continue, unless a majority of the members of that House are present.
- (2) A vote on a Bill may not be held in either House of Parliament unless a majority of the members are present.
- (3) The Speaker must adjourn a sitting if a quorum is not present.

87 Voting

- (1) Except as otherwise provided in this Constitution, any question proposed for decision in either House must be determined by a majority vote of the members present and voting.
- (2) On a question proposed for decision in either House—
 - (a) the person presiding does not have a casting vote; and
 - (b) in the case of an equality of votes, the question is deemed to be lost.
- (3) The person presiding must not be counted when considering the number of members for the purpose of voting or determining if a quorum is present.

88 Powers, privileges, immunities and discipline

- (1) Every member of Parliament, and anyone else speaking in Parliament, has—
 - (a) freedom of speech and debate in Parliament or its committees, subject to the standing orders; and
 - (b) parliamentary privilege and immunity in respect of anything said in Parliament or

its committees.

- (2) Parliament may prescribe the powers, privileges and immunities of members of Parliament and may make rules and orders for the discipline of members of Parliament.

89 Vacancies in House membership

Each House of Parliament may act despite a vacancy in its membership, and the presence at, or the participation in, its proceedings of a person not entitled to be a member does not invalidate the proceedings.

90 Power to call for evidence

- (1) Parliament, and each of its committees, has the power to summon any person to appear before it for the purpose of giving evidence or providing information.
- (2) For the purposes of subsection (1), Parliament and each of its committees has the same powers as the High Court to—
 - (a) enforce the attendance of witnesses and examine them on oath, affirmation or otherwise; and
 - (b) compel the production of documents or other materials or information as required for its proceedings.

91 Petitions, public access and participation

- (1) Parliament must—
 - (a) conduct its business in an open manner, and hold its sittings and those of its committees, in public; and
 - (b) facilitate public participation in the legislative and other processes of Parliament and its committees.
- (2) Parliament and its committees may not exclude the public, including any media, from any sitting unless, in exceptional circumstances, the Speaker has ordered the exclusion of the public on grounds that are reasonable and justifiable.

92 Languages of Parliament

- (1) The business of Parliament may be conducted in English, iTaukei, Rotuman or Hindi.
- (2) Acts of Parliament must be enacted in English, and may be published in English, iTaukei, Rotuman or Hindi.
- (3) In case of a conflict between different language versions of an Act of Parliament, the English language version prevails.

93 Secretary-General to the House of Representatives and Secretary-General to the Senate and staff

- (1) This section establishes the office of the Secretary-General to the House of Representatives and the office of the Secretary-General to the Senate.
- (2) The Secretaries-General shall be appointed by the Constitutional Offices Commission following consultation with the Speaker.
- (3) The Secretaries-General have the same status as that of a Permanent Secretary and shall

be responsible to the Speaker for the efficient, effective and economical management of the House of Representatives and the Senate, as the case may be.

- (4) The Secretaries-General are the principal procedural advisors to the Speaker, and to all members and committees of the House of Representatives and the Senate, as the case may be.
- (5) The Secretaries-General are responsible for all the functions as may be conferred on him or her by the standing orders of Parliament.

Part E—ELECTORAL INSTITUTIONS AND OTHER ELECTORAL MATTERS

94 Electoral Commission

- (1) There is an Electoral Commission.
- (2) The Commission consists of 5 members, one of which shall be appointed as chairperson.
- (3) The chairperson and the members of the Commission shall be appointed by the President, on the advice of the Constitutional Offices Commission having regard to the appointees' knowledge, skills and experience relevant to the functions and powers of the Commission.
- (4) The Commission has the responsibility for the registration of voters and the conduct of free and fair elections in accordance with the written law governing elections and any other relevant law, and in particular for—
 - (a) the registration of citizens as voters, and the regular revision of the Register of Voters;
 - (b) voter education;
 - (c) the registration of candidates for election;
 - (d) the settlement of electoral disputes, including disputes relating to or arising from nominations, but excluding election petitions and disputes subsequent to the declaration of election results; and
 - (e) monitoring and enforcing compliance with any written law governing elections and political parties.
- (5) The Commission may at other times make such reports to the President and Parliament as it thinks fit.

95 Supervisor of Elections

- (1) This section establishes the office of the Supervisor of Elections.
- (2) The Supervisor of Elections, acting under the direction of the Electoral Commission,—
 - (a) administers the registration of voters for elections of members to the House of Representatives;
 - (b) administers political party registration and de-registration and adherence to registration requirements and oversees other matters provided in sections 98, 99, 100 and 101;
 - (c) conducts—
 - (i) elections of members of the House of Representatives; and

- (ii) such other elections as Parliament prescribes; and
- (d) may perform such other functions as are conferred by written law.
- (3) The Supervisor of Elections is accountable to the Electoral Commission and must comply with any directions that the Electoral Commission gives him or her concerning the performance of his or her functions.
- (4) The Supervisor of Elections shall serve as an ex-officio member of the Electoral Commission and shall attend meetings of the Commission and may participate in its deliberations but shall not be entitled to vote on any matter before the Commission
- (5) The Supervisor of Elections is appointed by the President on the advice of the Constitutional Offices Commission following consultation by the Constitutional Offices Commission with the Electoral Commission.

96 Constituency Boundaries Commission

- (1) This section establishes the Constituency Boundaries Commission.
- (2) The Commission shall consist of 3 members appointed by the Electoral Commission, after consultation with the Constitutional Offices Commission, having regard to the appointees' knowledge, skills and experience relevant to the functions and powers of the Commission.
- (3) The chairperson must be a person who is a Judge.
- (4) A person is not qualified for appointment as a member unless he or she—
 - (a) has had a distinguished career in any aspect of national or international life, whether in the public or private sector;
 - (b) is a Fijian citizen;
 - (c) is not a member of, or holds any office in, any political party;
 - (d) has not held office in any political party or been an election candidate in the 8 years prior to being nominated;
 - (e) is not a candidate for election to Parliament; and
 - (f) has not, at any time been convicted of any offence with a term of imprisonment of 12 months or more under any law.
- (5) The Commission must determine the boundaries of the constituencies.
- (6) In determining the boundaries of the constituencies, except for the maritime constituencies, the Commission:
 - (a) must try to ensure that the number of voters in each constituency seat is, as far as reasonably practicable, the same;
 - (b) subject to paragraph (a), must give due consideration, in relation to each proposed constituency, to:
 - (i) the physical features of the proposed constituency;
 - (ii) the boundaries of the existing administrative and recognised traditional areas; and
 - (iii) means of communication and travel within the proposed constituency.
- (7) The Commission shall, in the year following each official census, and may, at other times,

review the boundaries of constituencies and determine whether or not the boundaries should be changed to give effect to subsection (6).

- (8) Parliament may make laws relating to reviews conducted by the Commission, including laws requiring the Commission to give notice of proposed redistributions and to hear objections before making a determination.
- (9) Upon the making of a determination on a redistribution, the Commission must report its findings to the House of Representatives, together with—
 - (a) a summary of any objections made to it; and
 - (b) the reasons for its determination.
- (10) A determination of the Commission is final.

97 Registration of voters

- (1) Every citizen who is or will be at least 18 years of age on or before the date of the issue of the writ for the next election of members to the House of Representatives has the right to be registered as a voter in the way prescribed by written law.
- (2) Every person who is registered as a voter has the right to vote in the election of members of the House of Representatives.
- (3) The Electoral Commission must maintain a single, national common Register of Voters.

98 Requirements for political parties

- (1) Every political party shall—
 - (a) uphold the supremacy of the Constitution and the rule of law;
 - (b) respect and promote human rights and freedoms, including gender equality;
 - (c) ensure equitable opportunities for the election of female candidates;
 - (d) respect the right of all persons to participate in the political process, including minorities and marginalized groups;
 - (e) abide by democratic principles of good governance, promote and practice democracy internally through regular, free and fair elections within the party and have a democratically elected governing body; and
 - (f) observe any code of conduct for political parties prescribed by written law.
- (2) A political party shall promote national unity and strive to be inclusive, and shall not—
 - (a) engage in advocacy of hatred;
 - (b) engage in or encourage violence or intimidation of its members, supporters, opponents or any other person;
 - (c) establish or maintain a paramilitary force, militia or similar organisation;
 - (d) engage in bribery, corruption or any other criminal conduct, or encourage or knowingly permit its members or candidates to do so;
 - (e) accept or use public resources to promote its interests or the interests of its officers or members or candidates, except—
 - (i) in accordance with a written law mentioned in section 101; or

- (ii) as made available to parties generally, or after paying a fee on a commercial basis.

99 Political party funding

- (1) Political parties may accept financial donations only from individual residents of Fiji or non-resident citizens of Fiji.
- (2) Written law shall place a limit on the amount any individual may donate to any one political party in a year.
- (3) Each political party shall file and publish an annual report setting out the source and amounts of all donations received by the party in the preceding year, in the manner required by written law.

100 Campaigning

A candidate, or a political party, contesting an election shall not be denied reasonable access to, and use of, State-owned communication in media, or other public resources that are made available to parties generally, or after paying a fee on a commercial basis.

101 Written law on political parties

Parliament shall enact written law—

- (a) providing for reasonable and fair allocation to political parties, both generally and during an election campaign, of—
 - (i) airtime by State-owned broadcasting media; and
 - (ii) resources of other State-owned media;
- (b) regulating the registration of political parties; and
- (c) regulating political parties' financial accounts, and the audit and publication of their financial reports.

102 Limits on enactment of major new election laws 9 months before election

Parliament shall not enact any major new election laws, including any amendments to existing election laws, in the 9 months before the end of the 4-year term of Parliament.

103 Court of Disputed Returns

- (1) The High Court is the Court of Disputed Returns and has original jurisdiction to hear and determine—
 - (a) by way of a petition, a question whether a person has been validly elected as a member of the House of Representatives; and
 - (b) by way of a proceeding, an application for a declaration on whether the seat of a member of the House of Representatives has become vacant.
- (2) The validity of an election of a person as a member of the House of Representatives may only be disputed by petition addressed to the Court of Disputed Returns and not otherwise.
- (3) The petition—

- (a) may only be brought by—
 - (i) a person who had the right to vote in the election concerned; or
 - (ii) a person who was a candidate in the election concerned; and
 - (b) except if corrupt practice is alleged, must be brought within 21 days of the declaration of the poll.
- (4) Proceedings pursuant to subsection (1)(b) may only be brought by—
- (a) a member of the House of Representatives; or
 - (b) a registered voter.
- (5) Notwithstanding anything contained in subsection (4), proceedings under subsection (1)(b) cannot be brought under this section by the member of the House of Representatives whose seat is the subject of the proceeding, and any proceeding by any such member which seeks to question or challenge the validity of his or her seat in the House of Representatives becoming vacant must only be brought under section 73.
- (6) The Court of Disputed Returns must make a determination on any petition or proceeding within 21 days of the date when the petition or proceeding is brought before it.
- (7) A petition—
- (a) may only be brought by—
 - (i) a person who had a right to vote in the election concerned;
 - (ii) a person who was a candidate in that election; or
 - (iii) the Attorney-General; and
 - (b) must be brought within 6 weeks of the declaration of the poll.
- (8) A determination by the Court of Disputed Returns under this section is final and not subject to any appeal.

CHAPTER 5—THE EXECUTIVE

Part A—THE PRESIDENT

104 The President of Fiji

The President is the Head of State, and the executive authority of the State is vested in the President.

105 The responsibilities of the President

- (1) This section establishes the office of the President.
- (2) As Head of State, the President—
 - (a) may represent Fiji to any other nation or in any international forum;
 - (b) signs instruments of consent by Fiji to be bound by international agreements;
 - (c) receives advice from the Prime Minister about the issues relating to the governance of Fiji;
 - (d) receives foreign diplomatic and consular representatives;
 - (e) appoints and removes Judges in accordance with the advice of the Judicial Services Commission under section 135;
 - (f) appoints and removes the members of Independent Commissions and holders of Independent Offices, in accordance with the advice of the Constitutional Offices Commission under 208;
 - (g) appoints and removes individuals in accordance with the advice of the Prime Minister under section 153, to represent Fiji as High Commissioners, Ambassadors or Consuls General;
 - (h) exercises the power of mercy in accordance with section 146; and
 - (i) may confer honours in the name of Fiji, in accordance with written law.
- (3) The President shall perform the ceremonial functions and responsibilities as the Commander-in-Chief of the Republic of Fiji Military Forces.
- (4) The President shall open each annual session of Parliament with an address outlining the policies and programmes of the Government.
- (5) The President shall address Parliament, at the request of the Speaker and the Prime Minister.
- (6) The President shall assent to and sign each Act of Parliament.

106 President acts on advice

- (1) In the exercise of his or her powers and executive authority, the President acts only on the advice, and shall act in accordance with that advice, of Cabinet or a Minister or of some other body or authority prescribed by this Constitution for a particular purpose as the body or authority on whose advice the President acts unless this Constitution provides otherwise.
- (2) Where any written law is silent as to the source of advice to the President, Cabinet shall

be the source of that advice.

107 Qualification for appointment

- (1) A person shall not be qualified to be nominated for the office of the President unless he or she—
 - (a) has had a distinguished career in any aspect of national or international life, whether in the public or private sector;
 - (b) is a citizen of Fiji;
 - (c) is not a member of, or holds any office in, any political party;
 - (d) has not held office in any political party or been an election candidate in the 8 years prior to being nominated;
 - (e) is not a candidate for election to any other office in the State; and
 - (f) has not, at any time been convicted of any offence with a term of imprisonment of 12 months or more under any law.
- (2) A person holding a public office is not required to resign from that office before accepting nomination for President, but the appointment of the person as the President has the effect of terminating his or her service in that office.
- (3) Nothing in this section prevents the President from holding a public office, by virtue of his or her appointment as the President, under any written law.

108 Nomination and appointment of President

- (1) The President shall be appointed by the Presidential Appointment Commission which is established under this section.
- (2) The Commission is a part-time body that acts only when there is a vacancy in the office of the President, the President resigns from office or where there is a question of whether to remove the President from office.
- (3) The Commission shall consist of—
 - (a) 3 members nominated by the BLV;
 - (b) the Prime Minister;
 - (c) the Leader of the Opposition; and
 - (d) a nominee of the Fiji Council of Churches; and
 - (e) a nominee of Interfaith Search Fiji.
- (4) The members of the Commission may nominate suitably qualified persons for appointment, either individually or jointly.
- (5) When the Commission has decided who is to be appointed President, it shall inform the Speaker, and the Speaker shall publicly announce the name of the President.
- (6) The Commission may regulate its own procedure and may make such rules and regulations it deems fit for regulating and facilitating the making of nominations for appointment and the making of appointments.

109 Term of office and remuneration

- (1) The President holds office for 3 years, and is eligible for re-appointment for one further term of 3 years, but is not eligible for re-appointment after that.
- (2) For the purposes of subsection (1), in determining whether a person is eligible for appointment or re-appointment, any period served before the commencement of this Constitution shall be taken into account.
- (3) The President shall receive such remuneration, allowances and other benefits, as determined by the Salaries and Benefits Commission.

110 Oath of office

Before taking office, the President must take before the Chief Justice the oath or affirmation of allegiance and office as set out in the Schedule in a public ceremony.

111 Resignation

- (1) The President may resign from office by delivering a written notice of resignation to the Presidential Appointment Commission.
- (2) The Commission shall advise the Speaker and the President of the Senate of the resignation and the Speaker shall table the notice in the House of Representatives.

112 Speaker to perform functions in absence of President

If the President is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of the President or if the office of the President becomes vacant for any reason, then the functions of the office of the President shall be performed by the Speaker.

Part B—PRIME MINISTER AND CABINET

113 Responsible Government

Governments must have the confidence of Parliament.

