
Contributions to the National Referendum Bill (NRB)

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Bula Vinaka,

We met at the Tovata Commuunity Hall while feedback on the consultation process on the NRB refers.

It must be emphasized here upfront that the NRB is a means to correct the wrong of an ad-hoc government of failing to do the necessary due diligence of conducting a thorough consultation.

Policy agendas at the forefront of national level interest must be considered that will affect every citizens of this country in a more transparent, accountable and productive way.

Setting policy agendas for consideration must engage specialist public policy analyst providing us necessary rigorous assessment is critical of valuing its contribution to the delivery of a prosperous, safe and secure economy such as ours.

Every policy agenda under NRB promotes delivery of public goods and not necessarily private goods.

An example of a distorted and stressful aspects of our socio economic policies are the unaccounted economy, marginalized people and disadvantage groups like the Indigenous People.

I believe so that the Westernize pluralistic legalitarian can push for coexistence of Indigenous economy and cash economy providing autonomy and independence.

Related and subsequent policies must then align to these performance criterion.

In terms of the quantifying the majority quantum, I believe this is argumentative. However, for robustness and ease of administration, 50% plus one is the most immediate desired number.

We can also opt for a larger number but less than 75% and 66% to be realistic to 60%.

In terms of the process, as long as 2013 Constitution exists, the NRB process needs to legitimize it.

It must promote quality of life and encourage our people have more democratic say in things they will like to have.

I also recommend the diaggregation of data along ethnic lines that NRB considers 60% along ethnic lines to legitimize the process.

I also believe that through the NRB, we can also deratify UN convention on child rights and fast track administrative tools like the research science institution establish in Fiji accrediting our agricultural farm management practices, timber processing, HACCP, CITIES, mining, etc all available here locally to push for our standards in the primary industries.

NRB is to the mainstay of fast tracking issues of national interest.

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Makoi



Submission to the Parliamentary Standing Committee on Justice, Law and Human Rights on the National Referendum Bill 2025 (Bill No. 46 of 2025)

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WRITTEN SUBMISSION

To the Parliamentary Standing Committee on Justice, Law and Human Rights

On the National Referendum Bill 2025 (Bill No. 46 of 2025)

Submitted by: Dialogue Fiji

1. Introduction

Dialogue Fiji thanks the Parliamentary Standing Committee on Justice, Law and Human Rights for the opportunity to make this written submission on the National Referendum Bill 2025 (Bill No. 46 of 2025).

Dialogue Fiji is an independent civil society organisation working on democracy, governance, human rights, and social cohesion in Fiji. We have closely followed the development of this Bill and previously made an oral submission before the Committee, as well as issuing public statements expressing concern about several of its provisions. This written submission builds on and elaborates upon the key points raised during our oral submission.

Dialogue Fiji acknowledges and welcomes the Government's intention to establish a statutory framework for the conduct of national referendums, particularly in light of section 160 of the Constitution, which requires referendums for constitutional amendments, and Parliament's power to submit matters of national importance to the people.

However, the legitimacy of a referendum depends not only on the act of voting, but on the quality of the process that precedes it. A referendum that suppresses debate, limits civic participation, or centralises control of information risks producing outcomes that are formally valid but democratically fragile.

2. The Central Problem: Excessive Restrictions on Civic Participation

The Bill, as currently drafted, contains provisions that go far beyond what is necessary to ensure orderly voting and instead criminalise core democratic activity, including public education, advocacy, and discussion.

Most concerning are sections 22, 23 and 27, which collectively:

- prohibit the production or display of referendum-related materials at any time;
- criminalise persuasion "by word, message, writing or in any other manner"; and
- prohibit participation in referendum-related activities by persons under 18 or not registered to vote.

Taken together, these provisions would make Fiji an extreme outlier among democratic systems.

A referendum, especially one dealing with constitutional change, requires a higher standard of openness and legitimacy, not a lower one. Fiji's 2013 Constitution has been widely criticised for its non-participatory origins. Any process to amend it must therefore be demonstrably inclusive, transparent, and deliberative.

3. Section 22: Prohibition on Badges, Symbols and Materials

Section 22 prohibits any person other than the Supervisor of Elections from producing, distributing, displaying, or even wearing any symbol, badge, banner, poster or advertisement "in connection with any referendum" at any time before, during or after a referendum.

This provision:

- grants the Supervisor of Elections a monopoly over referendum-related expression;
- criminalises civic education materials produced by civil society organisations, academics, and the media;
- prevents public forums, campaigns, or even symbolic expression; and
- allows warrantless arrest based on a police officer's subjective view.

This is not a proportionate regulatory measure. It amounts to a blanket suppression of expression.

Recommendation

Dialogue Fiji recommends that section 22 be amended so that any restrictions on materials apply only during a clearly defined blackout period immediately preceding polling day, consistent with international democratic practice. Outside that period, civic education and advocacy must be permitted. Detailed proposed amendments are set out in Annex A.

4. Section 23: Prohibition of Canvassing and Persuasion

Section 23 criminalises any attempt "by word, message, writing or in any other manner" to persuade a person how to vote.

This provision is extraordinary in its breadth. It criminalises:

- public debate;
- academic commentary;
- media analysis;
- civic education campaigns; and
- even private conversations between citizens.

A referendum without persuasion is not a democratic exercise; it is a controlled plebiscite.

Recommendation

Dialogue Fiji recommends that section 23 be revised so that restrictions on persuasion apply only during the blackout period, and not throughout the referendum process. Proposed drafting changes are detailed in Annex A.

5. Section 27: Criminalising Participation by Youth and Non-Voters

Section 27 prohibits persons under 18 and those not registered to vote from taking part in “any activity connected with a referendum”, with criminal penalties.

This provision is deeply problematic.

Young people, while not eligible to vote, have a legitimate stake in constitutional and national decisions. International experts, academics, and civil society actors who may not be registered voters often play a vital role in public education and debate.

No established democracy criminalises participation in referendum discourse on the basis of voter eligibility alone.

Recommendation

Dialogue Fiji recommends that section 27 be removed or substantially revised so that it does not criminalise education, discussion, research, or advocacy by youth, non-citizens, or non-registered voters. Dialogue Fiji’s preferred option is set out in Annex A.

6. Misplaced Reliance on Singapore (1961) and Australia (1984)

During debate, reference has been made to Singapore’s *National Referendum Ordinance 1961* and Australia’s *Referendum (Machinery Provisions) Act 1984*.

These comparisons are misleading.

Singapore’s 1961 law was enacted under colonial conditions, during the Cold War, to manage a highly contested merger referendum. The referendum itself is widely criticised for its lack of a genuine “no” option and heavy-handed controls. It is not an appropriate democratic benchmark. In fact, Singapore’s 1961 referendum law is often cited as an example of what a referendum law should not be!

Australia’s law, by contrast, permits extensive campaigning and persuasion and imposes only narrow, short silence periods near polling day. It does not support the sweeping bans contained in this Bill.

7. Comparative Democratic Practice

Across democratic systems including Australia, New Zealand, the United Kingdom, Switzerland, Ireland, and Vanuatu:

- referendum campaigning is permitted;

- civic education is encouraged;
- persuasion is lawful;
- restrictions are narrow and time-limited; and
- fairness is achieved through spending limits, transparency, and neutral information, not speech bans.

Fiji's Bill, as drafted, is more restrictive than these systems, and even more restrictive than laws in jurisdictions with far weaker human rights protections.

8. Alignment with the Venice Commission Code of Good Practice on Referendums

Dialogue Fiji notes that the Venice Commission's Code of Good Practice on Referendums represents the most widely accepted international benchmark for the design and conduct of democratic referendums. The Code emphasises core principles including freedom of voters to form an opinion, equality of opportunity, neutrality of authorities, balanced access to information, and sufficient time for public debate. The Code is frequently relied upon by courts, parliaments and international bodies in assessing the democratic legitimacy of referendum processes.

As currently drafted, the National Referendum Bill 2025 is not aligned with several key principles of the Code. In particular, the Code stresses that voters must be able to engage in free debate and receive pluralistic information prior to voting, subject only to narrowly tailored and time-limited restrictions immediately before polling day. By contrast, sections 22 and 23 of the Bill impose broad prohibitions on expression and persuasion throughout the referendum period, rather than confining restrictions to a short "cooling-off" or blackout period. This undermines the Code's requirement that voters be able to form an informed opinion through open discussion. Similarly, section 27's criminalisation of participation by youth, non-voters and non-citizens runs counter to the Code's emphasis on inclusive public debate and civic engagement, even where voting rights are restricted.

The Code also underscores the importance of neutrality in the formulation of the referendum question and adequate timeframes for public scrutiny. The Bill's failure to establish an independent and balanced body to draft the referendum question, coupled with provisions allowing the question to be published only days before polling, falls short of these standards. Dialogue Fiji therefore submits that aligning the Bill with the Venice Commission Code of Good Practice on Referendums would significantly strengthen its democratic credibility. The amendments proposed by Dialogue Fiji, as set out in this submission and detailed in Annex A, are intended to bring the Bill into closer conformity with these internationally recognised principles while remaining sensitive to Fiji's constitutional and political context.

9. Protection of Indigenous and Minority Rights in Constitutional Referendums

Dialogue Fiji notes that referendums are inherently majoritarian instruments. While this may be appropriate for ordinary policy questions, additional safeguards are widely recognised as necessary where a referendum is used for the purpose of amending constitutional provisions that affect fundamental rights. In plural

societies, constitutional change achieved through a simple majority may not always reflect a sufficiently broad or durable consensus on matters that have long-term implications for different communities.

International standards, including the Venice Commission Code of Good Practice on Referendums, emphasise that constitutional referendums affecting rights should be accompanied by enhanced procedural safeguards, including neutrality, adequate public information, and mechanisms to ensure that outcomes command wide societal support. At present, the Bill contains no mechanism to assess the potential impact of proposed constitutional amendments on minority groups, nor does it provide for any higher approval threshold where fundamental rights are affected.

Dialogue Fiji therefore recommends the inclusion of specific safeguards where a referendum is used for constitutional amendment purposes affecting minority rights. These safeguards, including an independent human rights impact assessment and a supermajority approval threshold, are intended to ensure that constitutional change enjoys broad and inclusive support. In Fiji's context, such measures would provide appropriate protection for minorities while strengthening the legitimacy of referendum outcomes overall. These proposals are detailed in Annex A.

Dialogue Fiji further notes that indigenous rights, while not based on numerical minority status in Fiji, are constitutionally recognised collective rights, particularly in relation to land, culture, identity and customary institutions. Safeguards such as independent impact assessment and enhanced approval thresholds would also serve to reinforce indigenous self-determination by ensuring that any constitutional change affecting these rights is carefully considered, widely understood, and supported by a clear and substantial majority of the population. In this way, the proposed safeguards protect minority rights while also enhancing the long-term security and legitimacy of indigenous rights within Fiji's constitutional framework.

10. Structural Gaps in the Bill

In addition to excessive restrictions, the Bill lacks key safeguards that would enhance fairness and legitimacy:

(a) Absence of spending limits and disclosure rules

The Bill contains no controls on referendum campaign spending or funding sources.

(b) Absence of an independent body to draft referendum questions

The Government effectively controls the framing of the referendum question, undermining neutrality.

(c) Inadequate timeframes

The Bill allows referendum questions to be published as late as five days before polling day, denying voters adequate time to understand the issue and engage meaningfully.

11. Dialogue Fiji's Proposed Reforms

Dialogue Fiji recommends the following reforms, many of which were outlined in our oral submission and are elaborated in Annex A:

- Define a clear blackout period, limited to the immediate pre-poll period.
- Amend sections 22 and 23 so that restrictions on materials, canvassing and persuasion apply only during the blackout period.
- Remove or revise section 27 to avoid criminalising youth, experts, and non-voters.
- Introduce spending limits and disclosure requirements for referendum campaigns.
- Establish an independent Referendum Question Commission, appointed by the President and comprising:
 - two nominees of the Prime Minister;
 - two nominees of the Leader of the Opposition; and
 - one nominee of the Fiji Law Society, with safeguards to ensure expertise and political neutrality.
- Introduce additional procedural safeguards where a referendum is used to amend constitutional provisions affecting fundamental rights, including an independent human rights impact assessment and a two-thirds national approval threshold to ensure broad and inclusive public support.
- Require early publication of the referendum question, including:
 - publication of a draft question for public comment; and
 - finalisation of the question at least 90 days before polling day.

12. Conclusion

Chair and Members of the Committee, referendums are among the most powerful democratic tools available to a people. Used well, they strengthen legitimacy and trust. Used poorly, they entrench division and cynicism.

As drafted, the National Referendum Bill 2025 risks silencing the very voices it purports to consult. With targeted amendments, however, it can become a framework that genuinely empowers the people of Fiji.

Dialogue Fiji respectfully urges the Committee to recommend substantial revisions to ensure that this Bill enhances, rather than constrains, Fiji's democratic future.

Dialogue Fiji remains available to assist the Committee further.

Proposed Amendments to the National Referendum Bill 2025

Submitted By: Dialogue Fiji

A. Introduction

Dialogue Fiji supports the objective of providing a legal framework for the conduct of a national referendum. However, several provisions of the Bill, as currently drafted, risk unnecessarily restricting democratic participation, freedom of expression, and civic education, while also departing from international best practice in referendum regulation.

This submission proposes targeted amendments to ensure the Bill:

- protects electoral integrity without suppressing legitimate public debate,
- aligns restrictions with clearly defined time periods,
- avoids criminalising civic participation by youths and non-voters, and
- introduces safeguards relating to campaign spending and referendum question neutrality.

B. Proposed Amendments

1. Insert a Definition of “Blackout Period”

Issue

Sections 22 and 23 currently apply “at any time either before, during or after” a referendum. This is excessively broad and effectively creates a permanent ban on referendum-related expression.

International best practice confines strict restrictions to a defined pre-poll silence period, commonly referred to as a blackout or cooling-off period.

Proposed Amendment

Amend Clause 2 (Interpretation) by inserting a new definition:

“blackout period” means the period commencing 48 hours immediately before polling day and ending at the close of polling on polling day.

2. Amend Section 11(2) Notification of polling stations and symbols

Issue

Section 11(2) currently provides that the Supervisor must publish a notice specifying the polling stations, the questions to be submitted to voters, and the symbols to be used not later than 5 days prior to polling day.

In effect, this means:

- the referendum question may only be made public five days before voting, and
- this occurs alongside broad restrictions on expression and canvassing.

This undermines informed participation and meaningful public engagement.

Proposed revision: separate and extend the timeline for the referendum question

Recommended approach

Do not tie the referendum question to the same timeline as polling station notices. Instead:

- require early publication of the referendum question, and
- retain the 5-day requirement only for logistical matters.

Proposed revised section 11

Amended Section 11 – Notification of polling stations, symbols and referendum question

11.—(1) The Supervisor must publish a notice in the Gazette specifying the polling stations and symbols to be used for the conduct of a referendum, not later than 5 days prior to polling day.

(2) The referendum question or questions to be submitted to voters must be published not later than 90 days prior to polling day, in the Gazette and through such other means as may be necessary to ensure public awareness.

(3) The publication of the referendum question under subsection (2) must be accompanied by neutral explanatory material approved by the Referendum Question Commission.

(4) Failure to comply with subsection (2) invalidates the conduct of the referendum unless the High Court determines that the failure did not materially affect the fairness of the referendum.

2. Amend Section 22 (Badges, Symbols, etc.)

To apply only during the blackout period

Issue

Section 22 currently prohibits symbols, materials and campaign expression before, during and after a referendum, which is disproportionate and inconsistent with democratic norms.

Proposed Revised Section 22

22.—(1) No person other than the Supervisor must, during the blackout period, make, print, publish, distribute, put up, wear, use, carry or display any badge, symbol, favour, set of colours, flag, banner, advertisement, handbill, placard or poster, or any replica of a ballot paper, in connection with a referendum.

(2) Subsection (1) does not apply to the publication of neutral, factual information for the purpose of public education, provided such information does not seek to influence how a voter votes.

(3) A police officer may arrest without warrant any person offending against subsection (1).

(4) Any person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding one year.

3. Amend Section 23 (Prohibition of canvassing)

To apply only during the blackout period

Issue

Section 23 currently criminalises persuasion at all times, including during periods when public debate and education are essential for informed voting.

Proposed Revised Section 23

23.—(1) No person must, during the blackout period—

- (a) by word, message, writing or in any other manner, endeavour to persuade any person to give or dissuade any person from giving his or her vote at a referendum; or
- (b) visit a voter at his or her home or place of work for the purpose of influencing the voter's decision.

(2) Any person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding one year.

4. Review And Amend Section 27 (Restriction On Referendum Activity)

Issue

Section 27 criminalises participation in referendum-related activities by:

- persons under 18 years, and
- persons no longer registered as voters.

This goes significantly beyond international practice. While such persons may not vote, criminalising their participation in discussion, education or observation is excessive and counterproductive.

This provision would:

- criminalise youth civic engagement,
- deter academic and international expertise,
- suppress public education initiatives,
- expose minors to criminal liability.

Proposed Amendment

Option A (Preferred): Repeal Section 27 entirely

Section 27 is repealed.

Option B (Alternative): Narrow Section 27

27.—(1) Any person who ceases to be a registered voter in accordance with section 55 of the Constitution must not cast a vote or purport to cast a vote at a referendum.

(2) Subsection (1) does not prohibit participation in public education, research, observation, discussion or advocacy relating to a referendum.

Dialogue Fiji strongly recommends **Option A**.

5. Insert New Section: Campaign Spending Limits

Issue

The Bill is silent on referendum campaign spending. This creates a risk of unequal influence, particularly by well-resourced actors.

Proposed New Section (to be inserted in Part 4)

27A.—(1) A person or organisation must not incur expenditure in excess of \$100,000 in connection with a referendum.

(2) The amount specified in subsection (1) applies to the first referendum conducted after the commencement of this Act and may be adjusted for subsequent referendums by regulation, having regard to inflation and changes in campaign costs.

(3) Any expenditure limit prescribed under this section must promote fairness, transparency and equality of participation.

(4) The Electoral Commission may require disclosure of referendum-related expenditure in the manner prescribed by regulation.

6. Insert New Section: Abuse of State Resources and Official Position

Issue

The Bill does not contain any provision prohibiting the use of state resources or official position to influence the outcome of a referendum. This creates a risk of unequal influence, particularly where the Government or public authorities may be partisan actors in the referendum. International democratic standards require strict neutrality of public authorities during referendum processes.

Proposed New Section (to be inserted in Part 4)

27B.—(1) A public office holder, public officer, or public authority must not, in his or her official capacity, use or permit the use of state resources for the purpose of influencing or seeking to influence the outcome of a referendum.

(2) For the purposes of subsection (1), *state resources* include—

- (a) public funds;
- (b) government vehicles, facilities or equipment;
- (c) public employees or contractors during official working hours; and
- (d) official government communications, publications or media.

(3) Subsection (1) does not apply to—

- (a) neutral and factual information relating to the referendum process;
- (b) administrative or logistical arrangements necessary for the conduct of the referendum; or
- (c) information issued by the Electoral Commission in the performance of its statutory functions.

(4) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$10,000.

7. Insert New Section: Referendum Question Drafting Body

Issue

The Bill does not specify who drafts the referendum question, nor how neutrality is ensured. This is a critical democratic safeguard.

Proposed New Section (to be inserted in Part 2)

5A.—(1) There is established a Referendum Question Commission responsible for drafting the question or questions to be submitted to voters at a referendum.

(2) The Commission shall consist of 5 members appointed by the President, comprising—

- (a) 2 nominees of the Prime Minister;
- (b) 2 nominees of the Leader of the Opposition; and
- (c) 1 nominee of the Fiji Law Society.