114 Cabinet

- (1) Cabinet consists of the Prime Minister as chairperson, and up to 14 Ministers as determined by the Prime Minister.
- (2) Cabinet members are accountable individually and collectively to Parliament, for the exercise of their powers and the performance of their functions.
- (3) A Minister must appear before Parliament, or a committee of Parliament, when required, and answer any question concerning a matter for which the Minister is responsible.
- (4) Cabinet members must provide Parliament with full and regular reports concerning matters for which they are responsible.
- (5) Cabinet may apply for a determination from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

115 Office of the Prime Minister

- (1) The Prime Minister is the head of the Government.
- (2) The Prime Minister shall keep the President generally informed about the issues relating to the governance of Fiji.
- (3) The Prime Minister—
 - (a) appoints Ministers with such titles, portfolios and responsibilities as the Prime Minister determines from time to time;
 - (b) dismisses Ministers; and
 - (c) by notice published in the Gazette, assigns to any Minister or to himself or herself responsibility for the conduct of a specified part of the business of the Government, including responsibility for the general direction and control over a branch or branches of the public service or over a disciplined force and responsibility for the implementation and administration of each Act, provided however that the responsibility for any part of the business of Government that is not specifically assigned shall remain with the Prime Minister.
- (4) The Prime Minister shall appoint a Minister to act in the office of the Prime Minister during any period, or during all periods, when the Prime Minister is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of office, and a notification of the appointment of the Acting Prime Minister must be published in the Gazette.
- (5) No person shall be appointed or elected to the office of Prime Minister under section 116 more than twice irrespective of whether the terms of office are served consecutively or non-consecutively.

116 Appointment of Prime Minister

- (1) The Prime Minister must be a member of the House of Representatives.
- (2) After a general election, if one political party has won more than 50% of the total number of seats in the House of Representatives then that political party has the right to name the person who is to become the Prime Minister (but cannot select a person who has previously been appointed or elected on 2 previous occasions) and that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule.
- (3) After a general election, if no one political party has won more than 50% of the total number of seats in the House of Representatives, then, at the first sitting of the House of Representatives, the Speaker must call for nominations from members of the House of Representatives and, if only one person is nominated and seconded, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule; but if more than one person is nominated and seconded, the Speaker must conduct a vote, as follows—
 - (a) if after the first vote, a person who is nominated has the support of more than 50% of the House of Representatives, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule;

- (b) if after the first vote, no person who is nominated receives the support of more than 50% of the members of the House of Representatives, a second vote must be held within 24 hours of the first vote and, if after the second vote, a person who is nominated has the support of more than 50% of the members of the House of Representatives, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule;
 - (c) if after the second vote, no person who is nominated receives the support of more than 50% of the members of the House of Representatives, a third vote must be held within 24 hours of the second vote and, if after the third vote, a person who is nominated has the support of more than 50% of the members of the House of Representatives, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule; and
 - (d) if after the third vote, no person receives the support of more than 50% of the members of the House of Representatives, the Speaker shall notify the President in writing of the inability of the House of Representatives to appoint a Prime Minister, and the President shall, within 24 hours of the notification, dissolve Parliament and issue the writ for a general election to take place in accordance with this Constitution.
- (4) A vacancy arises if the Prime Minister—
- (a) resigns, by written notice to the President;
 - (b) ceases to be, or ceases to qualify to be, a member of the House of Representatives;
 - (c) is dismissed through a motion of no confidence;
 - (d) is removed from office in accordance with Chapter 12; or
 - (e) dies.
- (5) If a vacancy arises in the office of the Prime Minister under subsection (4), then the Speaker shall immediately convene the House of Representatives and call for nominations from members of the House of Representatives for the office of the Prime Minister and, if only one person is nominated and seconded, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule, but if more than one person is nominated and seconded, the Speaker must conduct a vote in the same manner set out in subsection (3) for election of the Speaker after a general election to which that subsection applies.

117 Motion of no confidence

- (1) The Prime Minister may only be dismissed by a motion of no confidence, which must also propose the name of another member of the House of Representatives to be the Prime Minister.
- (2) A motion of no confidence must be called for a vote within 24 hours of it being introduced.
- (3) A motion of no confidence passes if it is supported by a majority of the members of the

House of Representatives.

- (4) If a motion of no confidence passes—
 - (a) the incumbent Prime Minister immediately ceases to hold office;
 - (b) every other member of Cabinet is deemed to have resigned; and
 - (c) the person proposed to be the Prime Minister, in the motion, assumes that office immediately upon being sworn in by the President.
- (5) If a motion of no confidence fails against the incumbent Prime Minister, no further motion of no confidence may be introduced against him or her for at least 6 months.

118 Appointment of Ministers

- (1) Subject to section 120(3), a Minister must be a member of the House of Representatives.
- (2) Each member of Cabinet assumes office by taking the oath or affirmation of allegiance and office as set out in the Schedule, as administered by the President.
- (3) Each Minister continues in office unless he or she—
 - (a) is removed by the Prime Minister;
 - (b) ceases to be, or ceases to qualify to be, a member of the House of Representatives; or
 - (c) resigns by delivering a written notice of resignation to the Prime Minister.
- (4) The Prime Minister may appoint a Minister to act in the office of another Minister during any period, or during all periods, when the other Minister is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of office, and a notification of the appointment of an Acting Minister must be published in the Gazette.

119 Caretaker government

- (1) Upon the issue of the writ for the general election, the Government shall continue in office in a caretaker capacity, and every member of Cabinet shall retain his or her office as a Minister until the day immediately before the first sitting of the House of Representatives after that election.
- (2) During this caretaker period, the Government shall exercise executive authority only in accordance with established caretaker conventions and shall avoid making major policy decisions, entering significant commitments, or taking actions that would bind an incoming Government, except where required in the public interest.

120 Attorney-General

- (1) The Attorney-General may be a member of either the House of Representatives or the Senate and has ministerial responsibilities as determined by the Prime Minister.
- (2) A person is not qualified to be appointed as the Attorney-General unless he or she—
 - (a) is admitted as a legal practitioner in Fiji and has had not less than 15 years post-admission practice as a legal practitioner whether in Fiji or abroad; and
 - (b) has not been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding

under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.

- (3) If the Prime Minister considers that there are no members of Parliament who are qualified, suitable or available to be appointed as the Attorney-General, then the Prime Minister may appoint a person who is not a member of Parliament as the Attorney-General.
- (4) A person appointed as the Attorney-General under subsection (3) shall be entitled to take part in Cabinet as a Minister, and to sit in the House of Representatives, provided however that he or she shall not be eligible to vote in the House of Representatives.
- (5) Any person appointed as the Attorney-General must not, during the term of his or her appointment as the Attorney-General, practice as a legal practitioner in a law firm or have any interest in a law firm or have any law firm practice under his or her name.

CHAPTER 6—JUDICIARY

Part A—COURTS AND JUDICIAL OFFICERS

121 Judicial authority

The judicial power and authority of the State is vested in the Supreme Court, the Court of Appeal, the High Court, the Military Court, the Magistrates Court, and in such other courts or tribunals as are created by written law.

122 Proceedings concerning the Constitution

- (1) Everyone has the right to institute court proceedings alleging that any law, act or omission is contrary to this Constitution.
- (2) In addition to a person acting in their own interest, court proceedings under subsection (1) may be instituted by—
 - (a) a person acting on behalf of another person who cannot act in their own capacity;
 - (b) a person acting as a member of, or in the interests of, a group or class of persons;
 - (c) a person acting in the public interest; or
 - (d) an association acting in the interest of one or more of its members.
- (3) In addition to matters initiated under subsection (1), in any other matter before any court any party, or the court on its own initiative, may raise a constitutional issue respecting any written law, act or omission.
- (4) When deciding a matter contemplated in this section, whether instituted under subsection (1) or raised under subsection (3), a court—
 - (a) shall declare that any written law or conduct that is inconsistent with this Constitution is invalid to the extent of the inconsistency; and
 - (b) may make any order that is just and equitable.
- (5) A court that has declared any law invalid may make a further order—
 - (a) limiting the retrospective effect of the declaration of invalidity; or
 - (b) suspending the declaration of invalidity for any period and on any conditions necessary to allow the competent authority to correct the defect.

123 Constitutional determinations

- (1) The Supreme Court has the authority to hear and determine any question relating to the interpretation or application of any provision of this Constitution, including any question as to the validity of a law or proposed law.
- (2) A determination by the Supreme Court has the same binding effect as any other decision of the Supreme Court.
- (3) Only the following authorities may apply for a constitutional determination—
 - (a) Cabinet;
 - (b) Constitutional Offices Commission;

- (c) Ombudsman;
- (d) Human Rights and Anti-discrimination Commission; and
- (e) Fiji Law Reform Commission.

124 Judicial independence

- (1) The courts and all judicial officers are independent of the legislative and executive branches of Government, and are subject only to this Constitution and the law, which they must apply without fear, favour or prejudice.
- (2) No person may interfere with the judicial functioning of the courts, or unreasonably interfere with the administrative functioning of the courts.
- (3) Parliament and Cabinet, through legislative and other measures, must assist and protect the courts to ensure their independence, impartiality, accessibility and effectiveness.
- (4) A judicial officer is protected from civil or criminal action for anything said or done, or omitted to be done, in good faith in the performance of a judicial function.
- (5) A judicial officer may be removed from office for incapacity or wrongdoing only in accordance with the relevant procedures and standards as set out in Part B of Chapter 12.
- (6) In the performance of their functions or the exercise of their authorities and powers, a judicial officer shall be independent and shall not be subject to the direction or control of any person or authority, except by court of law or as otherwise prescribed by law.
- (7) A judicial officer is entitled to such remuneration, benefits and allowances as determined by the Salary and Benefits Commission, and the remuneration and allowances must not be varied to their disadvantage, except as part of an overall austerity reduction similarly applicable to all officers of the State.
- (8) The State shall ensure that adequate funding and resources are made available to the judiciary to enable it to independently and effectively exercise its powers and perform its functions and duties.
- (9) The judiciary shall have control of its own budget and finances, as approved by Parliament.
- (10) The judiciary has the authority to appoint, remove and discipline all staff (including administrative staff).
- (11) The judiciary has the authority to determine all matters pertaining to the employment of all staff, including—
 - (a) the terms and conditions of employment;
 - (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - (c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
 - (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.
- (12) The salaries, benefits and allowances payable to any person employed by the judiciary are

a charge on the Consolidated Fund.

- (13) The judiciary may regulate its own procedure and may make such rules and regulations it deems fit for regulating and facilitating the performance of its functions.
- (14) This section is subject to section 136.

125 Jurisdiction of courts of State

Each of the Supreme Court, the Court of Appeal, the High Court and the Military Court has, in addition to its inherent jurisdiction, the jurisdiction conferred on it by this Constitution or by any written law.

126 Supreme Court

- (1) The Supreme Court consists of—
 - (a) the Chief Justice, who is the President of the Supreme Court; and
 - (b) such other Judges as are appointed as Judges of the Supreme Court, to serve as the occasion requires.
- (2) If deemed necessary by the Chief Justice, any of the Justices of Appeal may sit on a matter being heard by the Supreme Court.
- (3) The Supreme Court—
 - (a) is the final appellate court;
 - (b) has exclusive jurisdiction, subject to such requirements as prescribed by written law, to hear and determine appeals from all final judgments of the Court of Appeal; and
 - (c) has original jurisdiction to hear and determine constitutional questions referred under section 123.
- (4) An appeal may not be brought from a final judgment of the Court of Appeal unless—
 - (a) the Court of Appeal gives leave to appeal on a question certified by it to be of significant public importance; or
 - (b) the Supreme Court gives special leave to appeal.
- (5) In the exercise of its appellate jurisdiction, the Supreme Court may—
 - (a) review, vary, set aside or affirm decisions or orders of the Court of Appeal; or
 - (b) make any other order necessary for the administration of justice, including an order for a new trial or an order awarding costs.
- (6) Decisions of the Supreme Court are, subject to subsection (7), binding on all other courts of the State.
- (7) The Supreme Court may review any judgment, pronouncement or order made by it.
- (8) The Supreme Court may make a constitutional determination as provided for in section 123.

127 Court of Appeal

- (1) The Court of Appeal consists of—

- (a) a Judge, other than the Chief Justice, who is appointed as the President of the Court of Appeal; and
 - (b) such other Judges as are appointed as Justices of Appeal.
- (2) If deemed necessary by the President of the Court of Appeal, any of the Judges of the High Court, other than the Chief Justice, may sit on a matter being heard by the Court of Appeal.
- (3) The Court of Appeal has jurisdiction, subject to this Constitution and to such requirements as prescribed by written law, to hear and determine appeals from all judgments of the High Court and Military Court and has such other jurisdiction as is conferred by written law.
- (4) Appeals lie to the Court of Appeal as of right from a final judgment of the High Court in any matter arising under this Constitution or involving its interpretation.
- (5) The Court of Appeal also has original jurisdiction in any matter arising under this Constitution or involving its interpretation.
- (6) A written law may provide that appeals lie to the Court of Appeal, as of right or with leave, from other judgments of the High Court in accordance with such requirements as prescribed in that written law or under the rules pertaining to the Court of Appeal.

128 High Court

- (1) The High Court consists of—
 - (a) the Chief Justice;
 - (b) such other Judges as are appointed as Judges of the High Court;
 - (c) Masters of the High Court; and
 - (d) Chief Registrar of the High Court.
- (2) The jurisdiction and powers of the Masters of the High Court and the Chief Registrar of the High Court shall be prescribed by written law.
- (3) The High Court has unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other original jurisdiction as is conferred on it under this Constitution or any written law.
- (4) The High Court also has original jurisdiction on any matter arising under this Constitution or involving its interpretation.
- (5) The High Court has jurisdiction, subject to conferral by written law of rights of appeal and to such requirements as may be prescribed by written law, to hear and determine appeals from all judgments of the Magistrates Court and other subordinate courts.
- (6) The High Court has jurisdiction to supervise any civil or criminal proceedings before a Magistrates Court or other subordinate courts and may, on an application duly made to it, make such orders, issue such writs and give such directions as it considers appropriate to ensure that justice is duly administered by the Magistrates Court and other subordinate courts.
- (7) If in any proceedings in a subordinate court any question arises as to the interpretation of this Constitution and the member presiding in the proceedings considers that a substantial question of law is involved, the member presiding must refer the question to the High

Court.

- (8) When the High Court gives its decision on a question referred to it under subsection (7), the court in which the question arose must dispose of the case in accordance with—
 - (a) the decision; or
 - (b) if the decision is the subject of an appeal to the Court of Appeal or to the Supreme Court, the decision of the Court of Appeal or Supreme Court, as the case may be.

129 Military Court

- (1) The Military Court consists of the Military Judge, who shall be a Judge of the High Court.
- (2) The Military Court has unlimited original jurisdiction inclusive of inherent jurisdiction to hear and determine any criminal proceeding triable under military law and any written law.
- (3) The authority, functions and responsibilities of the Military Court shall be prescribed by written law, and a written law may make further provisions for the Military Court.
- (4) The Military Court may regulate its own procedure and make such rules and regulations as it deems fit for regulating and facilitating the performance of its functions.

130 Magistrates Court

- (1) The Magistrates Court consists of—
 - (a) the Chief Magistrate; and
 - (b) such other Magistrates as are appointed by the Judicial Services Commission.
- (2) The Magistrates Court has such jurisdiction as conferred by a written law.

131 Other courts

A written law may establish and determine the authority of other courts, tribunals or commissions, which may have a status similar to the High Court, the Magistrates Court, or other subordinate courts.

132 Court rules and procedures

- (1) The President of the Supreme Court may make rules of court and issue directions, consistent with this Constitution or a written law, for regulating and prescribing the practice and procedure to be followed in the Supreme Court.
- (2) The President of the Court of Appeal may make rules of court and issue directions, consistent with this Constitution or a written law, for regulating and prescribing the practice and procedure to be followed in the Court of Appeal.
- (3) The Chief Justice may make rules of court and issue directions, consistent with this Constitution or a written law, for regulating and prescribing the practice and procedure to be followed in the High Court, the Military Court, and the Magistrates Court.