(3) Of the nominees under subsection (2)(a) and (b), each of the Prime Minister and the Leader of the Opposition must nominate at least one person drawn from

academia or civil society organisations, with demonstrated expertise and experience in constitutional law, electoral law, public law, political science, public policy or democratic governance.

(4) A nominee under subsection (2) may be a citizen or non-citizen, including an international expert, provided the nominee possesses relevant expertise and experience.

(5) In drafting a referendum question, the Commission must ensure that the question—

- (a) is clear and capable of being understood by voters;
- (b) is neutral and unbiased; and
- (c) does not unfairly favour any particular outcome.

(6) The Commission must publish the draft referendum question or questions for public comment for a period of not less than 30 days.

(7) The Commission must consider public submissions received under subsection (6) and finalise the referendum question or questions not later than 90 days before polling day.

8. Insert New Section: Safeguards for Fundamental, Minority and Indigenous Rights in Constitutional Referendums

Issue

The Bill does not provide additional safeguards where a referendum is used to amend constitutional provisions affecting fundamental rights. In the absence of such safeguards, constitutional change may be determined by a narrow majority without sufficient assessment of its broader and longer-term implications for different communities.

International best practice recognises that constitutional referendums affecting rights should be subject to enhanced procedural protections to ensure legitimacy, inclusiveness and durability. These safeguards are intended not to impede reform, but to ensure that constitutional change commands broad public support and is informed by objective assessment.

Proposed New Section (to be inserted in Part 2)

5B.—(1) Where a referendum is held for the purpose of amending the Constitution, and the proposed amendment affects or relates to—

- (a) fundamental rights or freedoms;
 - (b) the rights or protections of minority groups; or
 - (c) constitutionally recognised indigenous rights,
- the safeguards set out in this section apply.

(2) Prior to the holding of such a referendum, an independent human rights impact assessment of the proposed amendment must be conducted.

(3) Where the proposed amendment affects indigenous rights, the assessment conducted under subsection (2) must specifically consider the impact on indigenous land, culture, identity and customary institutions.

(4) The assessments referred to in subsections (2) and (3) must be conducted by the Fiji Human Rights and Anti-Discrimination Commission, or such other independent bodies as may be prescribed by law, and must be published and made publicly accessible within a reasonable period before polling day.

(5) A constitutional amendment to which this section applies is approved at a referendum only if it is supported by not less than two-thirds of the valid votes cast nationally.

(6) The Referendum Question Commission must have regard to the assessments conducted under this section when finalising the referendum question or questions.

(7) Nothing in this section limits the jurisdiction of the courts to review the constitutionality of a proposed amendment or the conduct of a referendum.



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23 January 2026

Hon. Ratu Rakuita Vakalalabure
The Chairperson
Standing Committee on Justice, Law and Human Rights
Parliament of the Republic of Fiji
Suva

Dear Sir

RE: SUBMISSION ON THE NATIONAL REFERENDUM BILL 2025
(BILL NO. 46 OF 2025)

1. Greetings from the Fiji Human Rights and Anti-Discrimination Commission (the FHRADC).
2. Please find attached a written submission on the National Referendum Bill 2025.
3. Should you have any questions or require further information, please do not hesitate to contact the Commission on Email – infor@fhradc.org.fj

Yours faithfully,

Alefina Vuki
Human Rights Commissioner

HRADC SUBMISSION ON THE NATIONAL REFERENDUM BILL (BILL NO. 46 OF 2025)

1. Sections 45 (4) (b) (d) and (g) of the Constitution of the Republic of Fiji 2013, along with sections 12 (1) (f) and (i) of the Human Rights and Anti-Discrimination Commission Act 2009, grant the Human Rights and Anti-Discrimination Commission (HRADC/the Commission) the mandate to:

- i. monitor compliance by the State on its obligations under international human rights treaties or conventions and international customary law;
- ii. make recommendations on the desirability of legislative, administrative, or other action to give better protection to human rights; and
- iii. make recommendations on any proposed law or policy that may affect human rights so that they are consistent with international human rights standards, in particular with international human rights treaties or conventions that Fiji has ratified.

2. The Commission makes the following submission as per its constitutional mandate and statutory mandate in the Human Rights and Anti-Discrimination Act 2009.

General Comments

3. The Commission welcomes the opportunity to make submissions on the National Referendum Bill 2025.

This submission is based on a legal and human rights analysis of the National Referendum Bill 2025, measured against the Constitution of the Republic of Fiji (2013), Fiji's international human rights obligations—particularly under the International Covenant on Civil and Political Rights (ICCPR)—and international best practices relating to referendums and democracy.

Contextual Background

4. The Fiji Human Rights and Anti-Discrimination Commission was invited by the Supreme Court of Fiji¹ as an intervener in the historic Constitutional amendment reference case last year, 2025 along with eight other intervenors who represented political parties, members of the opposition, and the Fiji Law Society, to present their respective position on the matter of amending the 2013 Constitution.

5. The Commission submits that the amendment procedures prescribed under the 2013 Constitution are incompatible with the right of people to self-determination as recognised under international human rights law. It further submits that the 2013 Constitution was promulgated without meaningful, inclusive, or participatory public consultation and therefore does not fully reflect the freely expressed will of the people of Fiji, particularly when contrasted with the consultative process that informed the adoption of the 1997 Constitution. The Commission accordingly emphasises that any future amendment to the Constitution must be preceded by genuine public participation and a national referendum, as these mechanisms and processes are essential to securing democratic legitimacy, transparency, and public confidence in the constitutional order.

6. On 30 August 2025, Fiji's highest court, the Supreme Court of Fiji, ruled that the 2013 Constitution remains the valid supreme law of the Republic, but it suffered a democratic deficit. This required that its

¹ Ministry of Justice, 19 August 2025 <https://www.facebook.com/moj.fiji/posts/for-immediate-release19-august-2025suva-fijisupreme-court-begins-hearing-on-cons/1098625422448350/>

amendment provisions must be reviewed and amended to cure this deficit enabling it to be applied in a workable and democratic manner. The Court clarified that constitutional amendments require approval by at least a two-thirds majority of all Members of Parliament and must be endorsed through a mandatory national referendum decided by a simple majority of votes cast, rather than by 75 per cent of all registered voters.

7. We note that the National Referendum Bill 2025 has been introduced as a proposed framework to enable amendments to the Constitution.

8. A National Referendum

A referendum is a direct vote in which an entire electorate is asked to answer a question on a particular proposal.² In the context of this proposed legislation, the bill sets the direction to conduct a constitutional referendum in Fiji, that is, a popular vote for the adoption or amendment of the 2013 Constitution.

Unlike general elections, referenda do not involve competing candidates but rather competing ideas. Consequently, restrictions appropriate in an electoral contest may be inappropriate or disproportionate in a referendum context. The legitimacy of a referendum outcome depends on whether voters are able to freely access information, engage in public debate, and form opinions without fear or undue restriction.

FHRADC Position

9. The Commission firmly supports the holding of a national referendum as contemplated under the National Referendum Bill 2025 and recognises it as a vital democratic instrument through which the sovereign will of the people may be directly expressed on matters of constitutional or national importance.

However, the Commission emphasises that the democratic value and legitimacy of a referendum are not derived merely from the act of voting, but from the fairness, openness, and integrity of the process itself.

A national referendum must be conducted in a manner that guarantees the free formation of voter opinion, meaningful public participation, equality of opportunity, and respect for fundamental rights and freedoms. Any process that unduly restricts public debate, access to information, or lawful civic engagement risks undermining the very purpose of a referendum and eroding public confidence in its outcome.

Accordingly, while the Commission supports the holding of a national referendum in principle, it stresses that such a process must be fully aligned with constitutional guarantees and international human rights standards to ensure that the outcome genuinely reflects the informed and freely expressed will of the people.

Human-Rights-based Approach

10. International human rights law affirms that meaningful participation in public affairs extends beyond the act of voting and includes the right of individuals to be informed, to express opinions freely, and to engage in public debate without fear or restriction. In this regard, prior public participation is as critical as participation in the referendum itself. A referendum that is not preceded by inclusive, informed, and

² Introduction to Referendum, https://www.electoralcommission.org.uk/sites/default/files/pdf_file/intro-risreferendum.pdf#:~:text=Different%20laws%2C%20rules%20and%20regulations,local%20government%20referendums%2C%20you%20should

meaningful public engagement risks falling short of the standards of genuine democratic participation required under **Article 25 of the International Covenant on Civil and Political Rights (ICCPR)**.

In accordance with **Article 19 of the ICCPR**, all information disseminated in relation to the referendum must be accurate, accessible, and verifiable. The public must be able to scrutinise, question, and debate the legal content and implications of the Bill in order to form informed views. The absence of transparent and reliable information undermines the freedom to seek, receive, and impart information, which is essential for the effective exercise of political rights.

Effective civic education in the context of a constitutional referendum must encompass two distinct but interrelated components: education on the constitutional framework itself, including the substance and implications of any proposed amendments; and education on the referendum process. While the Elections Office may be responsible for administering and explaining the procedural aspects of the referendum, it is not the appropriate authority to provide authoritative interpretation or analysis of constitutional substance. Independent, expert-led, and impartial public education is therefore required to meet the standards of informed participation under Article 25 of the ICCPR.

A robust public debate, free from fear of reprisal, intimidation, political pressure, or penal liability, is a necessary precondition for the lawful exercise of both freedom of expression and participation in public affairs. Any legal, political, or administrative measures that deter open discussion or suppress dissenting views are inconsistent with Articles 19 and 25 of the ICCPR and risk compromising the legitimacy of the referendum process.

Further, safeguards must be in place to ensure that information disseminated prior to the referendum is consistent, neutral, and protected from manipulation or distortion. Differential messaging, selective framing, or targeted dissemination that misleads or disproportionately influences specific communities undermines the principle of equality of participation and violates the requirement that political processes be conducted on the basis of fairness and transparency.

The State bears a positive obligation under Article 25 to ensure that all persons are effectively empowered to participate in the referendum on an equal basis. This requires proactive measures to address barriers related to knowledge, language, disability, geographic isolation, digital access, and other socio-economic or infrastructural constraints. Without such measures, participation risks being merely formal rather than full, meaningful, and effective.