133 Judicial Services Commission

- (1) There is a Judicial Services Commission.
- (2) The Commission shall consist of—

- (a) the Chief Justice or his or her nominee, who is to be the chairperson;
 - (b) the President of the Court of Appeal or his or her nominee;
 - (c) the Permanent Secretary responsible for justice;
 - (d) the chairperson of the Public Service Commission;
 - (e) the President of the Fiji Law Society or his or her nominee who must be a legal practitioner who—
 - (i) has not less than 15 years post-admission practice; and
 - (ii) has not been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission; and
 - (f) a person, not being a legal practitioner, nominated by the Constitutional Offices Commission.
- (3) The Commission is responsible for—
- (a) overseeing the adequacy and efficiency of the funding for the judiciary;
 - (b) promoting programmes for the continuing education and training of judges and judicial officers;
 - (c) overseeing and providing advice and guidance to the judiciary on the implementation and operation of its independence and accountability measures applicable including setting timetables and procedures for managing discipline and removal from office proceedings;
 - (d) appointing women and men to serve as Judges and judicial officers, taking into account the need to represent the diversity of Fiji;
 - (e) reviewing the conduct of Judges and judicial officers and convening a tribunal, when required, and in accordance with the processes set out in Chapter 12; and
 - (f) initiation of discipline or removal in relation to Judges and judicial officers.
- (7) The secretary of the Commission shall be the Chief Registrar, or any other person performing the functions of that office.
- (8) The quorum for the meetings of the Commission shall consist of the chairperson and 2 other members.

134 Qualifications for appointment to judicial offices

- (1) The making of appointments to a judicial office is governed by the principle that judicial officers should be of the highest competence and integrity.
- (2) A person is not qualified for appointment as a Judge unless he or she—
 - (a) holds, or has held a high judicial office in Fiji or in another country prescribed by law; or
 - (b) has had not less than 15 years post-admission practice as a legal practitioner in Fiji or in another country prescribed by law and has not been sanctioned for

professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.

- (3) A person is not qualified for appointment as a Magistrate unless he or she—
 - (a) holds, or has held a judicial office in Fiji or in another country prescribed by law; or
 - (b) has had not less than 10 years post-admission practice as a legal practitioner in Fiji or in another country prescribed by law and has not been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.

135 Appointment of Judges

- (1) The Chief Justice and the President of the Court of Appeal are appointed by the President on the advice of the Constitutional Offices Commission.
- (2) The Judges of the Supreme Court, the Justices of Appeal, the Judges of the High Court and the Judge of the Military Court are appointed by the President on the advice of the Judicial Services Commission.
- (3) The President, on the advice of the Constitutional Offices Commission, may appoint a Judge to act as the Chief Justice or the President of the Court of Appeal during any period, or during all periods, when the office of the Chief Justice or the President of the Court of Appeal is vacant or when the Chief Justice or the President of the Court of Appeal is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.
- (4) The President may, on the advice of the Judicial Services Commission, appoint a person to act as a Judge of the High Court during any period or during all periods, when an office of a Judge of the High Court is vacant or when a Judge is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.
- (5) A person is not eligible to be appointed under subsection (4) unless he or she is qualified for appointment as a Judge.

136 Other appointments

- (1) The Judicial Services Commission has the authority to appoint Magistrates, Masters of the High Court, the Chief Registrar, and other judicial officers as may be prescribed by any written law.
- (2) The Judicial Services Commission has the authority to appoint members of the following tribunals—
 - (a) the Employment Relations Tribunal established under the Employment Relations Act;
 - (b) the Agricultural Tribunal established under the Agricultural Landlord and Tenant

Act;

- (c) the Environment Tribunal established under the Environmental Management Act; and
- (d) members of any other tribunals as may be prescribed by written law.

137 Oath of office

Before taking office, a judicial officer must take before the President, the oath or affirmation of allegiance and office set out in the Schedule.

138 Term of office of Judges

- (1) A person who is not a citizen of Fiji and who is appointed to be a Judge in Fiji serves for a period not exceeding 3 years determined in each case by the Judicial Services Commission at the time of appointment and may be eligible for re-appointment.
- (2) An appointment as a Judge continues until the Judge reaches retirement age of 75.
- (3) Despite subsection (2), any Judge who has attained the age of 75 years may be reappointed, provided that, in the opinion of the Judicial Services Commission, the Judge demonstrates the continued possession of full mental and physical faculties necessary for the performance of judicial duties.
- (4) The reappointment of a Judge under subsection (3) is for a period determined by the Judicial Services Commission as being appropriate in all circumstances.

Part B—INDEPENDENT JUDICIAL AND LEGAL INSTITUTIONS

139 Independent Legal Services Commission

- (1) There is an Independent Legal Services Commission.
- (2) The Commission shall consist of a Commissioner, who is or is qualified to be a Judge, appointed by the President on the advice of the Judicial Services Commission.
- (3) In advising the President as to the person to be appointed as Commissioner, the Judicial Services Commission must be satisfied that the person—
 - (a) is familiar with the nature of the legal system and legal practice in Fiji; and
 - (b) possesses appropriate qualities of independence integrity and fairness.
- (4) The President may appoint a person who is not a citizen of Fiji as the Commissioner.
- (5) The Commissioner may be appointed either on a part-time or full-time basis.
- (6) The Commission shall—
 - (a) hear disciplinary proceedings in relation to allegations of professional misconduct or unsatisfactory professional conduct against a legal practitioner or a law firm or any employee or agent of a legal practitioner or law firm; and
 - (b) with ministerial approval, make rules of professional conduct and practice for practitioners.

140 Fiji Independent Commission Against Corruption

- (1) There is a Fiji Independent Commission Against Corruption.
- (2) The Commission shall consist of a Commissioner and a Deputy Commissioner.
- (3) The Commissioner and Deputy Commissioner shall be appointed by the President on the advice of the Judicial Services Commission.
- (4) The Commissioner must be a legal practitioner qualified to be appointed as a Judge.
- (5) The Deputy Commissioner must be a legal practitioner who has had not less than 10 years post-admission practice as a legal practitioner in Fiji or in another country prescribed by law and has not been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.
- (6) The authority, functions and responsibility of the Commission shall be prescribed by written law.
- (7) Without prejudice to subsection (6), the Commission may—
 - (a) investigate allegations of corruption, either on its own initiative or on complaint; and
 - (b) recommend to the Director of Public Prosecutions to initiate or conduct criminal proceedings.
- (8) The powers of the Commissioner and the Deputy Commissioner may be exercised by him or her personally, his or her delegate, or through other persons acting on his or her instructions.
- (9) In exercising its powers and performing its functions and duties, the Commission shall be guided by the standards established under the United Nations Convention Against Corruption.

141 Solicitor-General

- (1) There is an office of the Solicitor-General.
- (2) The Solicitor-General is the chief legal advisor to the Government and is responsible for—
 - (a) providing independent legal advice to the Government and to the holder of a public office, on request;
 - (b) preparing draft laws on the request of Cabinet;
 - (c) maintaining a publicly accessible register of all written law;
 - (d) representing the State in court in any legal proceedings to which the State is a party, other than criminal proceedings; and
 - (e) performing any other functions assigned by this Constitution or any written law.
- (3) The Solicitor-General shall be appointed by the President on the advice of the Judicial Services Commission and shall have the same term of office as a Judge of the High Court.

- (4) The Solicitor-General must be a person who is qualified to be appointed as a Judge.
- (5) The Solicitor-General, with the permission of the court, may appear as a friend of the court in any civil proceedings to which the State is not a party.
- (6) Any functions assigned to the Solicitor-General may be exercised in person or by subordinate officers acting in accordance with general or special instructions.
- (7) The President may, on the advice of the Judicial Services Commission, appoint a person to act as the Solicitor-General during any period or during all periods, when the office of the Solicitor-General is vacant or when the Solicitor-General is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.
- (8) The Solicitor-General has the same status as that of a permanent secretary and shall be responsible for the Office of the Solicitor-General and may be assigned additional responsibilities by the Cabinet.

142 Director of Public Prosecutions

- (1) There is an office of the Director of Public Prosecutions.
- (2) The Director of Public Prosecutions must be a person who is qualified to be appointed as a Judge.
- (3) The Director of Public Prosecutions shall be appointed by the President on the recommendation of the Judicial Services Commission for a term of 7 years and is eligible for reappointment.
- (4) The President may, on the recommendation of the Judicial Services Commission, appoint a person to act as the Director of Public Prosecutions during any period or during all periods, when the office of the Director of Public Prosecutions is vacant or when the Director of Public Prosecutions is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.
- (5) The Director of Public Prosecutions may—
 - (a) institute and conduct criminal proceedings;
 - (b) take over criminal proceedings that have been instituted by another person or authority;
 - (c) discontinue, at any stage before judgment is delivered, criminal proceedings instituted or conducted by the Director of Public Prosecutions or another person or authority; and
 - (d) intervene in proceedings that raise a question of public interest that may affect the conduct of criminal proceedings or criminal investigations.
- (6) The powers of the Director of Public Prosecutions may be exercised by the Director personally, or through other persons acting on the Director's instructions.
- (7) The Director of Public Prosecutions may appoint any legal practitioner whether from Fiji or from another country, in accordance with section 149, to be a public prosecutor for the purposes of any criminal proceeding.

143 Director of Military Prosecutions

- (1) This section establishes the office of the Director of Military Prosecutions.

- (2) The Director of Military Prosecutions must be a person who is qualified to be appointed as a Judge.
- (3) The Director of Military Prosecutions shall be appointed by the President on the advice of the Judicial Services Commission in consultation with the Commander of the Republic of Fiji Military Forces.

144 Legal Aid Commission

- (1) There is a Legal Aid Commission.
- (2) The Commission consists of—
 - (a) the Solicitor-General or his or her nominee;
 - (b) 2 nominees of the Fiji Law Society; and
 - (c) 2 persons appointed by the President on the advice of the Judicial Services Commission—
 - (i) one of whom shall not be a legal practitioner and who has wide social services or civil society experience; and
 - (ii) one of whom may be either a legal practitioner or a person who has wide social services or civil society experience.
- (3) There shall be a director of the Commission appointed by the Judicial Services Commission after consultation with the Legal Aid Commission.
- (4) The Commission shall provide free legal aid services to those members of the public who cannot afford the services of a legal practitioner, in accordance with such rules and guidelines as may be prescribed by or under a written law.
- (5) The Commission shall provide regular updates and advice to the Attorney-General on any matter relating to its functions and responsibilities.

145 Fiji Law Reform Commission

- (1) There is a Fiji Law Reform Commission and its membership and functions shall be prescribed by written law.
- (2) The Commission may apply for a determination from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

146 Mercy Commission

- (1) There is a Commission on the Prerogative of Mercy.
- (2) The Commission consists of—
 - (a) a Judge appointed by the President on the advice of the Judicial Services Commission, who is to be its chairperson;
 - (b) the Attorney-General or an appropriate nominee;
 - (c) a person nominated by the Fiji Council of Churches;
 - (d) a person nominated by Fiji Council of Social Services; and
 - (e) a psychiatrist appointed by the Constitutional Offices Commission after consultation with the Fiji Medical Council.

- (3) On the petition of any convicted person, the Commission may recommend that the President exercise a power of mercy by—
 - (a) granting a free or conditional pardon to a person convicted of an offence;
 - (b) postponing the carrying out of a punishment, either for a specific or indeterminate period; or
 - (c) remitting all or a part of a punishment.
- (4) The Commission may dismiss a petition that it reasonably considers to be frivolous, vexatious or entirely without merit, but otherwise—
 - (a) must consider a report on the case prepared by—
 - (i) the Judge who presided at the trial; or
 - (ii) the Chief Justice, if a report cannot be obtained from the presiding Judge;
 - (b) must consider any other information derived from the record of the case or elsewhere that is available to the Commission; and
 - (c) may consider the views of the victims of the offence.
- (5) The President may, on the recommendation of the Judicial Services Commission, appoint a person to act as a member of the Commission during any period or during all periods, when there is a vacancy in the membership of the Commission or when a member is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.
- (6) The quorum for the meetings of the Commission shall consist of the chairperson and 2 other members.

147 Existing appointments

Nothing in this Chapter affects the continuance of a person in an office for which this Chapter makes provision for, under an appointment made before the commencement of this Constitution.

CHAPTER 7—STATE SERVICES

Part A—PUBLIC SERVICE

148 Values and principles

- (1) The values and principles of public service include—
 - (a) high standards of professionalism, including professional ethics and integrity;
 - (b) prompt and faithful implementation of Government policies and administration of laws;
 - (c) being free from corruption;
 - (d) efficient, effective and economic use of public resources;
 - (e) prompt response to requests and questions from the public, and delivery of service to the public, in a manner that is respectful, effective, impartial, fair, and equitable;
 - (f) accountability for administrative conduct;
 - (g) transparency, including—
 - (i) timely, accurate disclosure of information to the public; and
 - (ii) prompt, complete and candid reporting to Parliament, as required by law;
 - (h) cultivation of good human resource management and career development practices, to maximise human potential; and
 - (i) recruitment and promotion based on—
 - (i) objectivity, impartiality and fair competition; and
 - (ii) ability, education, experience and other characteristics of merit; and
 - (iii) the need to broadly represent the diversity of Fiji.
- (2) The values and principles of public service apply in all State bodies and State corporations.
- (3) The duties of a public officer include bringing contraventions of this Constitution or the law to the attention of the appropriate authorities.
- (4) A public officer must not be removed from office or demoted in rank or otherwise punished without due process of law, except to the extent provided in this Constitution.
- (5) A public officer must not be victimized or discriminated against for having performed the officer's duties in accordance with this Constitution or the law.
- (6) Parliament must enact a law to give full effect to this section.

149 Public officers must be citizens

A person or authority exercising power to appoint a person to a public office (other than an office for which Chapter 6 makes provision) must not appoint a person who is not a citizen except with the approval of the Prime Minister.

150 Public Service Commission

- (1) There is an independent Public Service Commission.
- (2) The Public Service Commission consists of the following who shall be appointed by the President on the advice of the Constitutional Offices Commission—
 - (a) a chairperson; and
 - (b) not less than 3 and not more than 5 other members.
- (3) The President may, on the advice of the Constitutional Offices Commission, appoint a person to act as chairperson or as a member of the Public Service Commission during any period, or during all periods, when the chairperson or a member is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of office.

151 Functions of the Public Service Commission

- (1) Subject to this section and other sections of this Constitution, the Public Service Commission has the following functions—
 - (a) to appoint permanent secretaries;
 - (b) to remove permanent secretaries;
 - (c) to institute disciplinary action against permanent secretaries; and
 - (d) to make such other appointments and perform such other duties, functions and responsibilities as may be prescribed by written law.
- (2) The functions of the Public Service Commission do not extend to—
 - (a) an office of a Judge or an office that is the responsibility of the Judicial Services Commission;
 - (b) an office that is the responsibility of another body prescribed by written law;
 - (c) an office in the Republic of Fiji Military Forces, Fiji Police Force or the Fiji Corrections Service; or
 - (d) an office in respect of which this Constitution makes provision.

152 Permanent secretaries

- (1) There is established within each ministry the office of a permanent secretary, which is an office in the public service.
- (2) Each ministry is to be under the administration of a permanent secretary.
- (3) The permanent secretary of a ministry is responsible for the efficient, effective and economical management of the ministry and is accountable to the minister responsible for the ministry for the performance of those functions
- (4) If the Minister has given general policy directions to the permanent secretary, he or she must act in accordance with those directions.
- (5) The Public Service Commission may at any time re-assign one or more permanent secretaries amongst the various ministries of the State.
- (6) The permanent secretary of each ministry shall have the authority to appoint, remove and institute disciplinary action against all staff of the ministry.
- (7) The permanent secretary of each ministry has the authority to determine all matters

pertaining to the employment of all staff in the ministry.

153 Appointment of ambassadors

- (1) The President may, on the advice of the Prime Minister after consultation with the Minister responsible for foreign affairs, make appointments to offices of ambassador, or of other principal representative, of the State to another country or an international organisation.
- (2) The President may, on the advice of the Prime Minister after consultation with the Minister responsible for foreign affairs, remove a person from an office referred to in subsection (1).

Part B—DISCIPLINED FORCES

154 Fiji Police Force

- (1) There is a Fiji Police Force.
- (2) There is an office of the Commissioner of Police, and the Fiji Police Force is under the command of the Commissioner of Police.
- (3) The Commissioner of Police is appointed by the President, on the advice of the Constitutional Offices Commission following consultation with the Minister responsible for the Fiji Police Force.
- (4) The Commissioner of Police is responsible for—
 - (a) the organisation and administration of the Fiji Police Force; and
 - (b) the deployment and control of its operations,
 and, subject to subsection (6), is not subject to the direction or control by any other person or authority in relation to those matters.
- (5) The Minister responsible for the Fiji Police Force may from time to time issue general policy directions to the Commissioner of Police and, if such a direction has been issued, the Commissioner of Police must act in accordance with it.
- (6) The Commissioner of Police has the following powers in relation to the Fiji Police Force for all ranks, members and other employees, of the Fiji Police Force—
 - (a) to appoint persons to the Fiji Police Force;
 - (b) to remove persons from the Fiji Police Force; and
 - (c) to take disciplinary action against persons in the Fiji Police Force,
 and all written laws governing the Fiji Police Force shall be construed accordingly.
- (7) The Commissioner of Police, with the agreement of the Minister responsible for the Fiji Police Force, has the authority to determine all matters pertaining to the employment of all staff in the Fiji Police Force, including—
 - (a) the terms and conditions of employment;
 - (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - (c) the salaries, benefits and allowances payable, in accordance with its budget as

approved by Parliament; and

- (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.

155 Fiji Corrections Service

- (1) There is a Fiji Corrections Service .
- (2) There is an office of the Commissioner of the Fiji Corrections Service and the Fiji Corrections Service is under the command of the Commissioner of the Fiji Corrections Service.
- (3) The Commissioner of the Fiji Corrections Service is appointed by the President, on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for the Fiji Corrections Service.
- (4) The Commissioner of the Fiji Corrections Service is responsible for—
 - (a) the organisation and administration of the Fiji Corrections Service; and
 - (b) the deployment and control of its operations,
 and, subject to subsection (6), is not subject to the direction or control by any other person or authority in relation to those matters.
- (5) The Minister responsible for the Fiji Corrections Service may from time to time issue general policy directions with respect to the Fiji Corrections Service and, if such a direction has been issued, the Commissioner of the Fiji Corrections Service must act in accordance with it.
- (6) The Commissioner of the Fiji Corrections Service has the following powers in relation to the Fiji Corrections Service for all ranks, members and other employees of the Fiji Corrections Service—
 - (a) to appoint persons to the Fiji Corrections Service;
 - (b) to remove persons from the Fiji Corrections Service; and
 - (c) to take disciplinary action against persons in the Fiji Corrections Service,
 and all written laws governing the Fiji Corrections Service shall be construed accordingly.
- (7) The Commissioner of the Fiji Corrections Service has the authority to determine all matters pertaining to the employment of all staff in the Fiji Corrections Service, including—
 - (a) the terms and conditions of employment;
 - (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - (c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
 - (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.

156 Republic of Fiji Military Forces

- (1) There is a military force called the Republic of Fiji Military Forces.

- (2) The Republic of Fiji Military Forces—
 - (a) are responsible for the defence and protection of the sovereignty and territorial integrity of the Republic from external threat;
 - (b) may provide support to a civilian authority for limited periods and for specified purposes as prescribed by written law
 - (c) may assist and cooperate with other authorities in the event of a natural disaster or a state of emergency when authorised by Cabinet but shall act only on, and to the extent specified in, a request by the appropriate civilian authority in accordance with an Act of Parliament; and
- (3) The Commander of the Republic of Fiji Military Forces shall be responsible for exercising military executive command of the Republic of Fiji Military Forces, however in the exercise of military executive command the Commander is subject to the direction of Cabinet, through the Minister responsible for the Republic of Fiji Military Forces.
- (4) The Commander of the Republic of Fiji Military Forces is appointed by the President, on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for the Republic of Fiji Military Forces.
- (5) The Commander of the Republic of Fiji Military Forces has the following powers in relation to the Republic of Fiji Military Forces for all ranks, members and other employees of the Republic of Fiji Military Forces—
 - (a) to appoint persons to the Republic of Fiji Military Forces;
 - (b) to remove persons from the Republic of Fiji Military Forces; and
 - (c) to take disciplinary action against persons in the Republic of Fiji Military Forces,
 and all written laws governing the Republic of Fiji Military Forces shall be construed accordingly.
- (6) The Commander of the Republic of Fiji Military Forces, with the agreement of the Minister responsible for the Republic of Fiji Military Forces, has the authority to determine all matters pertaining to the employment of all staff in the Republic of Fiji Military Forces, including—
 - (a) the terms and conditions of employment;
 - (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - (c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
 - (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.

CHAPTER 8—BOSE LEVU VAKATURAGA (BLV)

157 Establishment and composition of the BLV

- (1) This section establishes the Bose Levu Vakaturaga (the BLV).
- (2) The BLV shall consist of the following, one of whom shall be elected as chairperson—
 - (a) the President;
 - (b) the Prime Minister;
 - (c) the Minister responsible for iTaukei affairs;
 - (d) 6 members nominated by the Minister;
 - (e) 42 chiefs representing the 14 provinces with each province represented by 3 members nominated in accordance with subsections (3), (4) and (5); and
 - (f) 3 members nominated by the Rotuma Island Council.
- (3) The nomination of the members representing the provinces is to be carried out by the Bose Vanua.
- (4) The nomination of the 3 members from each of the 14 provinces shall be chiefs who have been traditionally installed as—
 - (a) Turaga iTaukei;
 - (b) Marama iTaukei;
 - (c) Liuliu ni Yavusa; or
 - (d) Liuliu ni Mataqali;
 and one of the 3 must be a woman, if possible.
- (5) A member representing a province must possess exemplary leadership qualities and have served in his or her province.
- (6) The BLV shall be supported by a management board and a secretariat.

158 Independence of the BLV

With the aim of becoming financially independent, the BLV shall be funded by—

- (a) the Trust Fund established under the iTaukei Trust Fund Act; and
- (b) other additional sources of funding as provided by written law.

159 Responsibilities, authorities and functions of the BLV

- (1) The BLV is responsible for—
 - (a) maintaining and enhancing the indigenous sovereignty of the iTaukei communities, including through—
 - (i) monitoring and providing oversight of the well-being of the iTaukei communities;
 - (ii) nurturing iTaukei culture, traditions, values and heritage;
 - (iii) oversight of the operation and development of the customs and the customary law of the iTaukei communities; and

- (iv) oversight of, and responsibility for, the separate governance system of the iTaukei communities;
 - (b) monitoring sources of division and conflict that, in the opinion of the BLV, may threaten or undermine the unity of Fiji;
 - (c) encouraging and fostering resolution of disputes and reconciliation; and
 - (d) fostering dialogue, social cohesion and unity amongst all the diverse communities of Fiji.
- (2) The BLV has the following authorities and functions—
- (a) membership in, and nomination of its representatives on:
 - (i) the iTaukei Affairs Trust Board established under the iTaukei Affairs Act;
 - (ii) the iTaukei Lands Trust Board established under the iTaukei Lands Trust Act;
 - (iii) the iTaukei Lands and Fisheries Commission established under the iTaukei Lands Act and the Fisheries Act;
 - (iv) the iTaukei Trust Fund Board established under the iTaukei Trust Fund Act;
 - (b) membership in, and nomination of, its representatives on any other institutions prescribed by written law;
 - (c) oversight and accountability for other councils;
 - (d) proposing village by-laws for the registered iTaukei villages;
 - (e) considering and making recommendations to government on any government policies or legislative proposals relating to, or likely to have an impact on the rights, interests, health, welfare, peace, order and good government of the iTaukei;
 - (f) on an ongoing basis, assessing the needs of the iTaukei and advocating and making recommendations to government on the policies and law best suited to meeting those needs;
 - (g) directing the iTaukei Affairs Board in relation to research, analysis and advice when making recommendations under paragraphs (e) and (f); and
 - (h) nominating 3 members to the Presidential Appointments Commission.

CHAPTER 9—ROTUMA

160 Recognition of Rotuma and the Rotuman people

This Constitution recognises Rotuma as a sovereign indigenous entity within the Republic of Fiji and the Rotuman people as a sovereign indigenous people of Fiji, with unique language, culture, traditions and rights of land tenure.

161 Autonomy and self-government

- (1) The existing Rotuma Island Council (the “RIC”) shall be vested with the powers and functions necessary to provide for the internal government and administration for Rotuma and the welfare of its inhabitants.
- (2) The RIC shall have the power to make laws and regulations in relation to subjects provided for by written law in relation to—
 - (a) the peace, order and good governance of Rotuma;
 - (b) internal revenue raising;
 - (c) control and management of Rotuman land and the area of territorial sea and archipelagic waters (if any) associated with the island of Rotuma, and all resources on, in or under that land, territorial sea, and archipelagic waters;
 - (d) nurturing the practice and transmission of Rotuman language, culture, customs and traditions and heritage.
- (3) The RIC may propose amendments to the Rotuma Act and the Rotuma Lands Act, including amendments relating to transferring to the RIC authority to determine its own structures, procedures and functions consistent with Rotuman culture and tradition.
- (4) Any proposed amendments must be agreed to by the Government.
- (5) Any decision of the Government relating to the enactment of laws, the formulation or implementation of policy or the approval of any form of development insofar as the decision has application to Rotuma, shall be subject to the free prior and informed consent of the Rotuman people.
- (6) The RIC shall be the competent authority to determine whether free, prior and informed consent has been obtained from the Rotuman people.
- (7) The State shall ensure that adequate funding is made available to the RIC to enable it to—
 - (a) effectively exercise its powers and functions; and
 - (b) fund development of infrastructure and other forms of development agreed to by the RIC.
- (8) The RIC may initiate development proposals for funding by the Government.

162 Right to initiate an external self-determination process

- (1) The RIC, after consulting with the Rotuman people, may by unanimous vote of all its members resolve to initiate consultation with the Government concerning the possibility of Rotuma becoming an independent state.
- (2) A resolution under subsection (1) shall authorise the RIC to—
 - (a) formally notify the Government of its intent to consult;

- (b) engage, in good faith, with representatives of the Government for the purposes of consultation.
- (3) Rotuma may only become an independent state if—
 - (a) a cooperative consultation process has been undertaken;
 - (b) the Government formally agrees to independence;
 - (c) a referendum has been conducted to determine the majority view of the Rotuman people;
 - (d) two-thirds of the members of the RIC have voted for Rotuma to become an independent state; and
 - (e) an amendment to this Constitution has been made.

163 Entrenchment of constitutional arrangements

- (1) Any amendment to this Chapter or any of the provisions in this Constitution relating to Rotuma set out in subsection (2) shall be subject to prior approval of a two-thirds majority vote of the members of the RIC.
- (2) The provisions are:
 - (a) section 69(1)(a) and (9) (which provides for the Rotuma constituency representation in the House of Representatives);
 - (b) section 79 (which provides for the appointment of a member of the Senate by the RIC);
 - (c) provisions in Chapter 3 that relate to Rotuma and the Rotuman people.

CHAPTER 10—LOCAL GOVERNMENT

164 System of local government

- (1) A strong system of local government, with structures tailored to distinctive needs of each locality, strengthens national unity by—
 - (a) recognising the right of the people in their communities to manage their own affairs and further their development in a manner that is responsive to local interests and needs;
 - (b) integrating all the residents within a locality under the same local government bodies, so that issues are resolved, and services are provided without discrimination;
 - (c) engaging the people in the decisions that most affect their daily lives;
 - (d) promoting social and economic development, and the provision of easily accessible public services throughout Fiji;
 - (e) promoting democratic and accountable exercise of authority; and
 - (f) giving each local community a voice in national discussion through the participation of their local government representatives.
- (2) Each local government body must be chosen by the citizens resident within its area in regular elections administered by the Electoral Commission.
- (3) Each local government body shall have responsibility for any public services that are most

effectively delivered locally and shall have authority—

- (a) to decide issues of public concern that arise locally or primarily affect the local residents in their daily lives; and
- (b) for the public services that are most effectively delivered locally.

165 Local government responsibility and accountability

Each local government body must have sufficient autonomy, powers and resources to carry out its responsibilities and respond to the needs of its residents.

166 Government co-operation

- (1) Local government must be provided with adequate and reasonably predictable sources of revenue to carry out the roles, functions and powers assigned to them.
- (2) The Government may supervise or intervene in the management of a local government body only in accordance with the principles of this Chapter and on the grounds set out in subsection (3).
- (3) Intervention may only be undertaken on the following specific grounds—
 - (a) suspected or proven corruption within a local government body; and
 - (b) in a case of serious mismanagement by the local government body.
- (4) Intervention shall only be initiated in accordance with clearly defined procedures set out in written law.
- (5) Any intervention shall be subject to a clearly defined time limit.
- (6) At the expiry of the intervention period, management powers shall revert to the local government body unless Parliament expressly authorises an extension.

CHAPTER 11—REVENUE AND EXPENDITURE AND ACCOUNTABILITY

Part A—REVENUE AND EXPENDITURE

167 Principles of public finance

The following principles apply to public finance in Fiji—

- (a) State bodies must promote public participation, transparency and accountability in public financial decision making and reporting;
- (b) the public finance system must promote a just society, and in particular—
 - (i) the burden of taxation must be shared fairly; and
 - (ii) expenditures must promote the fair and balanced development of the country, including by making special provision for local government and remote areas;
- (c) the burdens and benefits of the use of resources and public borrowing must be shared equitably between present and future generations;
- (d) public money must be used in a prudent and responsible way and accounted for in accordance with law and accounting principles that are generally accepted in the public sector; and
- (e) financial management must be responsible, and fiscal reporting must be clear.

168 Raising of revenue

- (1) The raising by the Government of revenue or moneys, whether through the imposition of taxation or otherwise, must be authorised by or under a written law.
- (2) No taxation or fee may be imposed, waived or varied by the State, except as provided by written law.
- (3) If a written law permits the waiver or variation of any tax or fee—
 - (a) a record of each waiver or variation must be maintained together with the reason for it; and
 - (b) each waiver or variation, and the reason for it, must be reported to the Auditor-General.
- (4) No law may exempt, or authorize the exemption of, a public officer from payment of any tax or fee by reason of—
 - (a) the office held by that public officer; or
 - (b) the nature of the work of the public officer.

169 Consolidated Fund

- (1) All revenue or moneys raised or received for the purposes of the State or Government must be paid into one Consolidated Fund.
- (2) Subsection (1) does not apply to revenue or moneys that are payable by or under a written law into some other fund established for a specific purpose or that may, by or under a written law, be retained by the authority receiving them for the purposes of defraying the expenses of that authority.

170 Appropriations to be authorised by law

Moneys must not be withdrawn from the Consolidated Fund or from a fund referred to in section 169(2) except under an appropriation made by law.

171 Authorisation of expenditure in advance of appropriation

- (1) Subject to any written law, if the Appropriation Act for a year has not come into operation by the beginning of the year, the Minister responsible for finance may, to the extent and subject to the conditions prescribed by any written law, authorise the withdrawal of moneys from the Consolidated Fund for the ordinary services of Government.
- (2) The total amount authorised for withdrawal under subsection (1) must not exceed one-third of the appropriations made for the ordinary services of Government in respect of the immediately preceding year.

172 Appropriation and taxing measures require ministerial consent

Any written law, that—

- (a) appropriates revenue or moneys or increases such an appropriation;
- (b) imposes taxation or an increase in taxation; or
- (c) reduces the amount of any debt due to the State,

may only be passed by Parliament with the consent of Cabinet, as signified by the Minister responsible for finance.

173 Annual budget

- (1) In respect of each year ending on 31 December or on such other day as Parliament prescribes, the Minister responsible for finance must cause to be laid before the House of Representatives an annual budget, reflecting estimates of revenue and of capital and current expenditure for the year, in respect of the ordinary services of the Government and services of Parliament.
- (2) A written law may prescribe the manner in which annual estimates are to be prepared.

174 Guarantees by Government

- (1) The Government must not guarantee the financial ability of any person or body in respect of a loan or otherwise unless the giving of the guarantee is authorised by Parliament in accordance with conditions prescribed by law.
- (2) The House of Representatives, by resolution, may require the Minister responsible for finance to present to the House of Representatives, within 7 days after the resolution, information concerning any particular loan or guarantee, including all information necessary to show—
 - (a) the extent of the total indebtedness by way of principal and accumulated interest;
 - (b) the use made or to be made of the proceeds of the loan or the purpose of the guarantee;
 - (c) the provisions made for servicing or repayment of the loan; and
 - (d) the progress made in the repayment of the loan.

175 Public moneys to be accounted for

All public moneys must be dealt with and accounted for in accordance with law and

otherwise in accordance with accounting principles generally accepted in the public sector.

176 Control of public money and tendering

- (1) Parliament must enact law to ensure expenditure control, transparency and independent internal audit mechanisms in government.
- (2) When a State body or any other public entity contracts for goods and services, it must do so in accordance with a system that is fair, transparent, competitive and cost effective.
- (3) Parliament must enact a law prescribing a framework within which policies relating to procurement and asset disposal are to be implemented.