General Observations

11. Public Participation as a Precondition to a Referendum

The Commission emphasises that meaningful public participation prior to the holding of a referendum is a democratic necessity, not a procedural formality.

Public participation must include:

- Accurate, verifiable, and legally sound information on the subject matter of the referendum;
- Opportunities for robust, inclusive, and open public debate;
- Civic education addressing both the constitutional issues involved and the referendum process itself.

While the Elections Office may competently administer the technical aspects of a referendum, it is not the appropriate institution to educate the public on constitutional substance. Independent, neutral, and expert-led civic education is therefore essential.

12. Analysis of Key Provisions of the Bill

The Bill establishes a statutory framework for the conduct of national referenda. The Commission notes the following key aspects:

13. Voter Eligibility

Restricting voting to persons on the National Register of Voters aligns with existing electoral principles and supports universal suffrage.

14. Conduct of the Referendum

The incorporation of the Electoral Act procedures may enhance administrative efficiency. However, the Commission cautions against importing electoral restrictions wholesale without tailoring them to the distinctive nature of referenda.

15. Restrictions on Expression, Debate, and Participation

The Commission expresses serious concern regarding provisions that prohibit canvassing, persuasion, the display of symbols, and broad forms of communication related to the referendum.

Such provisions risk unduly restricting:

- Freedom of expression;
- Freedom of association;
- The right to peaceful assembly.
- The right to participate in public affairs.

These rights are protected under the Constitution of the Republic of Fiji and the International Covenant on Civil and Political Rights (ICCPR). International human rights law recognises that restrictions on political expression must be lawful, necessary, proportionate, and pursue a legitimate aim.

Blanket prohibitions on persuasion and messaging are inconsistent with international best practice, which recognises that referenda require extensive public debate rather than enforced silence.

16. Equality, Accessibility, and Non-Discrimination

The Bill does not sufficiently address barriers faced by persons with disabilities, rural and maritime communities, older persons, and other marginalised groups.

The Commission stresses the need for:

- Accessible voting materials in multiple formats;
- Inclusive civic education initiatives;
- Adequate infrastructure and logistical support;
- Targeted outreach to ensure equal participation.

Failure to address these issues risks direct and indirect discrimination and undermines the principle of equal political participation in public affairs.

17. Transparency, Information Integrity, and Oversight

The Commission notes the absence of explicit mechanisms to ensure the integrity, consistency, and accuracy of information disseminated to the public prior to and during the referendum.

Safeguards should include:

- Clear standards for public information campaigns;
- Independent oversight mechanisms;

- Protections against misinformation and selective messaging.

Transparency and information integrity are essential to informed consent and democratic legitimacy.

18. International Human Rights Obligations

Fiji is a State Party to all nine-core international human rights treaties, including the ICCPR, which guarantees the right to participate in public affairs and freedom of expression.

Any limitations imposed by the Bill must meet the cumulative tests of legality, necessity, proportionality, and legitimacy. The Commission is concerned that several provisions of the Bill may fail to meet these standards in their current form.

19. Comparative and Best Practice Considerations

Comparative practice from established democracies indicates that restrictions on referendum campaigning are generally limited to short ‘quiet periods’ immediately preceding polling day and narrowly defined areas around polling stations.

Broader restrictions throughout the referendum period are uncommon and risk suppressing democratic discourse rather than protecting it.

20. Analysis of specific clauses

NATIONAL REFERENDUM BILL 2025

Part	Division	Section	Details	HRADC Response	HRADC Recommendation/Suggestion
Part 1 - Preliminary		Section 2 – Interpretation	Interpretation of ‘Constitution’ “Constitution” means the Constitution of the Republic of Fiji”.	<i>The definition of Constitution should include the year it came into force: “Constitution of the Republic of Fiji (2013)”.</i>	Section 2 – Interpretation <i>The definition of Constitution should include the year it came into force: <u>Constitution of the Republic of Fiji (2013)</u></i>
Part 2 - Referendum		Sub-section 7(2) Single vote	7. 1. A person is entitled to vote only once at a referendum. 2. Any person under	<i>This clause lacks a penalty provision.</i>	7(2) Single vote – A person who votes more than once commits an offence. However, the penalty has been omitted. We recommend:

			subsection (1) who votes more than once commits an offence under this Act.		<i>Any person under subsection (1) who votes more than once commits an offence under this Act and is liable on conviction to a fine not exceeding \$1000 or to a term of imprisonment not exceeding one year</i>
Part 3 - Conduct of Referendum		Section 10(3) Polling venues, polling stations and symbols	10. For the purpose of conducting a referendum , ... (3) The Supervisor may adopt such symbols as he or she thinks fit which must be printed on the ballot paper.	<i>Caution too much power to the Supervisor.</i>	<i>10(3) Polling venues, polling stations and symbols – This provision grants the Supervisor of Elections broad discretionary powers to select electoral symbols without consultation. This poses significant risks to the legitimacy, fairness and perceived impartiality of the conduct of the referendum. It may raise questions of bias if the Supervisor is seen not to be a neutral figure.</i>
Part 3 - Conduct of Referendum		Section 11 Notification of polling stations and symbols	11. 1. The Supervisor must publish a notice in the Gazette specifying the polling station to be used for the conduct of a	<i>Caution too much power to the Supervisor when people of expertise are needed.</i>	<i>Notification of polling stations and symbols - A referendum question should be developed by an independent and non-partisan body, not by political actors or institutions with a vested interest in the outcome.</i> <i>International best practice supports</i>

			referendum , not later than 5 days prior to polling day. 2. The notice must also specify the questions to be submitted to the voters and the symbols to be used in connection therewith.		<i>assigning this role to an independent electoral authority, a law-reform or constitutional body, or a multi-disciplinary panel including legal experts, linguists, and civic-education specialists. The question must be framed in clear, neutral, and accessible language, free from ambiguity or coercive framing, and should be tested through public consultation to confirm that it is easily understood and not misleading. A transparent and accountable process for drafting the question is essential to safeguard the public's right to make a free, informed, and genuine choice in a referendum. This prevents the Referendum from being manipulated and driven by particular interests, thereby undermining public interest.</i>
Part 3 - Conduct of Referendum		Section 13 Presiding officers	13. (1) The Supervisor must appoint a presiding officer to preside at	Concerned who will be the agents of the people.	Multiple actors of credible public standing and integrity must be involved to ensure transparency,

		each polling station. (2) The presiding officer is responsible for the orderly conduct of the voting and counting process at a polling station. (3) If a presiding officer is prevented from performing any of his or her duties under this Act, the Supervisor may appoint a deputy presiding officer to perform the duties of a particular presiding officer at a polling station during the temporary absence of the presiding officer.	<i>credibility, and public trust.</i> <i>Vote counting should be:</i> ▪ <i>Public</i> ▪ <i>Plural</i> ▪ <i>Observable</i> ▪ <i>Verifiable</i> <i>International experience shows that referendums are particularly vulnerable to:</i> • <i>Allegations of manipulation</i> • <i>Disputes over interpretation</i> • <i>Loss of public confidence</i>
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			(4) A deputy presiding officer may do any act that the presiding officer is authorised to do under this Act. (5) A presiding officer must be provided with a copy of the part of the National Register of Voters containing the names of voters assigned to his or her polling place. (6) The Supervisor may, if he or she thinks fit, preside at any polling station and the provisions of this Act relating to a presiding officer applies to the Supervisor.		
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Part 3 - Conduct of Referendum		Section 14(1) Facilities to be provided at polling stations Section 14(2)	14.(1) The Supervisor must ensure that every polling station is provided with reasonable facilities for voters to mark their votes and to vote in accordance with this Act, and he or she must determine or may authorise the presiding officer to determine, in what manner the facilities are to be distributed among persons entitled to vote at a polling station.	<i>The word “reasonable” needs to be further explained for reason of clarity.</i> <i>What about persons with disabilities and other vulnerable groups?</i>	Section 14(1) Facilities to be provided at polling stations - The Supervisor must ensure that every polling station is provided with reasonable facilities for voters to mark their votes and to vote in accordance with this Act. The key issue is What constitutes reasonable facilities? For instance, reasonable facilities at a polling station for a referendum may include accessible premises, clear and appropriate information, adequate lighting and shelter, trained polling officials to assist voters where necessary, language or communication support, priority arrangements for persons requiring assistance, and secure, private voting spaces that protect the secrecy and integrity of the vote. This is welcoming as it will assist voters find their polling booths, but the Commission
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			Section 14 (2) - Outside each polling station, the presiding officer must fix in a conspicuous place a notice in English, iTaukei and Hindi giving directions for the guidance of voters, before the commencement of the poll.		<i>emphasises that the Supervisor must also cater for persons with disabilities and individuals who are illiterate and elderly persons. It would be appropriate to have sound system for announcements.</i>
Part 3 - Conduct of Referendum		Sub-sections 15(1), (3), (5) Admittance to polling station	15. (1) No person may be admitted to vote at any polling station except the one allotted to him or her, provided that where a person is employed as a presiding officer,	(1) <i>It is important that voters are educated on the requirement to re-register once they have moved.</i> <i>Caution that this section is too lengthy.</i> <i>Caution that too much privilege is given to those in an official capacity. Accessibility for</i>	(1) <i>Consider re-writing this subsection to make it reader friendly while maintaining the meaning.</i> <i>The following alternative is proposed as a guide, to replace (1) as we think its reader friendly and easy to understand:</i>