177 Standing appropriation of Consolidated Fund for payment of certain salaries and allowances

- (1) This section applies to—
 - (a) the President;
 - (b) a judicial officer;
 - (c) the Supervisor of Elections;
 - (d) the Secretaries-General to the House of Representatives and the Senate;
 - (e) the Solicitor-General;
 - (f) the Director of Public Prosecutions;
 - (g) the Commissioner and the Deputy Commissioner of the Fiji Independent Commission Against Corruption;
 - (h) the Commissioner of Police;
 - (i) the Commissioner of the Fiji Corrections Service;
 - (j) the Commander of the Republic of Fiji Military Forces;
 - (k) the Auditor-General;
 - (l) the Ombudsman;
 - (m) the chairperson and members of the Human Rights and Anti-Discrimination Commission;
 - (n) the chairperson and members of the Electoral Commission;
 - (o) the members of the Judicial Services Commission referred to in section 133(2)(e) and (f);
 - (p) the members of the Mercy Commission referred to in section 146(2)(c), (d) and (e);
 - (r) the chairperson and members of the Public Service Commission;
 - (q) the members of the Constitutional Offices Commission; and
 - (r) the chairperson and members of any tribunal or medical board established or appointed under this Constitution to consider the question of removal from office of any person.
- (2) The salaries or allowances payable to a person to whom this section applies are payable out of the Consolidated Fund, which is appropriated accordingly.

178 Standing appropriation of Consolidated Fund for other purposes

- (1) All debt charges for which the State is liable and all pension benefits (except to the extent that they are a charge on another fund and have been paid out of that fund to the person or authority to whom payment is due) are payable out of the Consolidated Fund, which is appropriated accordingly.
- (2) In this section—

“debt charges” means interest, sinking fund charges, amounts due in respect of repayment or amortisation of debt, and other expenditure incurred in connection with the raising of loans on the security of the revenue of the State or the Consolidated Fund;

“eligible service” means service in a public office but does not include service in a naval, military or air force; and

“pension benefits” means pensions, compensation, gratuities or other like payments payable to persons in respect of their eligible service or to their spouses, dependents, or personal representatives in respect of that service.

Part B—FINANCIAL ACCOUNTABILITY**179 Auditor-General**

- (1) There is an office of the Auditor-General.
- (2) The Auditor-General is appointed by the President on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for finance.
- (3) The President may, on the advice of the Constitutional Offices Commission, appoint a person to act as the Auditor-General during any period, or during all periods, when the office of the Auditor-General is vacant or when the Auditor-General is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.

180 Functions of Auditor-General

- (1) At least once in every year, the Auditor-General shall inspect, audit and report to Parliament on—
 - (a) the public accounts of the State;
 - (b) the control of public money and public property of the State; and
 - (c) all transactions with or concerning the public money or public property of the State.
- (2) In the report, the Auditor-General must state whether, in his or her opinion—
 - (a) transactions with or concerning the public money or public property of the State have been authorised by or pursuant to this Constitution or any written law; and
 - (b) expenditure has been applied to the purpose for which it was authorised.
- (3) In the performance of his or her duties, the Auditor-General or a person authorised by him or her has access to all records, books, vouchers, stores or other Government property in the possession, custody or control of any person or authority.
- (4) A written law may provide that the accounts of a specified body corporate are not subject to audit by the Auditor-General but are to be audited as prescribed in that written law.
- (5) If the written law under subsection (4) so provides, it must also empower the Auditor-

General to review those audits and report the results of a review.

- (6) The Auditor-General must submit a report made by him or her to the Speaker of Parliament and must submit a copy to the Minister responsible for finance.
- (7) Within 30 days of receipt, or if Parliament is not sitting, on the first day after the end of that period, the Minister responsible for finance must lay the report before Parliament.

181 Reserve Bank of Fiji

- (1) The Reserve Bank of Fiji is the central bank of the State, whose primary objects are—
 - (a) to protect the value of the currency in the interest of balanced and sustainable economic growth;
 - (b) to formulate monetary policy;
 - (c) to promote price stability;
 - (d) to issue currency; and
 - (e) to perform other functions conferred on it by a written law.
- (2) In pursuing its primary objects, the Reserve Bank of Fiji must perform its functions independently and without fear, favour or prejudice, but there must be regular consultation between the Reserve Bank of Fiji and the Minister responsible for finance.
- (3) The powers and functions of the Reserve Bank of Fiji are those customarily exercised and performed by central banks.
- (4) The Governor of the Reserve Bank of Fiji shall be appointed by the President on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for finance.
- (5) A written law must provide for the composition, powers, functions and operations of the Reserve Bank of Fiji.
- (6) The Reserve Bank of Fiji must deliver quarterly and annual reports to Parliament, and any other reports when required by law, or requested by resolution.

182 Salaries and Benefits Commission

- (1) This section establishes the Salaries and Benefits Commission as an Independent Commission.
- (2) The Salaries and Benefits Commission consists of—
 - (a) the chairperson of the Public Services Commission;
 - (b) 2 persons, each of whom must—
 - (i) be qualified as an actuary or accountant; or
 - (ii) have extensive experience in public administration, trade, commerce, finance or labour relations; and
 - (c) one woman and one man to represent the public.
- (3) The members of the Commission are appointed by the Constitutional Offices Commission Appointments Committee, one of whom shall be appointed as chairperson.
- (4) The Salaries and Benefits Commission must convene once every 4 years to review and determine the framework and upper limits of the salaries, allowances and benefits applicable to officers of the State.

- (5) When determining the framework of salaries and benefits, the Salaries and Benefits Commission must not reduce the overall value of the salaries and benefits of Judges, other judicial officers, members of Independent Commissions, Independent Officers, or members of the BLV, except—
 - (a) for reasons of national economic austerity; and
 - (b) as part of a general reduction in the framework applicable to all officers of the State, and under which all officers of the State are similarly affected.
- (6) For the purposes of conducting a review, the Commission may consider submissions made to it and other relevant material.

183 National Planning Commission

- (1) This section establishes the National Planning Commission.
- (2) The Commission is responsible for advising the Government on the National Development Plan and national policies relating to—
 - (a) formulating the National Development Plan;
 - (b) preparing and implementing a whole of government monitoring and evaluation strategy; and
 - (c) delivering annual whole of government monitoring and evaluation reports to the Prime Minister.
- (3) A written law may make further provisions in relation to the Commission.

184 National Infrastructure Council

- (1) This section establishes the National Infrastructure Council.
- (2) The composition of the Council shall be prescribed by law.
- (3) The Council is responsible for developing and keeping under review a rolling national plan for major and multi-year infrastructure development projects of significance for national development, including public, private and joint public and private projects, whether funded by the private sector or by donors.
- (4) In the performance of its functions or the exercise of its authorities and powers the Council shall not be subject to the direction or control of any person or authority, except by court of law or as otherwise prescribed by law.

185 Public Accounts Committee

- (1) This section establishes a Public Accounts Committee.
- (2) The Public Accounts Committee shall consist of 5 members of the House of Representatives, 3 being government members and 2 being opposition members.
- (3) The chairperson of the Public Accounts Committee shall be a member of the Opposition in the House of Representatives.
- (4) The Public Accounts Committee shall consider and report to the House of Representatives on—
 - (a) appropriation accounts of moneys expended out of sums granted by Parliament to meet the public expenditure of the Government;

- (b) other accounts that may be referred to the Committee by the House of Representatives or as are authorised or required to be considered by the Committee under any written law; and
- (c) the report of the Auditor-General on any of those accounts.

CHAPTER 12—CODE OF CONDUCT AND REMOVAL OF OFFICERS OF THE STATE

Part A – CODE OF CONDUCT

186 Application

This Code of Conduct applies to officers of the State.

187 Interpretation

In this Code:

“asset” includes real and personal property, and an interest in real or personal property;

• “decision” includes—

- (a) the determination of the use, disposition or acquisition of an asset;
- (b) the making of a contract or agreement;
- (c) the development or enactment of a law;
- (d) the development of a policy;

“employment” does not include the performance of the functions of the office to which an officer of State was elected or appointed.

188 General duties of officers of the State

- (1) Each officer of the State must uphold, respect and obey Fiji’s laws.
- (2) Officers of the State must treat citizens of Fiji fairly, honestly and impartially.
- (3) An officer of the State—
 - (a) must treat each employee or contractor of the State in a respectful manner; and
 - (b) must respect the responsibility of the permanent secretaries to direct and instruct other public officers and contractors.
- (4) Members of the House of Representatives and the Senate and elected members of local government bodies must—
 - (a) make themselves readily available and accessible to hear the opinions of the people they represent and their questions on matters of public interest;
 - (b) be prompt and responsive to requests and contacts from the people they represent; and
 - (c) represent the people in a manner that recognises the diverse needs of the residents.
- (5) If a constituent consults a member of Parliament or of a local government body in the member’s official capacity, the member must—
 - (a) endeavour to direct the constituent to the State body or the representative of a State body best able to respond to the constituent, if it is appropriate to do so given the nature of the constituent’s concern;
 - (b) endeavour to avoid giving advice beyond the member’s knowledge, or making a commitment that the member may be unable to fulfil; and

- (c) avoid making any commitment that exceeds the member's authority.

189 Attendance at meetings

Members of Parliament or of a local government body must be diligent in representing their constituencies and, in particular, must make all reasonable efforts to attend every meeting of Parliament, the local government body, or of any committee to which the member is assigned.

190 Confidentiality and discretion

- (1) If, in the course of official duties, an officer of State acquires information about a person that is of a type that would ordinarily be regarded as private and confidential, the officer must not use or disclose that information except in accordance with law; and—
 - (a) with the consent of that person; or
 - (b) in so far as is necessary to carry out the officer's official duties.
- (2) If, during a meeting, a body holds a closed discussion of a matter, an officer of the State present at that discussion must not reveal the details of that discussion, except—
 - (a) in so far as is reasonably necessary to carry out a course of action arising from that discussion, in accordance with a resolution of that body; or
 - (b) as specifically authorised by a resolution adopted by that body.
- (3) An officer of the State who receives a document that is confidential must comply with any prescribed requirements for handling or destruction of that document.

191 Finances, property and employment

- (1) An officer of the State must not knowingly claim any payment or financial benefit to which the officer is not entitled.
- (2) An officer of the State must promptly pay any money that the Officer owes to the State.
- (3) An officer of the State who has in their possession or custody any property of the State must—
 - (a) handle and safeguard that property with the same degree of care as would a prudent owner;
 - (b) use that property only for purposes associated with the officer's official duties, or for any personal purpose;
 - (c) not allow any other person to use that property, except for purposes associated with the officer's duties, or for any personal purpose; and
 - (d) return that property to the relevant authority, on demand.
- (4) A full time officer of the State must not engage in any other employment, professional practice or active management of a business.

192 Gifts

- (1) An officer of the State who receives a gift as a representative of, or on behalf of, the State or any State body, must deliver the gift to the relevant authority.
- (2) An officer of the State who receives a personal gift when acting in an official capacity, having an apparent value above a prescribed minimum, must disclose the gift in accordance with section 196 or, if this is required by a written law, deliver the gift to the

relevant authority.

193 Corrupt practices

- (1) An officer of the State must not, directly or indirectly, engage in any corrupt practice.
- (2) Without limiting the scope of subsection (1), an officer of the State must not accept, demand, or request from another person any private monetary or other economic favour, advantage or benefit for the officer or any other person, in exchange for—
 - (a) using their office to make, participate in the making of, influence, or attempt to influence a decision on a matter;
 - (b) influencing or attempting to influence a vote or decision of another officer of the State; or
 - (c) influencing any public officer administering a service or programme provided by the State or any State body.

194 Use of inside information for private purposes

- (1) An officer of the State must not, directly or indirectly—
 - (a) make use of inside information for personal economic advantage or benefit; or
 - (b) reveal inside information to any person if that information could be used for private monetary or other economic advantage or benefit.
- (2) For the purpose of subsection (1), inside information is information that—
 - (a) the officer receives or discovers in the course of their work; and
 - (b) is not generally available to the public at the time the officer makes use of or reveals the information to another person.

195 Conflicts of interest

- (1) An officer of the State must not use their office to make, participate in the making of, influence or attempt to influence a decision on a matter in respect of which the officer has a conflict of interest.
- (2) If an officer of the State considers that they have a conflict of interest in respect of a matter to be discussed or voted on at a meeting, the officer must—
 - (a) declare the conflict of interest and its general nature at the meeting;
 - (b) immediately leave the meeting or that part of the meeting during which the matter is to be discussed or voted on;
 - (c) must not take part in the discussion or vote on the matter or attempt to influence the discussion or vote on the matter before, during or after the meeting; and
 - (d) must not execute any document in relation to the matter unless specifically directed to do so by the State body concerned.
- (3) A person responsible for recording the proceedings of a meeting referred to in subsection (2) must record any officer's declaration of a conflict of interest and the time when the officer was absent from the meeting.
- (4) On request of a person at a meeting, the person presiding over the meeting may invite any officer of the State to consider whether they have a conflict of interest in respect of a matter to be discussed or voted on at the meeting.

- (5) For the purposes of this section, an officer of the State—
 - (a) has a conflict of interest in respect of a matter if their direct or indirect private interest would be, or could reasonably be expected to be, affected by a decision on that matter, and if the officer has the opportunity to use their office to make, participate in the making of, influence or attempt to influence that decision; and
 - (b) does not have a conflict of interest in respect of a matter if the officer's direct or indirect private interest in the matter—
 - (i) is the same interest as that of a broad class of citizens;
 - (ii) relates to the officer's compensation or payment of expenses while acting in the officer's official capacity; or
 - (iii) is so remote or insignificant that it cannot reasonably be regarded as likely to influence the officer in relation to the matter.
- (6) In this section—
 - (a) "private interest" means a monetary or economic interest or an interest to which a monetary value may be attributed; and
 - (b) an officer's indirect private interest includes any private interest of—
 - (i) the officer's spouse;
 - (ii) a minor in respect of whom the officer is a parent, acts in a parental capacity or is a guardian;
 - (iii) an individual, other than an employee of the officer, who is financially dependent on the officer or on whom the officer is financially dependent; and
 - (iv) an entity in which the Officer, or the Officer in combination with a person described in paragraph (i), (ii) or (iii), has a direct or indirect controlling interest, or other significant interest.

196 Declaration of financial interests

- (1) Each officer of the State must complete and file the prescribed disclosure form—
 - (a) on election or appointment to office;
 - (b) at prescribed intervals of not less than 2 years or more than 4 years, after election or appointment to office; and
 - (c) whenever a change occurs in the information most recently reported by the officer under this section.
- (2) The prescribed disclosure form must require disclosure of at least the following information and may require disclosure of any other information relevant to the issues addressed in this Code—
 - (a) employment held by the officer and the officer's spouse at the time of disclosure, and income from that employment;
 - (b) interests in land or businesses owned by the officer or the officer's spouse at the time of disclosure;
 - (c) significant investments, contracts or other financial interests of the officer or officer's spouse at the time of disclosure;
 - (d) any gift described in section 192(2) received by the officer during the officer's

term of office; and

- (e) any loan owed by the officer or officer's spouse, or loan guarantee protecting the officer or officer's spouse, above the prescribed minimum, including the identity of the person to whom the money is owed, or by whom the guarantee was given.

197 Complaints

- (1) The Ombudsman has authority to receive and investigate complaints alleging that an officer of the State has failed to comply with this Code of Conduct, or any Code of Conduct contemplated in section 224(1)(b).
- (2) The Ombudsman may dismiss a complaint that it reasonably considers to be frivolous, vexatious or entirely without merit.

Part B – REMOVAL OF OFFICERS OF THE STATE

198 Application and general principle

- (1) This Part applies to officers of the State except an officer described in paragraph (n) of the definition of officer of the State.
- (2) The provisions of this Part are in addition to—
 - (a) any other provisions of this Constitution governing vacancies that occur automatically on the happening of specific events; and
 - (b) any authority set out in this Constitution of a person to dismiss an office holder.
- (3) A person who is the subject of proceedings under this Part—
 - (a) has the right—
 - (i) to appear and be represented before any investigating or adjudicating body considering removal; and
 - (ii) to adduce evidence, cross-examine witnesses, and make submissions; but
 - (b) must not participate in any vote on a motion or other decision.