		deputy presiding officer, police officer, or in any other official capacity at a polling station, and it is inconvenient for him or her to vote at the polling station which has been allotted to him or her, the Supervisor may authorize the person, by a certificate, to vote at the polling station at which he or she is employed, and that polling station is for the purposes of this section, deemed to be the polling station allotted to the person.	<i>the people is important.</i> <i>(3) Alternative arrangements should be made for weather events.</i> <i>(5) Caution that the word “misconduct” is too vague and general.</i>	<i>15(1) General Rule. You may only vote at your assigned polling station.</i> <i>Exception for Election Staff. If you are working at a different polling station (as a presiding officer, police officer, or other official) and cannot easily reach your assigned one, the Supervisor may authorize you to vote where you are working.</i> <i>Requirements for the Exception:</i> <i>• The Supervisor must issue a formal certificate of authorization.</i> <i>• Once authorized, the station where you are working is legally treated as your assigned polling station.</i> <i>(1) We also recommend that the privilege given to the “presiding officer, deputy presiding officer, police officer, or in any other official</i>
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		... (3) Unless otherwise specified in the notice of poll issued under section 11(1), the poll at every polling station must open at 7.30 am and must not close until all voters in the queue at the polling station at 6 pm, and desiring to vote, have voted. ... (5) If any person misconducts himself or herself in the polling station, or fails to obey the lawful orders of the presiding officer, he or she may immediately, by order of the	<i>capacity at a polling station” be extended to any member of the public.</i> <i>(5) Consider defining the word “misconduct” and expressly state and specify what behaviour is not acceptable under this provision or alternatively consider the following changes which has removed “misconduct” :</i> <i>(5) If any person fails to obey the lawful orders of the presiding officer...</i>
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			presiding officer, be removed from the polling station by any police officer in or near the polling station or by any other person authorised in writing by the presiding officer or by the Supervisor to remove him or her, and the person removed must not, unless with the permission of the presiding officer, be allowed to re-enter the polling station.		
Part 3 - Conduct of Referendum		Sub-section 16(2) Poll by ballot and ballot papers	16. (2) A ballot paper must be in English and have a number printed on the back with an	<i>This sub-section should be consistent with section 14(2) of this Bill to ensure accessibility, and that the ballot paper in addition to English, also</i>	• <i>Ballot papers should be multilingual where society is linguistically diverse.</i> • <i>A single-language ballot is not</i>

			attached counterfoil with the same number printed on the face thereof.	<i>include I Taukei language and Hindi.</i>	best practice if it limits understanding or participation. • Language accessibility is a core safeguard for the legitimacy and credibility of a referendum.
Part 3 - Conduct of Referendum		Insert between Section 16 and 17.		<i>There is no provision for the counting process. This should be included, potentially by way of a reference to the counting process in Part 3 Division 7 of the Electoral Act 2014. It is vital that the counting process is included in this Bill for transparency and accountability, ensuring that every person participating in the referendum has full confidence in the integrity of the results.</i>	<i>The conduct and counting of votes must involve multiple actors, including polling staff, counting assistants, accredited observers, and scrutineers, with vote counting carried out in a public, transparent, and verifiable manner. Concentrating control of the referendum process or vote count in a single officer is inconsistent with international democratic standards, as reflected in guidance by the <u>International Institute for Democracy and Electoral Assistance</u>, the <u>Venice Commission</u>, and the <u>International Foundation for Electoral Systems</u>.</i>

Part 3 - Conduct of Referendu m		Insert between Section 14 and 15.	<i>There is no provision regarding accessibility for persons with disabilities. Under section 42 of the Constitution of Fiji (2013) it states that: (1) a person with any disability has the right—</i> <i>(a) to reasonable access to all places, public transport and information;</i> <i>(b) to use sign language, Braille or other appropriate means of communication;</i> <i>and (c) to reasonable access to necessary materials, substances and devices relating to the person's disability.</i> <i>Furthermore,</i> <i>(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</i>	<i>Best practice in conducting a referendum, in accordance with Article 29 of the <u>Convention on the Rights of Persons with Disabilities</u>, which Fiji is a State Party to (2010) requires that persons with disabilities are able to participate on an equal basis with others, including through accessible polling stations, accessible voting materials, and procedures that enable secret and independent voting.</i> <i>A referendum that is not accessible to persons with disabilities including other vulnerable groups is inconsistent with international human rights standards and undermines the legitimacy of the process.</i>
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				<i>rights.</i>	
Part 4 - Offences		Sub- section 19(1) Undue influence	18. 1. Any person who directly or indirectly, by himself or herself, or by any other person on his or her behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or herself, or by any other person, any injury, damage, harm or loss upon or against any person in order to induce or compel such person to vote or refrain	Caution that the word “indirect” lacks certainty regarding assessment of culpability and the public needs to be protected from vague criminal charges.	Consider removing the word “indirectly” and focus solely on direct undue influence as the phrase or by any other person on his or her behalf, is sufficient to cover the use of third parties or intermediaries without the vagueness. The following changes are to be made: 18. (1) Any person who directly...

			from voting commits an offence and is liable on conviction to a fine not exceeding \$1000 or to a term of imprisonment not exceeding one year.		
Part 4 - Offences		Sub-section 20 (a), (b), (c) Bribery	20. a. any person who directly or indirectly, by himself or herself or by any other person on his behalf... b. any person who directly or indirectly... (c) any person who, directly or indirectly by himself or herself...	Caution that the word “indirectly” lacks certainty regarding assessment of culpability and to protect the members of the public from vague criminal charges. In sub-section 20(a), the word “her” is not present. This provision is inconsistent with the other offence provisions as there is no penalty given. Section states bribery as an offence but does not have a section on the penalty to enforce it.	Consider removing the word “indirectly” and focus solely on direct bribery. For sub-section 20(a), add the word “her” so that both men and women are represented. Looks like a typo. The following changes are to be made: 20. a. any person who directly, by himself or herself or by any other person on his or her behalf... b. any person who directly... (c) any person who, directly... by himself or herself... Insert a penalty sub-section: (2) Any person who contravenes this section commits an offence and is liable

					<i>on conviction to a fine not exceeding \$1000 or to a term of imprisonment not exceeding one year.</i>
Part 4 - Offences		Section 21 Employer to allow employee reasonable period for voting	21. (1) An employer must, on polling day, allow any person in his or her employ a reasonable period to vote, and must not make any deduction from the pay or other remuneration of any employee or impose upon or extract from him or her any penalty by reason of his or her absence during such period. (2) Any employer who, directly or indirectly, refuses, or by intimidatio	21. (1) Typing mistake: “employ” instead of “employment”. (2). An employer usually would not indirectly refuse. Typing mistake: “employ” instead of “employment”. The conviction raises questions about proportionality. Whilst a fine of up to \$500 and imprisonment not exceeding 6 months would be proportionate for a small business, larger corporations would not be deterred by this small fine. A provision prohibiting retaliation by employers is necessary here to protect any worker who reports such violations.	<i>In both sub-sections, change “employ” to “employment”.</i> <i>Consider removing the words “directly” and “indirectly” from sub-section 21(2), as the phrase, - “in any other manner interferes with”- is sufficient to function as a safety net for indirect actions, and directly is redundant.</i> <i>To deter larger corporations, increase the penalty for an employer’s refusal and/or interference. The \$500 penalty will be felt by a small business, like a village shop but of no consequence to big business like Tappoo, Punja etc.</i> <i>The following changes are to be made:</i> 21. (1) An employer must, on polling day, allow any person in his or her employment...

			n, undue influence, or in any other manner, interferes with the granting to any person in his or her employ, of a reasonable period for voting, commits an offence and is liable on conviction to a fine not exceeding \$500 or to a term of imprisonment not exceeding 6 months.		<i>(2) Any employer who refuses, or by intimidation, undue influence, or in any other manner, interferes with the granting to any person in his or her employment of a reasonable period for voting, commits an offence and is liable on conviction to a fine not exceeding \$1000 or to a term of imprisonment not exceeding 12 months.</i> <i>Anti-retaliation provision to protect workers. We propose this anti-retaliation provision as a guide to help with the drafting:</i> <i>(1) Prohibition of Retaliation and Adverse Action: No employer shall retaliate, discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of his or her employment because that employee has, in good faith:</i> <i>• Reported or disclosed, or is perceived as about to</i>
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					<i>report or disclose, a refusal by the employer to grant a reasonable period for voting in the referendum; or</i> <i>• Exercised any right afforded to them under this Act.</i> <i>Remedies and Penalties: An employer who contravenes this section commits an offence and is liable on conviction to:</i> <i>• A fine not exceeding \$[Amount]; and</i> <i>• A court order requiring the employer to reinstate the employee to their former position with full back pay, benefits, and seniority, or to pay equivalent compensatory damages.</i>
Part 4 - Offences		Sub-section 22(1), (2) Badges, symbols, etc	cc (2) A police officer may arrest without warrant any person	This provision restricts core political participation and democratic participation.	<i>This section 22 (1) should be removed as it severely violates freedom of expression, freedom of assembly and by giving the Supervisor</i>

		prohibited	offending in his or her view against any of the provisions of this section.	Sub-section 22(2) is arbitrary and subjective. The phrase “offending in his or her view being purely subjective, gives the officer the power to arrest, on a mere hunch, whim or suspicion, which is the exercise of arbitrary power. The power to arrest must be based on objective standards of necessity and reasonable grounds or standard of suspicion, so that members of the public are protected from arbitrary arrest and being deprived of their liberty and freedom.	a monopoly control on messaging and information on the referendum, while silencing the public is blatantly undemocratic. This provision prohibit: canvassing or persuasion “by word, message, writing or any other manner” and display of symbols or materials related to the referendum. This is a blanket restriction on political expression. Under international human rights law (including ICCPR): Political expression enjoys the highest level of protection Restrictions must be necessary, proportionate , and narrowly tailored A total ban on persuasion is incompatible with the very purpose of a referendum. Human Rights Concern - These clauses:
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					• <i>chill public debate</i> • <i>criminalise civic education</i> • <i>disproportionately restrict civil society, media, and community voices</i> <i>In a nutshell, this clause is disproportionate, not justified under human rights standards and undermines meaningful participation.</i> <i>This clause also promotes arbitrary arrest</i>
Part 4 - Offences		Section 23 Prohibition of canvassing	23. (1) No person must— (a) by word, message, writing or in any other manner endeavour to persuade any person to give or dissuade any person from giving his or her vote at a	<i>This section criminalises persuasion, freedom of expression and is a clear violation of human rights. A referendum is a question put to the public, and if the members of the public are prevented legally from discussing the merits of the question and their vote, their participation in the referendum is not free and fair, which</i>	<i>This section should be removed. It is strange and absurd that this Bill wants the people to vote in the referendum, but renders it an offence and illegal if they were to talk or persuade one another about how or why they should vote in the referendum.</i> <i>Restricts political speech and advocacy.</i>

			referendum ; or (b) visit a voter at his or her home or place of work for any purpose in connection with a referendum . (2) Any person who contravene s this section commits an offence and is liable on conviction to a fine not exceeding \$1000 or to a term of imprisonment not exceeding one year.	<i>is a direct violation of their democratic right. Persuasion is so broad as it covers any level of exchange, so that for instance family members are simply discussing this referendum question at a family gathering, or people gathering around the grog bowl discussing the referendum and their vote, would technically, under this section 23 be committing a crime. For voters to be educated, there has to be political debate.</i>	<i>This provision violates Section 17 of the 2013 Constitution of the Republic of Fiji.</i> <i>Section 23 prohibits all forms of persuasion and messaging about how to vote.</i> <i>This effectively bans advocacy, public campaigning, and communication of views on the referendum to others — not just harmful or misleading communication.</i> <i>International standards reflected in the International Covenant on Civil and Political Rights-</i> <i>Political expression and advocacy around a referendum are presumptively protected;</i>
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					▪ <i>Any limitations must be proportionate and non-discriminatory; and</i> ▪ <i>Laws must not impose blanket bans that criminalise ordinary civic communication (such as posters, symbols, or community outreach) before, during, and after a referendum.</i> <i>In short: best practice supports open, informed, and inclusive public debate, with only minimal and carefully justified restrictions. Broad prohibitions on referendum-related expression are inconsistent with democratic and human-rights standards.</i>
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Part 4 - Offences		Sub- sections 24(d), (e) Undue influence at or near polling station	24. (1) No person must, without lawful authority— (d) wait outside any polling station on polling day, except for the purpose of gaining entry to the polling station to cast his or her vote; (e) loiter in any street or public place within a radius of 200 meters of any polling station on polling day; or	Who gives this lawful authority? The section does not specify. There is no apparent rationale for this restriction on assembly and freedom of movement. This provision does not facilitate public interest in terms of accessibility . There must be adequate infrastructure, public utilities and disability access provided. Why the 200meters limit? What is the rationale to this? From Parliament 200m, - south is Thurston Garden, east is to the middle of Albert Park, north is to the Suva City library and the west is the Suva sea wall. In Tanzania, the High Court ruled that people must remain 200 meters from polling booths because of election violence. This provision is not written in response to election violence but rather, undue influence. This is a condescending	Section 24 be removed in its entirety. This section criminalizes the usual daily activities of people such as asking the identity of another, waiting for one another, standing and walking within a radius of 200meters. Given the cultural context, community centred and social fabric of Fiji, this section will not only be extremely difficult to enforce, it transforms innocent behaviours into arrestable offences. Rather than encourage people to vote in the referendum, this section 24 will probably deter and intimidate members of the public from approaching the polling station at all. ."
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				<i>view of the ability of the people.</i>	
Part 4 - Offences		Section 25 Unlawful assembly	25. Where it is shown that the common object of an assembly of 5 or more persons is to go about in a group on polling day in a manner calculated to cause intimidation, alarm or annoyance to any voter, such assembly is deemed to be an unlawful assembly.	<i>This is a restriction on the right to assembly. There is no apparent rationale for the number 5 as an assembly of less than 5 is just as capable of causing intimidation, alarm or annoyance. Furthermore, the words “intimidation” “annoyance” and “alarm” lack clarity, and are subjective. As expressed they are vague and do not have the precision required for criminal law. Also the phrase “calculated to cause intimidation, alarm or annoyance” refers to the mere possibility not the actual intimidation, alarm or annoyance. This Bill therefore declares an assembly unlawful prior to any actual intimidation, alarm or annoyance merely on a perceived manner and calculation of cause and effect.</i>	<i>This section should be removed.</i> <i>Restrictions on assembly must be narrow, necessary, and proportionate, consistent with the <u>International Covenant on Civil and Political Rights</u> .</i> <i>Key concern:</i> ▪ <i>Vague terms such as “annoyance” and low numerical thresholds risk over-broad application, potentially capturing peaceful, non-intimidating assemblies.</i> • <i>Best practice: Laws should target actual intimidation or interference with voting, not peaceful presence or expression, and include clear,</i>

					objective criteria to prevent arbitrary enforcement.
Part 4 - Offences		Section 26 Offence to operate a loudspeaker	26. (1) It is an offence for a person to operate any loudspeaker or other instrument for the production or reproduction of speech, sound or music in any street or public place or any premises adjoining any street or public place, so as to interfere with any referendum meeting or so as to cause annoyance to persons conducting or attending such meeting. (2) Any person who contravene	More clarity is needed in this section. No definition is provided for a “referendum meeting”, and no clarity is provided as to who “persons conducting or attending such meeting” are. “Sound” also needs to be defined”. This section lacks legal certainty, as common people would not be aware that their actions have interfered with a referendum meeting or annoyed those present, or that they have committed an offence in doing so. Sub-section 26(3) is arbitrary and subjective.	Restrictions on freedom of expression or freedom of association and assembly must be: prescribed by law, pursue a legitimate aim, and be necessary and proportionate to that aim. There is no noise threshold either by volume and duration. Simply bans the sound if it interferes or causes annoyance, which are subjective and vague. If a person holds a loudspeaker when does this cease to become a right to freedom of expression and constitutes interference or annoyance? This section does not specify. Also the phrase -any premises adjoining any street or public place – is infringing on rights to privacy, where residents can

			s this section commits an offence and is liable on conviction to a fine not exceeding \$1000 or to a term of imprisonment for one year. (3) Any police officer may arrest without warrant any person offending in his or her view against this section and take him or her before a Magistrate's court to be dealt with according to law.	<i>be criminalized for playing music or using a loudspeaker in their own home or property because someone at a nearby referendum meeting is annoyed or sees it as interference.</i> <i>Best practice suggests:</i> <i>Any limitation should clearly specify where, when, and why loudspeaker restrictions apply (e.g., during polling hours or within narrow buffer zones around polling stations);</i> <i>The restriction must avoid criminalising peaceful expressive activity that does not genuinely disrupt public order;</i> <i>Language like "cause annoyance" is vague and risks sweeping in normal political expression or community communication.</i> <i>Consider re-write of sub-section 26(3) to avoid creating arbitrary arresting powers. We propose</i>
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					<i>the following as a guide to the re-writing of this section 26 (3):</i> <i>(3) Where a police officer believes on reasonable grounds that a person is committing an offence against this section, the officer shall first direct the person to cease the conduct and activity. If the person fails to comply with the officer's directive, the officer may arrest the person without warrant only if the officer reasonably believes arrest is necessary to prevent the continuation of the offence.</i>
Part 4 - Offences		Section 27 Restriction on referendum activity	27. (1) Any person— (a) under the age of 18 years; or (b) who ceases to be a registered voter in accordance with section 55 of the Constitution, must not take part in any activity	The two categories of people listed here - adults and children - should be separated. Also <i>this section penalizes the child or minor and the adult equally in the offence section which is a violation of the principle of juvenile justice and the best interests of the child. Fiji as a State Party to the Convention on the Rights of the Child is obliged to protect minors as a</i>	This section should be re-written <i>Best practice clearly distinguishes between voting and participation. Children do not vote in a referendum, but they must not be excluded from civic education, discussion, or expression related to the referendum.</i>

		connected with a referendum . (2) Any person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$1000 or to a term of imprisonment not exceeding one year.	<i>priority. Treating them as adult criminals is a severe violation of these principles.</i> <i>Exceptions should be given for children to attend voting with their parents. If children are not permitted to take part in “any activity” connected with a referendum, and are required to wait 200 meters away while their parents vote, this raises concerns for child safety, particularly where Fiji has seen a recent increase in cases of human trafficking.</i> <i>a. There needs to be clarity regarding the word “ceases” and whether this means those who are no longer registered, or who have never been registered, or both.</i> <i>“Any activity” is too broad and may lead to a violation of freedom of expression. If you are not a registered voter, you would be prohibited from even talking about the referendum</i>	Consider separating 27(1)(a) and (1)(b) into separate sub-sections. <i>We propose the following changes as a guide:</i> <i>Section 27.</i> <i>(1) Restriction on Voting: No person shall cast a ballot or attempt to vote in the referendum unless he or she is 18 years of age or older on the day of the referendum and is a registered voter in accordance with the laws of Fiji.</i> <i>(2) Administrative Remedy for Minors: Where a person under the age of 18 years attempts to cast a ballot, the presiding officer shall refuse the ballot and record the instance. No criminal proceedings shall be brought against a person under the age of 18 for a contravention of this section.</i> <i>(3) Offence for Ineligible Adults: Any person who, knowing they are not a registered voter, intentionally casts or attempts to cast a ballot, commits an offence and is liable on conviction to a</i>
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				<i>under this provision.</i>	<i>fine not exceeding \$1000 or to a term of imprisonment not exceeding one year.</i>
Part 5 - Miscellaneous		Section 30 Publication of notice, etc	30. (1) Where a notice is required by this Act to be published, a person must exhibit copies of the notice in a conspicuous place or take such other steps as he or she may deem necessary for public display of the notice. (2) Any person who, without lawful authority, destroys, mutilates, defaces or removes any notice which is exhibited by any authority under the	<i>The penalty provided should include a term of imprisonment where one cannot pay the fine, in line with the Minor Offences Act section 11.</i>	<i>We propose the following changes as a guide:</i> <i>(2) Any person who, without lawful authority, destroys, mutilates, defaces or removes any notice which is exhibited by any authority under the provisions of subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$50 or to imprisonment for a term not exceeding 3 months or to both such fine and imprisonment.</i>

			provisions of subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$50.		
Part 5 - Miscellaneous		Section 31 Use of school as polling station	31. (1) The Supervisor may use, free of charge, as a polling station, any school or portion thereof, for the purposes of any referendum . (2) The Supervisor must make good any damage done to, and defray any expense incurred by the persons having control over, any such school or portion as a result of being used	<i>As schools are a public asset, they must be adequately compensated for damage. If the Supervisor does not “make good”, there is no compensation.</i>	<i>Recommended to provide schools with a security bond which is refundable if upon inspection there is no damage to the school. Alternative; user fee</i>

			as a polling station.		
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Overall Human Rights Assessment

While the Bill establishes a procedural framework for conducting a national referendum, several core provisions—particularly those restricting expression, persuasion, and civic engagement—are inconsistent with constitutional guarantees and international human rights standards. A referendum cannot be genuinely democratic if public debate is curtailed rather than facilitated.