199 Removal of the President on grounds of incapacity

- (1) Parliament may initiate the procedure to remove the President on the grounds of incapacity by passing a resolution introduced at a joint sitting of both Houses and supported by at least 2 thirds of the members of both the House of Representatives and the Senate.
- (2) If Parliament adopts a resolution contemplated in subsection (1)—
 - (a) the Speaker must appoint a tribunal to investigate the matter consisting of appropriately qualified medical practitioners—
 - (i) one selected by the President, or a personal representative of family member of the President;
 - (ii) one selected by the body regulating the medical profession in Fiji; and
 - (iii) one selected jointly by the other two members of the tribunal;
 - (b) the President may not perform any of the functions or exercise any of the powers of that office, until the final resolution of the matter in accordance with this section; and

- (c) the Speaker has the authority to perform any function of the President, in the manner contemplated in section 112.
- (3) A tribunal appointed under this section must inquire into the matter and—
 - (a) decide (by agreement of at least 2 of the members of the tribunal) that the President is—
 - (i) able to perform the functions of President; or
 - (ii) unable to perform the functions of President, but more likely than not to recover that capability within 4 months; or
 - (iii) unable to perform the functions of President, and unlikely to recover that capability within 4 months; and
 - (b) give a report on its decision to the Speaker.
- (4) The consequences of a decision mentioned in column 2 of the following table—
 - (a) are the consequences stated, opposite the decision, in column 3; and
 - (b) take effect when the report on the decision is given to the Speaker.

Row	Decision	Consequence
1	President is able to perform the functions of President	President's suspension ends and President resumes functions of office
2	President is unable to perform the functions of President, but more likely than not to recover that capability within 4 months	President's suspension continues
3	President is unable to perform the functions of President, and unlikely to recover that capability within 4 months	President is removed from office for incapacity

- (5) In the case of a decision mentioned in row 2 of the table in subsection (4), the President's suspension ends in one of the following ways—
 - (a) earlier than 4 months after the decision, if at least 2 of the 3 members of the tribunal jointly certify that the President has sufficiently recovered the capacity to perform the functions (in which case the President's suspension ends and the President resumes the functions of office); or
 - (b) 4 months after the decision, the Speaker must request a fresh report from the tribunal, and the provisions of this section apply to that report, but in the case of continued incapacity, the President is removed from office for incapacity, regardless of any prospect for recovery at that time.

200 Removal of other officers of the State on grounds of incapacity

- (1) The process for removing an officer of the State other than the President on the grounds of incapacity may be initiated—
 - (a) in the case of the Chief Justice and President of the Court of Appeal, by the Constitutional Offices Commission;
 - (b) in the case of a judicial officer, by the Judicial Services Commission; or

- (c) in any other case, by the Constitutional Offices Commission.
- (2) The initiating body may act on its own initiative or on a report or submission from any person or state body.
- (3) The provisions of section 199, read with the changes required by the context, apply to proceedings initiated under this section, except that—
 - (a) a reference to the President is taken to be a reference to the officer of State concerned; and
 - (b) a reference to the Speaker is taken to be a reference to the chairperson or head of the initiating body; and
 - (c) if the officer of State concerned is a member of the House of Representatives or an elected member of a local government body, the person may continue to exercise the functions of the office during the proceedings; and
 - (d) during the time that an officer of the State's powers are suspended an acting appointment to that office may be made by the body responsible for such appointments.

201 Performance of functions of tribunals

- (1) A tribunal may by regulation make provision for regulating and facilitating the performance of its functions.
- (2) A decision of a tribunal requires the concurrence of a majority of its members and the tribunal may act despite the absence of a member but, if, in a particular case, a vote is taken to decide a question and the votes cast are equally divided, the person presiding must exercise a casting vote.
- (3) Subject to this Part, a tribunal may regulate its own procedure.
- (4) In the performance of its functions or the exercise of its powers, a tribunal is not subject to the direction or control of any other person or authority, except as otherwise provided by this Constitution.
- (5) In addition to the functions conferred on it by or under this Constitution, a tribunal has the powers and other functions (if any) as are prescribed by written law.
- (6) The validity of the transaction of business of a tribunal is not affected if a person who was not entitled to do so took part in the proceedings.
- (7) A tribunal has the same powers as the High Court in respect of attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad) and in respect of production of documents.

PART C—REMOVAL OR OTHER SANCTION FOR MISCONDUCT OR WRONGDOING

202 Automatic removal for commission of serious criminal offence

- (1) This section applies to an officer of the State, other than a member of Parliament.
- (2) If an officer to whom this section applies is convicted of an offence punishable by a term of imprisonment of 12 months or longer, the officer automatically loses office.
- (3) If the convicted officer of the State is a judicial officer, the Judicial Services Commission must declare the officer removed from office.

- (4) If the convicted officer of the State is an officer other than a judicial officer, the Constitutional Offices Commission must declare the officer removed from office.

Note—

If a member of the House of Representatives is convicted of an offence punishable by imprisonment for 12 months or longer, section 73 applies. If a member of the Senate is convicted of an offence punishable by imprisonment for 12 months or longer, sections 80 applies.

203 Investigation and sanction for breach of Code of Conduct

- (1) In conducting an investigation under section 230 about the conduct of an officer of the State, the Ombudsman must—
 - (a) make a preliminary finding about whether the officer appears to have breached the Code of Conduct or any other provision of the Constitution; and
 - (b) if the preliminary finding is that the officer appears to have breached the Code of Conduct or another provision of this Constitution, initiate proceedings against the officer.
- (2) After considering any evidence adduced and submissions made, the Ombudsman must make a conclusive finding about the conduct of the officer of the State.
- (3) If the conclusive finding is that the officer of the State has breached the Code of Conduct or another provision of this Constitution, the Ombudsman must impose on the officer one of the following sanctions—
 - (a) an official reprimand;
 - (b) suspension from office for a stated period of not more than 6 months or until the public officer takes a stated remedial action or the Ombudsman decides whether or not to refer any alleged misconduct to the Director of Public Prosecutions.
- (4) Also, if the conclusive finding is that the officer has breached the Code of Conduct or another provision of this Constitution, the Ombudsman must—
 - (a) consider whether the breach also constitutes criminal misconduct; and
 - (b) decide whether to refer the breach to the Director of Public Prosecutions under section 230(9).
- (5) The Ombudsman must give a complainant and the officer of the State concerned written notice of—
 - (a) the conclusive finding made under subsection (2) and any sanction imposed under subsection (3); and
 - (b) if the Ombudsman decides to refer the breach to the Director of Public Prosecutions under section 230(9), the referral of the alleged criminal misconduct to the Director of Public Prosecutions.
- (6) A sanction imposed under subsection (3)(b) takes effect when the notice mentioned in subsection (4) is given to the officer of the State.
- (7) However, on application by an officer of State sanctioned under subsection (3)(b) made within 7 days of the notice given under subsection (5), the High Court may stay the effect of the sanction pending full determination of the matter in exercise of its jurisdiction under section 128.
- (8) Despite subsection (3), the Ombudsman does not have the power to impose a sanction on a judge or a member of Parliament.

Investigation and sanction of former officer of the State

- (1) An investigation under section 203 about the conduct of an officer of State may be conducted or continued even if the officer no longer holds the office.
- (2) If the Ombudsman makes a conclusive finding mentioned in section 203 in relation to a person who is no longer an officer of the State, the Ombudsman—
 - (a) must decide the sanction it would have imposed if the person were still an officer of the State; and
 - (b) may issue a direction that the person take a stated remedial action.
- (3) However, subsection (2) does not apply in relation to a conclusive finding about the conduct of a judge or a member of Parliament.

CHAPTER 13—INDEPENDENT INSTITUTIONS AND GOVERNANCE

Part A – PRINCIPLES AND APPLICATION

205 General guiding principles

The guiding principles relating to this Chapter are to ensure the primacy of the rule of law, the promotion of transparency and the safeguarding of accountability of the State and those who hold public office.

206 Leadership principles

- (1) The guiding principles of democratic leadership for those in public office are—
 - (a) service based solely on the public interest;
 - (b) honesty, diligence, commitment and discipline in service to the people;
 - (c) integrity, objectivity and impartiality in decision making without favouritism, nepotism or other improper motives or corrupt practices;
 - (d) avoidance and declaration of any interest that may conflict with public duties; and
 - (e) accountability to the public for decisions and actions.
- (2) Every person appointed to a public office under this Constitution must be a person of integrity and good character, in addition to any other qualifications set out elsewhere in any written law.

Part B – INDEPENDENT COMMISSIONS, OFFICES AND BODIES

207 Independent Commissions, Offices and Bodies

- (1) In order to give effect to the principles in section 205, this Constitution recognises or establishes the State bodies listed in this section as Independent Commissions, Independent Offices or Independent Bodies.
- (2) The Independent Commissions are—
 - (a) Constitutional Offices Commission;
 - (b) Constituency Boundaries Commission;
 - (c) Electoral Commission;
 - (d) Fiji Independent Commission Against Corruption;
 - (e) Human Rights and Anti-Discrimination Commission;
 - (f) Independent Legal Services Commission;
 - (g) Judicial Services Commission;
 - (h) Legal Aid Commission;
 - (i) Mercy Commission;
 - (j) Public Services Commission; and
 - (k) Salaries and Benefits Commission.
- (3) The Independent Offices are—
 - (a) Office of the Auditor-General;

- (b) Office of the Director of Public Prosecutions;
 - (c) Office of the Ombudsman;
 - (d) Office of the Secretary-General to the House of Representatives;
 - (e) Office of the Secretary-General to the Senate; and
 - (f) Office of the Solicitor-General.
- (4) The Independent Body is the Bose Levu Vakaturaga (BLV).

208 Constitutional Offices Commission

- (1) This section establishes the Constitutional Offices Commission.
- (2) The Commission consists of 5 members, one of whom shall be appointed as the chairperson.
- (3) The members of the Commission are appointed by the President on the advice of the Constitutional Offices Commission Appointments Committee.
- (4) A person shall not be qualified for appointment as a member of the Commission unless he or she—
 - (a) has had a distinguishing career in any aspect of national or international life whether in the public or private sector;
 - (b) has a record of service to the public;
 - (c) is a citizen of Fiji;
 - (d) is not a member of, or holds any office in, any political party;
 - (e) has not held office in any political party or been an election candidate in the 8 years prior to being nominated for appointment; and
 - (f) has not, at any time, been convicted of an offence with a term of imprisonment of 12 months or more under any law.
- (5) A member of the Commission holds office for 5 years and is eligible for reappointment.
- (6) The Commission is responsible for—
 - (a) overseeing and providing advice and guidance to the other Independent Commissions, Offices and Body on the implementation and operation of the independence and accountability measures applicable including setting timetables and procedures for managing discipline and removal from office proceedings and provision of regular reports to Parliament on those matters;
 - (b) encouraging citizens to make themselves available to serve Fiji in the Independent Commissions, Offices and Body;
 - (c) compiling and maintaining a register of those citizens who have expressed a willingness or desire to serve in that capacity;
 - (d) appointing women and men to serve in Independent Commissions and Offices, taking into account the need to represent the diversity of Fiji;
 - (e) reviewing the conduct of officers of the State and convening a tribunal, when required; and
 - (f) initiation of discipline or removal in relation to Independent Commissions, Offices and Bodies.

- (7) The Constitutional Offices Commission may apply for a determination from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

209 Constitutional Offices Commission Appointments Committee

- (1) Constitutional Offices Commission has a Constitutional Offices Commission Appointment Committee (the “appointments committee”).
- (2) The appointments committee consists of—
 - (a) the Director of Fiji Council of Social Services;
 - (b) the Vice Chancellor University of South Pacific; and
 - (c) the President of the Fiji Medical Association.
- (3) The appointments committee is responsible for appointing the members of the Commission.

210 Qualifications

A person shall not be qualified for appointment as a member of an Independent Commission or to hold an Independent Office unless he or she—

- (a) has had a distinguishing career in any aspect of national or international life whether in the public or private sector;
- (b) has a record of service to the public;
- (c) is a citizen of Fiji;
- (d) is not a member of, or holds any office in, any political party;
- (e) has not held office in any political party or been an election candidate in the 8 years prior to being nominated for appointment; and
- (f) has not, at any time, been convicted of an offence with a term of imprisonment of 12 months or more under any law.

211 Term of office

- (1) A member of the following Independent Commissions holds office for 5 years and is eligible for reappointment—
 - (a) Constitutional Offices Commission;
 - (b) Electoral Commission;
 - (c) Constituency Boundaries Commission.
- (2) A member of any other Independent Commission holds office for 3 years and is eligible for reappointment.
- (2) A person holding an Independent Office, other than the Solicitor-General and the Director of Public Prosecutions, holds office for 5 years and is eligible for reappointment.

Note—

For the terms of office of the Solicitor-General and the Director of Public Prosecutions see sections 141 and 142.

- (3) The appointment of a member of an Independent Commission and a person holding an Independent Office is subject to the terms and conditions, if any, set out in the appointment.

212 Procedures and standards for removal from office

A member of an Independent Commission, a holder of an Independent Office or a member of an Independent Body may be removed from office for incapacity or wrongdoing only in accordance with the relevant procedures and standards as set out in Chapter 12.

213 Freedom from direction and control

In the performance of its functions or the exercise of its authorities and powers, an Independent Commission, Office or Body shall be independent and shall not be subject to the direction or control of any person or authority, except by court of law or as otherwise prescribed by law.

214 Remuneration and allowances

A member of an Independent Commission, an Independent Officer and a member of an Independent Body is entitled to such remuneration and allowances as determined by the Salary and Benefits Commission, and the remuneration and allowances must not be varied to their disadvantage, except as part of an overall austerity reduction similarly applicable to all officers of the State.

215 State to provide adequate funding and resources

The State shall ensure that adequate funding and resources are made available to an Independent Commission, Office or Body, to enable it to independently and effectively exercise its powers and perform its functions and duties.

216 Control of own budget

An Independent Commission, Office or Body shall have the control of its own budget and finances, as approved by Parliament.

217 Employment of staff

- (1) An Independent Commission, Office or Body has the authority to appoint, remove and discipline all staff (including administrative staff).
- (2) An Independent Commission, Office or Body has the authority to determine all matters pertaining to the employment of all staff, including—
 - (a) the terms and conditions of employment;
 - (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - (c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament;
 - (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.
- (3) The salaries, benefits and allowances payable to any person employed in an Independent Commission, Office or Body are a charge on the Consolidated Fund.

218 Decisions of Independent Commission

Decisions of an Independent Commission requires the concurrence of a majority of its members and it may act despite the absence of a member but, if, in a particular case, a

vote is taken to decide a question and the votes cast are equally divided, the person presiding must exercise a casting vote.

219 Validity of transaction of business in an Independent Commission

The validity of the transaction of business of an Independent Commission is not affected if a person who is not entitled to do so took part in the proceedings.

220 Regulation of procedures

An Independent Commission, Office or Body may regulate its own procedure and may make such rules and regulations it deems fit for regulating and facilitating the performance of its functions.

221 Further provision for authority, functions and responsibilities

In addition to any authority, functions and responsibilities conferred under this Constitution, a written law may make further provisions for an Independent Commission, Office or Body.

222 Annual report

Each Independent Commission, Office or Body must make provide an annual report to Parliament concerning—

- (a) the exercise of its authority, functions and responsibilities; and
- (b) its revenue and expenditure.

223 Investigative and enforcement functions and associated powers

(1) This section applies to—

- (a) Fiji Independent Commission Against Corruption;
- (b) Human Rights and Anti-Discrimination Commission;
- (c) Independent Legal Services Commission;
- (d) Mercy Commission; and
- (d) Ombudsman.

(2) An Independent Commission and Office to which this section applies—

- (a) is responsible for receiving and investigating complaints and taking steps to secure appropriate redress including making applications to court for redress or for other forms of relief or remedies; and
- (b) has the same powers as the High Court in respect of attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad) and in respect of production of documents.