Recommendations

- 1. Insert an Explicit Human Rights Compliance Clause:** Parliament should amend the Bill to expressly require that all aspects of a national referendum be conducted in full compliance with the Constitution of the Republic of Fiji and Fiji’s international human rights obligations, including the rights to freedom of expression, association, peaceful assembly, equality, and participation in public affairs.
- 2. Remove Blanket Prohibitions on Canvassing and Persuasion:** Clauses imposing broad prohibitions on canvassing, persuasion, symbols, and messaging should be repealed or substantially amended. Any restrictions on political expression should be narrowly tailored, strictly necessary, proportionate, and limited to a short “quiet period” immediately before polling day and to the immediate vicinity of polling stations.
- 3. Protect Civic Education and Public Debate:** The Bill should explicitly exempt civic education, media reporting, academic discussion, civil-society advocacy, and public interest dialogue from offence provisions.
- 4. Adapt Electoral Procedures to the Nature of Referenda:** Provisions importing procedures from the Electoral Act should be reviewed and adapted to reflect the deliberative nature of referenda. The regulatory framework should facilitate informed debate and public deliberation rather than impose election-style controls designed for candidate competition.
- 5. Strengthen Equality and Accessibility Safeguards:** The Bill should impose positive obligations to ensure equal and effective participation for persons with disabilities, rural and maritime communities, linguistic minorities, older persons, and other marginalised groups. This should include accessible voting materials, inclusive civic education, and adequate logistical and infrastructural support.
- 6. Ensure Integrity and Consistency of Public Information:** Parliament should introduce mechanisms to ensure that information disseminated prior to and during a referendum is accurate, consistent, and verifiable. Independent oversight of public information initiatives should be provided to safeguard against misinformation and selective or skewed messaging.

7. **Narrow and Clarify Offence Provisions:** Offence provisions relating to assembly, presence near polling stations, and referendum-related conduct should be narrowly defined with clear thresholds. This is necessary to prevent arbitrary or selective enforcement and to ensure compliance with principles of legality and proportionality.
8. **Align the Bill with International and Comparative Best Practice:** Parliament should review and amend the Bill to ensure alignment with international human rights standards and comparative democratic practice, which recognise that referenda require robust public debate and informed participation rather than broad restrictions on expression.

Overall Recommendation

The Fiji Human Rights and Anti-Discrimination Commission supports the holding of a national referendum in principle. However, the National Referendum Bill 2025 must be amended to ensure that the referendum process is genuinely participatory, inclusive, rights-respecting, and democratically legitimate.

THE ELECTORAL COMMISSION

REPUBLIC OF FIJI

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06 March 2026

By email

Hon Rakuita Vakalalabure
The Chairperson
Parliamentary Standing Committee on Justice, Law & Human Rights
Suva

Dear Hon Vakalalabure

**Joint Submission by the Electoral Commission and the Fijian Elections
Office (FEO)**

Bula Vinaka and Greetings from the Electoral Commission (**EC**).

Reference is made to the National Referendum Bill 2025 (No. 46 of 2025) (**Bill**) and the deadline for written submissions which closes today. The EC and the FEO hereby submit a joint written submission which has been prepared collectively, and we attach the same to this letter.

We regret to inform you that we were unable to attend the consultation in person due to prior work commitments. However, we will be happy to respond to any questions pertaining to our joint submission.

Yours sincerely



Justice Usaia Ratuville

The Chairperson of the Electoral Commission

cc: The Minister Responsible for Elections, Suvavou House, Suva.

Joint Submissions from the Electoral Commission, Republic of Fiji and the Fijian Elections Office on the National Referendum Bill (No. 46 of 2025)

I Introduction

The Chair and Hon. Members of the Standing Committee on Justice, Law and Human Rights, as the Election Management Body for the Republic of Fiji, it is our privilege to present our submissions on the National Referendum Bill (No. 46 of 2025). Fiji has never in its history conducted a referendum, and under section 160 (3) of the Constitution, the Electoral Commission is required to conduct a referendum after the Constitutional Amendment Bill has successfully been passed in Parliament. Section 160 (4) then mandates that such a referendum shall be conducted in “such a manner as prescribed in a written law.”

Our submission will be in two parts, firstly a general overview of the Bill and a comparative analysis of general principles relating to referendums and a paper review of jurisdictions in the region which have specific legislation on holding referendums.

The second part is a more detailed critique of the Bill identifying the particular sections that require further consideration or amendment and our recommended changes. Our review of the National Referendum Bill (No.46 of 2025) (“**Bill**”) has been undertaken alongside a modest amount of research into referendum legislation for other jurisdictions, in particular Australia, New Zealand, Nauru and Vanuatu. Australia has held 45 national referenda under the *Referendum (Machinery Provisions) Act 1984* and New Zealand has conducted 21 national referenda under the *Referendums Framework Act 2019*. It is useful to be guided by these legislative frameworks where appropriate to Fiji’s circumstances, particularly in light of this being the country’s first referendum.

- *Meaning and scope of referendum?*

The referendum is a democratic process that gives voters a direct right to vote on specific constitutional, legislative or public policy issues. In Australia, the term “referendum” is applied only in the context of a proposed constitutional amendment Bill. The term “plebiscite” is used in cases where direct votes are sought on non-constitutional, public policy matters. This would seem to be an appropriate distinction to consider for Fiji (and in this Bill) since the term “referendum” is only used in the Constitution of the Republic of Fiji, 2013 (“**Constitution**”) to refer to the process that must be followed to achieve constitutional change.

Constitutional authority and direction for a referendum can be found in section 160 of the Constitution which provides that, in the event Parliament passes a Bill to amend the Constitution, the Speaker notifies the President who then refers that Bill to the

Electoral Commission ("**Commission**") to hold a referendum. Section 160(4) states that the referendum is to be conducted by the Commission "in such manner as prescribed by written law."

The only other mention of the term "referendum" arises in the context of political rights. Specifically, section 23(3)(b) of the Constitution provides that every citizen of 18 years or more has the right to vote by secret ballot in any election or referendum held under the Constitution.

One of the major shortcomings of the Referendum Bill is the lack of a coherent and cohesive regulatory framework necessary to satisfy section 160 of the Constitution. In order to remedy this defect and to achieve greater clarity - in particular to provide more comprehensive direction on "the manner" in which a constitutional referendum must be conducted - we recommend that: the parameters of the Bill be narrowed to focus solely on the conduct of a constitutional amendment referendum under section 160.

A narrower focus would also make sense given the urgent timeframe for this legislation. It would not preclude the possibility of legislating for more generic referenda (plebiscites) in the future when the issue can be more thoroughly discussed.

- *Referendum in the context of a democracy*

The citizens and voters of Fiji have endured many political upheavals over the past 40 years. These upheavals have resulted in the denial of democratic freedoms and human rights violations including the right to freedom of expression and assembly. It is therefore disappointing that some of the provisions in the Bill echo an earlier undemocratic period and even reproduce outdated and discredited legislative provisions from authoritarian jurisdictions like Singapore.

This has been a target of criticism by the discerning Fiji public, rightly concerned to ensure that voters, civil society, political parties and other stakeholders are given ample democratic space and opportunity to discuss, debate, and advocate on matters relating to a referendum. There is no good reason why Fiji should be guided by the draconian example of Singapore's *National Referendum Ordinance, 1961* given the principles of democracy, human rights, and good governance embedded in our Constitution, and the free and fair elections which the Commission is constitutionally mandated to conduct.

It is crucial that Fiji's first constitutional referendum, and indeed any others in the future, are conducted in "a manner" consistent with the Constitution and that they respect the full political rights of voters in a democracy.

- *Electoral (including referenda) management bodies ("**EMBs**")*

The Commission is the independent constitutional body established to oversee the integrity of the electoral process. The legal existence and authority of the Commission are derived primarily from section 75 of the Constitution, which

establishes the Commission as an independent, non-partisan entity with overarching responsibility for the conduct of free and fair elections.

Section 76 of the Constitution recognises continuation of the Office of the Supervisor of Elections. The Supervisor acts under the supervision of the Elections Commission and is tasked with administering the registration of voters and conducting elections in Fiji as well as the other duties set out at section 76 (2) of the Constitution.

For the Commission to conduct a referendum that is free and fair, and that reflects the true views of the registered voters, it is essential that it be provided with a legal framework that is clear and unambiguous, and that sets out in detail the referendum process. Unfortunately, neither the Commission nor the Supervisor/FEO was consulted in the drafting of the Bill.

II General comments

There are a number of key components of referendum legislation that are either missing or inadequately dealt with in the Bill. We highlight some of the more serious gaps both in this section and in our clause by clause examination of the Bill below. They include: the decision that a referendum will be conducted pursuant to section 160 of the Constitution; the referendum question(s); the process for formulating and distributing (publicizing) the referendum question(s); instructions to voters on how to exercise their choice (Yes or No answers to question(s)); the form of ballot papers; the voting system and counting process; voter education; and the writ for the referendum.