Part C – GOVERNANCE

224 Conduct of officers of the State: Code of Conduct

(1) An officer of the State must—

- (a) behave in public life, in private life, and in association with other persons, in a manner that avoids—

- (i) any conflict between personal interest and public or official duties;
 - (ii) compromising any public or official interest in favour of a personal interest; or
 - (iii) demeaning the office the officer holds; and
- (b) must comply with the Code of Conduct in Chapter 12, and with any other applicable Code of Conduct established under this section.
- (2) Parliament may enact a written law establishing, or providing for the establishment of, Codes of Conduct governing particular offices, or categories of office, for officers of the State.

225 Discipline and removal from office

- (1) An officer of State may be removed from office for incapacity or wrongdoing only in accordance with the relevant procedures set out in Chapter 12.
- (2) This section does not apply to an officer described in paragraph (n) of the definition of officer of State.

226 Process for access to information

- (1) Every State body must develop a process to enable members of the public to exercise their right to access to information under section 30 of this Constitution.
- (2) The Ombudsman is responsible for overseeing the implementation of the process in accordance with its responsibilities under section 228(4)(c).

227 Protection of whistle blowers

- (1) This section applies to any disclosure of information by any person if—
 - (a) the disclosure is made in good faith to an officer of State or to any State body; and
 - (b) at the time of the disclosure, the person making the disclosure reasonably believes that the information shows or tends to show that a State body or public officer in the performance of official functions—
 - (i) has contravened this Constitution or the law; or
 - (ii) has engaged or is engaging in conduct that has endangered or is likely to endanger the health or safety of any individual, or has damaged or is likely to damage the environment.
- (2) A person who makes a disclosure contemplated in this section is immune from any civil, criminal or administrative liability for that disclosure.
- (3) Every State body must directly or indirectly—
 - (a) establish and maintain a system to receive confidential disclosures contemplated in this section, and to act on them; and
 - (b) regularly publicise the availability of that system to the public.

228 Ombudsman

- (1) This section establishes the office of the Ombudsman.
- (2) The Ombudsman is appointed by the President on the advice of the Constitutional Offices Commission after consultation with the Public Service Commission.

- (3) A person appointed as Ombudsman must have a record of high integrity and extensive experience in either public sector administration or the law and justice sector, or both.
- (4) The Ombudsman provides an accessible forum for resolving complaint about failings in matters of administration, and is responsible for—
 - (a) promoting the protection and observance of, and respect for—
 - (i) the principle of respectful, effective, impartial, fair and equitable service;
 - (ii) the right to executive and administrative justice recognised in section 21;
 - (iii) the Constitution and the law in the context of public service;
 - (b) consulting with and educating the public, including civil society, about the nature and content of the principles of public service and the right to executive and administrative justice;
 - (c) overseeing the implementation of a process to enable the public to access official information and documents held by the Government and its agencies;
 - (d) managing the process for the appointment of members to the Constitutional Offices Commission Appointment Committee.
 - (e) making recommendations to any State body concerning the matters within its scope, including recommendations concerning existing or proposed law;
 - (f) receiving and investigating complaints, as set out in section 197, and taking steps to secure appropriate resources from the relevant State body; and
 - (g) investigating or researching on its own initiative or on the basis of a complaint, any matter within its scope, and making recommendations to improve the functioning of public entities.
- (5) The Ombudsman may apply for a determination from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

229 Authority of the Ombudsman

- (1) The Ombudsman may investigate any complaint—
 - (a) about any act or omission in public administration that is alleged to be prejudicial or improper; or
 - (b) of abuse of power, unfair treatment, manifest injustice, or unlawful, oppressive, unfair or unresponsive official conduct.
- (2) The authority of the Ombudsman includes—
 - (a) investigating complaints arising from circumstances that occurred either before or after the commencement of this Constitution;
 - (b) investigating complaints arising from the conduct of an Independent Commission or Office; or
 - (c) receiving and investigating complaints alleging that an officer of the State has failed to comply with the Code of Conduct;
 - (d) investigating complaints relating to access to, and service delivery by, the courts and the public service.
- (3) The Ombudsman must not investigate complaints relating to—
 - (a) the judicial process or substance of decisions made by the courts, or any other

- matter that is before the court;
- (b) the substance of decisions made by an independent Commission or Office, or any matter that is being considered by a Commission or Office; or
- (c) operational decisions of the security services.

230 Complaints and investigation by Ombudsman

- (1) The Ombudsman may conduct an investigation—
 - (a) in response to a complaint that has been made to it;
 - (b) in response to a request by a member or committee of Parliament; or
 - (c) on its own initiative.
- (2) Complaints to the Ombudsman may be made in any form, by any person.
- (3) If a court, tribunal or other body could hear a particular complaint, the Ombudsman may advise the complainant to proceed with the matter in that forum, unless the complainant could not reasonably exercise, or could not have reasonably exercised, that right.
- (4) The Ombudsman has discretion to—
 - (a) decide whether or not to investigate any action in response to a complaint;
 - (b) attempt to resolve a complaint through informal procedures; or
 - (c) to discontinue an investigation after starting it.
- (5) After completing an investigation, the Ombudsman shall report to—
 - (a) the complainant;
 - (b) the State body concerned; and
 - (c) any responsible Minister.
- (6) After concluding an investigation, the Ombudsman may ask the State body concerned to give it, within a specified time, particulars of the action proposed to be taken with respect to the conclusions and recommendations of the report.
- (7) The Ombudsman may give a further report on the matter to Parliament if the office of the Ombudsman believes that the State body concerned has not taken adequate and appropriate action within a reasonable time.
- (8) The Ombudsman—
 - (a) must keep complainants informed about the progress of their complaints and any investigations including respecting the right to reasons for decision;
 - (b) must report fully to the body complained against, including providing recommendations for action in regard to the particular complaint and to changes in procedure in the future; and
 - (c) may prepare reports and recommendations for the public service generally for the improvement of procedures to enhance compliance with this Constitution and the law.
- (9) If after concluding an investigation the Ombudsman considers that an officer of the State has engaged in conduct that may constitute criminal misconduct, the Ombudsman may refer the matter to the Director of Public Prosecutions.
- (10) Parliament may enact a written law relating to the conduct of investigations by the

Ombudsman.

Part D—PROVISIONS RELATING TO CERTAIN PUBLIC OFFICES

231 Application

This Part applies to—

- (a) Supervisor of Elections;
- (b) Commissioner of Police;
- (c) Commissioner of the Fiji Corrections Service;
- (d) Commander of the Republic of Fiji Military Forces; and
- (e) Governor of the Reserve Bank of Fiji.

232 Terms and conditions of office

- (1) A person to whom this Part applies holds office for 5 years and is eligible for re-appointment.
- (2) The appointment of a person to whom this Part applies is subject to the terms and conditions (if any) set out in it.

233 Remuneration and allowances

A person to whom this Part applies is entitled to such remuneration and allowances as determined by the Salaries and Benefits Commission, and the remuneration and allowances must not be varied to their disadvantage during his or her term in office, except as part of an overall austerity reduction similarly applicable to all officers of the State.

234 Procedures and standards for removal from office

A person to whom this Part applies may be removed from office for incapacity or wrongdoing only in accordance with the relevant procedures and standards as set out in Chapter 12.

CHAPTER 14—EMERGENCY POWERS

235 State of emergency

- (1) The Cabinet may, on the recommendation of the National Security Council, declare a state of emergency in Fiji, or in a part of Fiji, and may make regulations relating to a state of emergency, if there are reasonable grounds to believe that—
 - (a) the security and safety of all or part of Fiji is threatened; and
 - (b) it is necessary to declare a state of emergency to deal effectively with the threatening circumstances.
- (2) If the declaration of a state of emergency is made when the House of Representatives is sitting, the Prime Minister must, within 24 hours upon making the declaration, refer the declaration to the House of Representatives for confirmation of the declaration.
- (3) If the declaration of a state of emergency is made when the House of Representatives is not sitting, the Speaker must, within 48 hours upon the making of the declaration, seek confirmation of the declaration from the members of the House of Representatives through such measures of communication as necessary.
- (4) If a majority of the members of the House of Representatives confirm the declaration made by the Prime Minister, then the declaration shall continue for a period of one month from the date of confirmation and may be renewed by a further vote in the House of Representatives.
- (5) If the declaration made by the Prime Minister is not confirmed by a majority of the members of the House of Representatives, then the declaration and any actions taken under the declaration shall be deemed to be of no effect.
- (6) At any time—
 - (a) the House of Representatives may—
 - (i) disallow or terminate the declaration of the state of emergency; or
 - (ii) amend or disallow regulations relating to the state of emergency; and
 - (b) the High Court, on application by any person, may—
 - (i) disallow or terminate the declaration of the state of emergency, if the circumstances did not, or no longer, justify the declaration in the terms of subsection (1); or
 - (ii) make any other order required in the circumstances to restore government under the Constitution.

236 Summoning the House of Representatives

- (1) If the declaration is made during the period after a dissolution of the House of Representatives and before the holding of the next following general election of members of the House of Representatives, the President must summon the members of the dissolved House, and those members may exercise all the powers conferred on the House of Representatives under this Chapter.
- (2) Despite the summoning under subsection (1) of members of the dissolved House of Representatives, the general election must proceed, and the recalled House again stands dissolved on the day immediately before the day fixed for the polling at the general election.

- (3) If, during a period while a state of emergency is in force, the term of the House of Representatives is due to expire section 59, the President may, on the advice of Cabinet, declare an extension for a period specified in the declaration.
- (4) The term of the House of Representatives must not be extended under subsection (3) for a total of more than 12 months.

237 Limitation of rights under states of emergency

- (1) Any law enacted or promulgated in consequence of a declaration of a state of emergency under this Constitution—
 - (a) may limit a right or freedom set out in Chapter 2 (with the exception of the rights and freedoms set out in sections 12, 14, 15, 17, 18, 19, 16, 20 and 26) only to the extent that—
 - (i) the limitation is strictly required by the emergency, and is justifiable under section 9; and
 - (ii) the law is consistent with Fiji's obligations under international law applicable to a state of emergency; and
 - (b) takes effect only when it has been published in the Gazette.
- (2) A person detained under a law contemplated in subsection (1) retains all the rights recognised in Chapter 2, subject only to the limitations referred to in subsection (1).

238 National Security Council

- (1) This section establishes a National Security Council.
- (2) The Council consists of—
 - (a) the Prime Minister, who shall be the chairperson;
 - (b) the Ministers responsible for the following—
 - (i) Defence;
 - (ii) Foreign Affairs;
 - (iii) Police;
 - (iv) Public Safety;
 - (v) Home Affairs;
 - (vi) Health;
 - (vii) Communications;
 - (viii) Disaster Management; and
 - (ix) Social Protection.
 - (c) the Leader of the Opposition or his or her nominee;
 - (d) a chairperson of a Parliamentary committee responsible for any of the following—
 - (i) defence;
 - (ii) national security;
 - (iii) public safety; or
 - (iv) matters related to the above;

- (e) the Commissioner of Police and the Commander of the Republic of Fiji Military Forces as non-voting members with an advisory role; and
- (f) other members as may be appointed by law.

CHAPTER 15—IMMUNITY

[NOTE THE RECOMMENDATION OF THE CONSTITUTIONAL REVIEW COMMITTEE IS THAT THIS CHAPTER BE REPEALED.]

CHAPTER 16—AMENDMENT OF CONSTITUTION

239 Amendment of Constitution

This Constitution, or any provision of this Constitution, may be amended in accordance with the procedure prescribed in this Chapter, and may not be amended in any other way.

240 Procedure for amendment

- (1) A Bill for the amendment of this Constitution must be expressed as a Bill for an Act to amend this Constitution.
- (2) Subject to subsection (3) the Bill, with or without amendments, must be passed by both Houses in accordance with the following procedure—
 - (a) the Bill is read 3 times in each House and motions for the second and third readings are carried in each House;
 - (b) at the second and third readings, it is supported by the votes of at least 2 thirds of the members of each House;
 - (c) in each House an interval of at least 30 days elapses between the second and third readings and each of those readings is preceded by full opportunity for debate; and
 - (d) the third reading of the Bill in each House does not take place until after the relevant committee has reported on the Bill to House of Representatives.
- (3) If a Bill for the amendment of this Constitution is passed by Parliament in accordance with subsection (2), then the Speaker shall notify the President accordingly, who shall assent to the Bill.
- (5) In this section, the use of the word “amend” or “amendment” is intended to be understood broadly, so that the section applies to any proposal to repeal, replace, revise, or alter any provision of this Constitution.

CHAPTER 17—COMMENCEMENT, INTERPRETATION, REPEALS AND TRANSITIONAL PROVISIONS

Part A—SHORT TITLE AND COMMENCEMENT

241 Short title and commencement

- (1) This Constitution may be cited as the Constitution of the Republic of Fiji 2026.
- (2) This Constitution shall come into force on (a date to be determined).

Part B—INTERPRETATION

242 Interpretation

- (1) In this Constitution, unless the contrary intention appears—
 - “Act” means an Act of Parliament, a Decree or a Promulgation; “adult” means an individual who is 18 years of age or over;
 - “BLV” means the Bose Levu Vakaturaga;
 - “Bill of Rights” means the rights and freedoms set out in Chapter 2;
 - “child” means an individual who has not reached the age of 18 years;
 - “commission” means a commission established by, or continued in existence under, this Constitution;
 - “Constitution of 1990” means the Constitution set out in the Constitution of the Sovereign Democratic Republic of Fiji (Promulgation) Decree 1990;
 - “corrupt practices” includes—
 - (a) any attempt to improperly influence a public officer;
 - (b) to influence peddling, bribery, or extortion;
 - (c) misuse of inside information for personal gain;
 - (d) requesting or accepting any benefit to which a person is not lawfully entitled;
 - (e) withholding any service, benefit, decision or judgment, or threatening a person with the exercise of a lawful power against that person, or implying any such practice, in order to extort a personal benefit or to improperly obtain the person’s consent to any action or omission;
 - (f) unlawfully taking or demanding any private property;
 - (g) misuse or misapplication of public property for personal purposes, or theft of public property; and
 - (h) converting or selling public assets for personal gain;
 - “criminal proceedings” means proceedings before any court, other than a military court, in which a person is prosecuted for allegedly committing an offence, including an appeal, a case presented on the basis of agreed facts, or a question of law reserved;

“department” means a department of the public service, under a ministry;

“disability” includes any physical, sensory, mental, psychological or other condition, or illness that—

- (a) has, or is perceived by significant sectors of the community to have, a significant adverse effect on an individual’s ability to participate fully and effectively in society on an equal basis with others; or
- (b) forms the basis of unfair discrimination;

“disciplinary law” means a written law regulating the discipline of any disciplined force;

“disciplined force” means—

- (a) the Republic of Fiji Military Forces;
- (b) the Fiji Police Force; or
- (c) the Fiji Corrections Service;

“electoral offences” includes an offence under a law governing elections and includes any offence under any law governing registration of voters and registration of political parties.

“Fiji” or “Republic of Fiji” means the territories which immediately before 10 October 1970 constituted the Colony of Fiji and includes any other territory declared by Parliament to form part of Fiji;

“Gazette” means the Government of the Republic of Fiji Gazette published by order or under the authority of the Government, or a supplement to the Gazette;

“Government” means the Government of the State;

“human trafficking” includes trafficking of persons as defined or prescribed by a written law;

“Judge” means a Judge of the High Court (including the Chief Justice), a Justice of Appeal (including the President of the Court of Appeal) or a Judge of the Supreme Court;

“judicial officer” includes a Judge of the High Court (including the Chief Justice), a Justice of Appeal (including the President of the Court of Appeal), a Judge of the Supreme Court, the Judge of the Military Court, Magistrate, Masters of the High Court, the Chief Registrar and other judicial officers appointed by the Judicial Services Commission;

“law” includes all written law;

“member of Parliament” means a member of the House of Representatives or a member of the Senate, but does not include the President;

“minerals” includes all minerals extracted from land or seabed and includes natural gases;

“oath” includes affirmation;

“oath or affirmation of allegiance and office” means the oath or affirmation of allegiance and office as set out in the Schedule;

“officer of the State” means the holder of any of the following offices

- (a) the President;
- (b) the Speaker and Deputy Speaker of Parliament;
- (c) members of the Cabinet and Leader of the Opposition;
- (d) members of Parliament and persons elected to local government bodies;
- (e) Judges and other judicial officers;
- (f) members of the Independent Commissions and holders of Independent Offices
- (g) members of Independent Bodies;
- (h) Supervisor of Elections;
- (i) Director of the Legal Aid Commission;
- (h) Ambassadors, High Commissioners and Consuls General;
- (i) Governor of the Reserve Bank of Fiji;
- (j) permanent secretaries and any holder of an equivalently ranked officer;
- (k) Commissioner of Police;
- (l) Commissioner of the Fiji Corrections Service;
- (m) the Commander of the Republic of Fiji Military Forces; and
- (n) any other office holder prescribed by written law.

“person” means a natural or legal person, including a company or association or body of persons whether corporate or unincorporated;

“political party” means an organised group or association of persons striving for participation in the political life or Government of the Republic of Fiji that has been registered under a written law regulating the organisation of political parties;

“prescribed” means prescribed in, by or under a written law;

“President” means the President of the Republic of Fiji appointed under Chapter 5 and includes any person appointed or holding office under Part D of this Chapter;

“property” includes any vested or contingent right to, or interest in or arising from—

- (a) land, or permanent fixtures on, or improvements to, land;
- (b) goods or personal property;
- (c) intellectual property; or
- (d) money or negotiable instruments;

“public office” means—

- (a) an office created by, or continued in existence under, this Constitution;
- (b) an office in respect of which this Constitution makes provision;

- (c) an office of a member of a commission;
- (d) an office in a State service;
- (e) an office of Judge;
- (f) an office of Magistrate or an office in a court created by written law;
- (g) an office in, or as a member of, a statutory authority; or
- (h) an office established by written law;

“public officer” means the holder of a public office;

“public service” means the service of the State in a civil capacity but does not include—

- (a) service in the judicial branch;
- (b) service in the office of a member of a commission; or
- (c) service in an office created by, or continued in existence under, this Constitution;

“session”, in relation to Parliament, means a sitting of Parliament starting when it first meets after a prorogation of Parliament or a dissolution of Parliament and ending when Parliament is next prorogued or Parliament is next dissolved;

“sentence of imprisonment” does not include a suspended sentence or a sentence of imprisonment with the option of a fine;

“sitting”, in relation to Parliament, means a period during which Parliament is sitting continuously without adjournment, and includes any period during which Parliament is in committee;

“Speaker” means the Speaker of Parliament;

“State” means the Republic of Fiji;

“State body” means a ministry, department, commission, office, agency or other body established or continued under this Constitution

“state of emergency” means a state of emergency declared under Chapter 14;

“State service” means the public service and the disciplined force;

“subordinate court” means any court of law established for the State other than the High Court, Court of Appeal, Supreme Court or a court established by a disciplinary law;

“subordinate law” means any instrument made in exercise of a power to make the instrument conferred by an Act, and includes regulations, rules, orders, by-laws or declarations;

“this Constitution” means the Constitution of the Republic of Fiji; and

“written law” means an Act, Decree, Promulgation and subordinate law made under those Acts, Decrees or Promulgations.

- (2) When interpreting any written law, or when developing the common law or customary law, every court, tribunal or other authority must promote the spirit, purport and objects of this Constitution.

- (3) A reference in this Constitution to a power to make appointments to a public office includes a reference to—
 - (a) a power to make appointments on the promotion or transfer to the office; and
 - (b) a power to appoint a person to act in the office while it is vacant or its holder is unable to perform the functions of the office.
- (3) In this Constitution, unless the contrary intention appears, a reference to the holder of an office by the term designating his or her office includes a reference to any person for the time being acting in the office.
- (4) A person who has been appointed to an office established by this Constitution may resign from the office by notice in writing signed by him or her addressed to the person or authority by whom he or she was appointed, and the resignation takes effect—
 - (a) at the time or on the date specified in the notice; or
 - (b) when the notice is received by the person or authority to whom it is addressed, whichever is the later.
- (5) A reference in this Constitution to a power to remove a person from a public office includes a reference to—
 - (a) a power to require the person to retire from office;
 - (b) a power to terminate the contract on which the person is employed; or
 - (c) a power not to renew the contract on which the person is employed.
- (6) A reference in this Constitution to amending any law (including this Constitution) is a reference to—
 - (a) repealing it with or without replacing it by another law;
 - (b) modifying, varying, revising or altering it by amendment or otherwise;
 - (c) suspending its operation; or
 - (d) making other provision that is inconsistent with it.
- (7) A person, authority or body upon whom the functions are conferred by this Constitution has power to do everything necessary or convenient to be done for, or in connection with, the performance of those functions.
- (8) A reference in this Constitution to the Minister in relation to the doing of anything, the participation in any consultation or the receipt of any report is a reference to the Minister who, for the time being, has been assigned responsibility for the part of the business of the Government relating to the subject matter of the activity concerned.
- (9) Unless the contrary intention appears, a reference in this Constitution to a Minister includes a reference to the Minister for the time being acting for and on behalf of the first mentioned Minister.
- (10) A provision of this Constitution to the effect that a person or authority is not subject to the direction or control of any other person or authority in the performance of functions or the exercise of powers is not to be construed as precluding a court of law from exercising jurisdiction in relation to a question whether the first mentioned person or authority has performed the functions or exercised the powers in accordance with this Constitution or whether that person or authority should or should not perform the functions or exercise the powers.

- (11) A power conferred by this Constitution to make, grant or issue any instrument (including a proclamation, order, regulation or rule), or to give any direction, includes the power, exercisable in the like manner, to repeal, rescind, revoke, amend or vary the instrument or direction.
- (12) For the avoidance of doubt, use of the word “must” in this Constitution imports obligation to the same extent as if the word “shall” were used.
- (13) A reference in this Constitution to an office named in this Constitution is to be read with any formal alteration necessary to make it applicable in the circumstances.
- (14) In this Constitution, unless the context otherwise requires—
 - (a) if a word or expression is defined in this Constitution, any grammatical variation or cognate expression of the word or expression has a corresponding meaning, read with the changes required by the context; and
 - (b) the word “includes” means “includes, but is not limited to”.
- (15) In calculating time between 2 events for any purpose under this Constitution, if the time is expressed—
 - (a) as days, the day on which the first event occurs is to be excluded, and the day by which the last event may occur is to be included;
 - (b) as months, the time period ends at the beginning of the day in the relevant month—
 - (i) that has the same number as the date on which the period began, if that month has a corresponding date; or
 - (ii) that is the last day of that month, in any other case; or
 - (c) as years, the period of time ends at the beginning of the date of the relevant year that corresponds to the date on which the period began.
- (16) If a period of time prescribed by this Constitution for any purpose is 6 days or less, Sundays and public holidays are not to be counted when calculating the time.
- (17) If, in any particular circumstance, the period of time prescribed by this Constitution ends on a Sunday or a public holiday, the period extends to the first subsequent day that is not a Sunday or public holiday.
- (18) If a particular time is not prescribed by this Constitution for performing a required act, the act must be done without unreasonable delay, and as often as the occasion requires.
- (19) If any person has authority under this Constitution to extend a period of time prescribed by this Constitution, the authority may be exercised either before or after the end of the period, unless a contrary intention is expressly mentioned in the provision conferring the authority.
- (20) Except to the extent that this Constitution provides otherwise, if a person has vacated an office established under this Constitution, the person may, if qualified, again be appointed, elected or otherwise selected to hold the office in accordance with this Constitution.
- (21) The Schedule is a part of this Constitution, and every use of the expression “this Constitution” includes the Schedule.
- (22) Any person required under any law to take an oath or affirmation of allegiance and office

must take the appropriate oath or affirmation set out in the Schedule.

243 Aid to interpretation

- (1) When considering a question of the interpretation of this Constitution, a court may use the materials described in subsection (2) as aids to interpretation of this Constitution as amended by the Constitution Amendment Act 2026.
- (2) The materials are—
 - (a) the official record of the proceedings and debates and the report of the Fiji Constitution Review Commission established on 27 March 2026;
 - (b) the official record of proceedings and debates of Parliament on amendments arising from the report of that Commission;
 - (c) any other papers used or tabled for the purpose of, or in connection with, the debates and proceedings referred to in paragraphs (a) and (b).
- (3) Parliament must enact a law identifying the records, reports and papers referred to in subsection (2).

Part C—TRANSITIONAL RELATING TO CONSTITUTION AMENDMENT ACT 2026

244 Interpretation

In this Part—

‘Commencement day’ means the day on which the Constitution Amendment Act 2026 comes into force;

‘This constitution’ means the Constitution of the Republic of Fiji as amended by the Constitution Amendment Act 2026.

245 Constitution Implementation Commission

- (1) The Constitution Implementation Commission is established.
- (2) The Constitution Implementation Commission consists of a chairperson and any other members provided by law, appointed by the Constitutional Offices Commission.
- (3) To be eligible for appointment to the Constitution Implementation Commission a person must have significant experience in at least one of the following areas—
 - (a) public administration;
 - (b) constitutional law;
 - (c) human rights;
 - (d) legislation;
 - (e) project management.
- (4) The functions of the Constitution Implementation Commission are—
 - (a) to facilitate, monitor and oversee the development of legislation and administrative procedures and related measures required to implement this Constitution; and
 - (b) to work constructively with the Government and the public service in performing the function in paragraph (a); and

- (c) to report regularly to the Constitutional Implementation Oversight Committee on—
 - (i) progress in the implementation of this Constitution; and
 - (ii) any impediments to the implementation of this Constitution and proposals for overcoming the impediments.
- (5) The Constitution Implementation Commission expires—
 - (a) on the 5th anniversary of the commencement day; or
 - (b) if the House of Representatives resolves, before the 5th anniversary of the commencement day, that the Constitution Implementation Commission should continue beyond that day, on the later day that the House of Representatives resolves.

246 Constitutional Implementation Oversight Committee

- (1) The Constitutional Implementation Oversight Committee is established as a committee of the House of Representatives.
- (2) The Committee is responsible for overseeing the implementation of this Constitution, including by—
 - (a) receiving regular reports from the Constitution Implementation Commission about the matters mentioned in section 246(4)(c); and
 - (b) coordinating with Constitution Implementation Commission, the Government and the public service to ensure the timely introduction and passage of the laws required by this Constitution; and
 - (c) taking appropriate action on the reports, including addressing any impediments to the implementation of this Constitution.
- (3) The Constitutional Implementation Oversight Committee expires—
 - (a) on the 5th anniversary of the commencement day; or
 - (b) if the House of Representatives resolves, before the 5th anniversary of the commencement day, that the Committee should continue beyond that day, on the later day that the House of Representatives resolves.
- (4) Nothing in this section limits or otherwise affects the power of the House of Representatives to establish, after the expiry of the Constitutional Implementation Oversight Committee, another committee with functions relating to implementation of the Constitutional laws.

247 Electoral Commission

- (1) Notwithstanding any prior appointment, the terms of members serving on the Electoral Commission at the commencement of this provision shall be adjusted to establish staggered expiration dates.
- (2) Within 30 days of the commencement of this provision, the President, on the advice of the Constitutional Offices Commission, by a fair and transparent method, designate—
 - (a) one member to serve for a term of 2 years from the commencement date;
 - (b) two members to serve for a term of 3 years from the commencement date;

- (c) one member to serve for a term of 4 years from the commencement date; and
- (d) one member to serve for a term of 5 years, who shall be the chairperson.
- (3) On the expiration of each adjusted term, the vacancy shall be filled by the appointment of a new member for a full term of 5 years.
- (4) Members shall continue to hold office until their successors are appointed and assume office, unless otherwise removed in accordance with this Constitution.

248 Constituency Boundaries Commission

- (1) The first appointment to the Commission of the 3 members shall hold office for staggered terms to ensure continuity of membership.
- (2) The Constitutional Offices Commission shall designate—
 - (a) one member to serve for 1 year;
 - (b) one member to serve for 2 years;
 - (c) one member to serve for 3 years, who shall be the chairperson.
- (3) On the expiration of each initial term, the vacancy shall be filled by the appointment of a new member for a full term of 3 years.
- (4) Each member shall continue to hold office until their successors are appointed and assume office, unless otherwise removed in accordance with this Constitution.

249 Mercy Commission

- (1) On the commencement of this provision the terms of all members serving on the Mercy Commission expire.
- (2) The first appointment to the Commission of the following 3 members shall hold office for staggered terms to ensure continuity of membership—
 - (a) the member appointed under section 146(2)(c) serves until the expiration of 1 year from the commencement date;
 - (b) the member appointed under section 146(2)(d) serves until the expiration of 2 years from the commencement date; and
 - (b) the member appointed under section 146(2)(e) serves until the expiration of 3 years from the commencement date.
- (3) On the expiration of each adjusted term, the vacancy shall be filled by the appointment of a new member for a full term of 3 years.
- (4) Each member shall continue to hold office until their successors are appointed and assume office, unless otherwise removed in accordance with this Constitution.

250 Constitutional Offices Commission

- (1) On the commencement of this provision the terms of all members serving on the Constitutional Offices Commission expire.
- (2) The first appointment to the Commission of the 5 members shall hold office for staggered terms to ensure continuity of membership.
- (3) The Constitutional Offices Appointment Committee shall designate—
 - (a) one member to serve for a term of 2 years;

- (b) two members to serve for a term of 3 years;
 - (c) one member to serve for a term of 4 years; and
 - (d) one member to serve for a term of 5 years, who shall be the chairperson of the Commission.
- (4) On the expiration of each initial term, the vacancy shall be filled by the appointment of a new member for a full term of 5 years.
- (5) Each member shall continue to hold office until their successors are appointed and assume office, unless otherwise removed in accordance with this Constitution.

SCHEDULE—OATHS AND AFFIRMATIONS

OATH OF ALLEGIANCE

Part A—Allegiance

I,, swear that I will be faithful and bear true allegiance to the Republic of Fiji according to law, and I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji. So help me, God!

AFFIRMATION OF ALLEGIANCE

I,, do solemnly, sincerely and truly declare that I will be faithful and bear true allegiance to the Republic of Fiji according to law, and I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji.

Part B—For Taking Office

OATH FOR PRESIDENT

I,, swear that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I will devote myself to the well-being of the Republic of Fiji and all Fijians, protect and promote their rights and well and truly serve the Republic of Fiji in the office of the President. So help me, God!

AFFIRMATION FOR PRESIDENT

I,, do solemnly and sincerely and truly declare and affirm that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I will devote myself to the well-being of the Republic of Fiji and all Fijians, protect and promote their rights and well and truly serve the Republic of Fiji in the office of the President.

OATH FOR MINISTERS

I,, being appointed as Prime Minister/Minister, swear that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise to hold my office with honour, dignity and integrity, to be a true and faithful counsellor, not to divulge any secret matter entrusted to me, and to perform the functions of my office conscientiously and to the best of my ability. So help me, God!

AFFIRMATION FOR MINISTERS

I,, being appointed as Prime Minister/Minister, do solemnly and sincerely and truly declare and affirm that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise to hold my office with honour, dignity and integrity, to be a true and faithful counsellor, not to divulge any secret matter entrusted to me, and to perform the functions of my office conscientiously and to the best of my ability.

OATH FOR JUDICIAL OFFICERS

I,, swear that, as a judicial officer within the courts of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will do justice to all persons without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji and the law. So help me, God!

AFFIRMATION FOR JUDICIAL OFFICERS

I,, do solemnly and sincerely and truly declare and affirm that, as a judicial officer within the courts of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will do justice to all persons without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji and the law.

OATH FOR MEMBERS OF PARLIAMENT

I,, swear that, as a member of Parliament of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will act with integrity and diligently carry out my responsibilities, in accordance with the Constitution of the Republic of Fiji and the law. So help me, God!

AFFIRMATION FOR MEMBERS OF PARLIAMENT

I,, do solemnly and sincerely and truly declare and affirm that, as a member of Parliament of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will act with integrity and diligently carry out my responsibilities, in accordance with the Constitution of the Republic of Fiji and the law.

OATH FOR SPEAKER/DEPUTY SPEAKER OF PARLIAMENT

I,, swear that, as the Speaker/Deputy Speaker of Parliament, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, maintain the dignity and honour of Parliament to the best of my ability, and act without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji and the law. So help me, God!

AFFIRMATION FOR SPEAKER/DEPUTY SPEAKER OF PARLIAMENT

I,, do solemnly and sincerely and truly declare and affirm that, as the Speaker/ Deputy Speaker of Parliament, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, maintain the dignity and honour of Parliament to the best of my ability, and act without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji and the law.