(a) Referendum Questions

It is necessary to identify the question(s) as well as who is responsible for drafting the questions. To achieve a reliable result, the wording must be clear-cut and be capable of only one interpretation. It should not be vague, and must be easily understood by voters. Additionally, the questions should not be phrased in such a way as to achieve a predetermined outcome, as this would undermine the legitimacy of the referendum. Expert advice on the drafting of questions could be obtained to achieve the objectives of clarity, comprehensibility, and neutrality. There are options too through examining the New Zealand and Australian models. New Zealand – A neutral body (e.g. Clerk of the House) determines the wording. Australia – The question is taken directly from the long title of the Bill passed by the Parliament.

(b) Type of Voting System

The voting system should align with the manner of posing the question or questions for the referendum, for example:

- a binary referendum with a simple yes/no or A/B answer could use first past the post voting system, whereas

- where a variety of options are offered for the referendum, a preferential voting system might be used (requiring voters to rank the options).

The voting system is important because it will determine how well the result reflects the “true will of the people”. It will also influence the ballot paper design, and the counting procedure to be followed for determining the results.

(c) Ballot Paper Design

The layout of the ballot paper must be prescribed in the legislation as it is a fundamental component of electoral integrity and ought not to be left to the discretion of EMBs. Voters must be able to understand and easily mark their ballot paper in a valid manner, so the design of both the question(s) and the ballot paper are important. In turn, the ease of casting a valid vote will help ensure that the count is accurate.

(d) Writ for Referendum:

Conspicuously absent from the Bill are details of the writ. This is an important legal document to initiate the process of holding the referendum as it strictly specifies the referendum timeline. It should ideally include the day for the close of the National Register of Voters (“**Register**”), the date and time of poll, and the period for the Return of Writ. The Bill as it currently stands only provides that the Supervisor shall issue a statement, which shall also be published in the Gazette after the referendum results have been announced.

This section appears to contradict the express provisions of section 160 (5) of the Constitution, which directs the Commission to inform the President of the outcome of the referendum and publish the outcome of the referendum in the media.

(e) Voter Education:

There is no mention of voter education. This is a worrying omission given the importance of equipping voters with information that will enable them to make informed choices and instill voter confidence to turn up on polling day. In Australia, the arguments for and against the proposed constitutional amendment (s) are drawn up as part of the parliamentary process. They are subject to rules for example with regard to the maximum number of words.

While education on the substance of the referendum can be provided by Parliament or a Parliament nominated agency (with responsibility for the subject matter of the referendum), there should be ample opportunity for community groups and other subject matter experts to engage in public discussions and debate. It is usual for education on the mechanics of voting in the referendum (the how, where, and when to vote, etc.) to be provided by the EMBs.

(f) Campaign Regulation

Consideration should be given to providing a framework to regulate campaigns, including campaign income and expenditure. Unfortunately, the Bill focuses on stifling public engagement and debate. We urge Government to abandon its heavy handed regulatory framework and ensures legitimate space is available for open and vigorous debate so that registered voters have enough information on the substance of the referendum to make informed decisions. A level playing field between those campaigning in favour and those opposing the referendum proposal should also be provided. The Electoral Act, 2014 ("**Act**") only addresses campaigns initiated by political parties or candidates for the General Election and tailored to that activity.

(g) Counting of Votes and Declaration of Results:

The procedures for counting and declaring results provide operational transparency. In turn, this lays the foundation for public trust in the conduct of the referendum, and legitimacy of the results. It is therefore crucial that the legislation clearly outlines the process of counting the ballot papers and publicizing the results. These will vary according to the voting process (see above).

(h) Disputed Returns:

The Bill contains no procedure for a petition to dispute the validity of a referendum. This should be corrected and include details of the persons permitted to file a referendum petition, the orders the Court may make in relation to a petition, and the outcomes if a petition succeeds.

The Act only addresses electoral petitions disputing the validity of the election of a candidate, and the orders the Court may make predominantly pertain to the validity of a candidate's election to Parliament.

(i) Binding or non-binding referenda:

It is essential to set out that the outcome of a validly conducted constitutional referendum is binding on the Government.

III Comments on specific clauses

As mentioned above, we propose that the scope of the Bill be narrowed to focus exclusively on a constitutional referendum as required under section 160 of the Constitution. Our comments below therefore focus on those clauses that require clarification or revision with respect to a constitutional referendum.

PART 1 – PRELIMINARY

Clause 2: Interpretation

There is no reference to the Constitution in the definition of "referendum". This should be corrected since the legislative framework for a referendum derives its authority from the Constitution, with section 160 specifically directing how and when a

referendum must be conducted as part of the parliamentary procedure for the amendment of the Constitution.

Recommendation:

Amend the definition of “referendum” to replace the current text with: “means a direct vote by registered voters in accordance with section 160 of the Constitution and the decision of the Supreme Court of Fiji [delivered on the 25th of August 2025 as it affects the interpretation of section 160(6)].

PART 2 - REFERENDUM

Clause 5: Circumstances in which a referendum may be held

Clause 5 deals with the circumstances in which a constitutional referendum and a general non-constitutional referendum (plebiscite) take place. As noted above, we believe that the legislative scope of this Bill should be limited to the conduct of a constitutional referendum.

Clause 5(1) (a) refers to a Bill which has passed through Parliament in accordance with section 160 of the Constitution but omits any reference to the Supreme Court advice on the interpretation of this provision.

Clause 5 (2)

There is lack of clarity with this sub-clause. In particular, it lacks clarity about the circumstances in which “a referral” is made by the President to the Electoral Commission; and there is no mention of a writ which is the formal instrument required to commence an electoral process in Fiji. It is imperative that the writ process be clearly stipulated in the Bill.

Recommendations:

- (i) Remove clause 5(1) (b).
- (ii) Amend clause 5(1)(a) to include reference to the Supreme Court decision.
- (iii) Amend Clause 5 (2) to insert after the words “conduct a referendum” the following words – “for all registered voters in Fiji to vote on the Bill”.
- (iv) Create two new provisions to deal with
 - the issue of a writ by the President to authorize the Commission to conduct a referendum on the constitutional amendment Bill once it has been passed by Parliament, as notified by the Speaker;
 - the form of the writ including essential referendum timelines for the close of the Register of Voters, the date and time of polling, and the date for the return of the writ. In Australia, section 8 of the *Referendum (Machinery Provisions) Act 1984* also provides for

a copy of the proposed constitution amendment Bill to be attached to the writ. Alternatively, a statement of the text of the proposed law, the text of the constitution provisions to be altered by the proposed law, and the alteration text, can be attached to the writ, as appropriate.

Clause 7: Single vote

Clause 7 (1) provides that a person is entitled to vote only once in a referendum. There is no mention of voting by secret ballot. Section 23(3)(b) of the Constitution expressly recognizes the right of every citizen aged 18 years and above to vote by secret ballot in a referendum.

Clause 7 (2) establishes that it is an offence to vote more than once. However, there is no corresponding penalty.

Recommendation:

Amend clause 7(1) to insert the words "by secret ballot"; or establish the right to vote by secret ballot in a separate sub-clause. Either would require changing the heading of clause 7 to "Single vote by secret ballot".

PART 3 – CONDUCT OF REFERENDUM

Clause 9: Application of existing electoral and voting Procedure

A number of issues arise here.

First, clause 9(1) is not consistent with section 160(4) of the Constitution which places responsibility for conducting the referendum with the Commission, not the Supervisor.

Second, clause 9 emphasizes the adoption of existing electoral and voting procedures under the Act, and applies the Act *mutatis mutandis* for the conduct of a referendum.

Portions of the Act could apply *mutatis mutandis* for example to the functions, duties and powers of the EMBs, and the operational provisions for the conduct of elections such as appointment of electoral officials, designation of polling venues and security of ballot papers.

However, there are inherent differences between elections (involving candidates and parties vying for political office) and referenda (where voters are being asked directly for their view on an issue of public importance) and this makes the general application of the Act *mutatis mutandis* inappropriate and confusing. This is especially the case because the Bill provides no directions on how any adaptations of the Act are to be made and who will make them. It also contains provisions that conflict with similar provisions in the Act, for example the prescribed notice periods for polling stations (clause 11) and the offence provisions such as bribery and undue influence (clauses 19 & 20).

Of greater concern is that the application of the *mutatis mutandis* rule subjects the referendum process to the overregulation (including excessive penalties) typical of the widely criticized Act. While the Bill contains some offences, many more exist in the Act. The Courts apply a very strict interpretation to penal provisions and may be reluctant to apply a *mutatis mutandis* approach to the offences in the Act, especially as the Bill prescribes some offences that resemble those offences.

Recommendations:

(i) Remove subsections (1) and (2) and replace with a provision that clearly establishes the respective roles, responsibilities and relationship between the Commission, the Supervisor/FEO in accordance with section 75, 76, and 160 of the Constitution.

(ii) Instead of a general direction to apply the Act *mutatis mutandis*, make specific references to relevant sections of the Act when appropriate to do so e.g. the functions, duties and powers of the EMBs (clause 9), and the operational provisions for the conduct of elections such as appointment of electoral officials (clause 13), designation of polling venues (clause 11) and security of ballot papers. This will remove the inconsistencies and help to make the Bill more succinct.

Clause 10: Polling venues, polling stations and symbols

Clause 10 (1) requires the adoption of the existing polling venues identified under the Act. However the Act provides discretion to change the venues in certain circumstances, and it is unclear whether that discretion is available for the referendum. This ambiguity should be removed.

Clause 10 (3) gives the Supervisor discretion to adopt symbols as he/she thinks fit. It also stipulates that the symbols must be printed on the ballot paper. These provisions are out of place both in respect of the powers granted to the Supervisor and the inclusion of matters relating to the ballot paper in a provision dealing with polling stations and venues. It is the usual practice for ballot paper design to be established by legislation.

Recommendations:

- (i) Amend clause 10 (1) and (2) to apply the provisions of the Act that deal with polling venues and stations *mutatis mutandis* instead of current draft text.
- (ii) Delete clause 10(3) and deal with the form of a ballot paper under clause 16.

Clause 11: Notification of polling stations and symbols

Clause 11 deals with the publication of polling stations, symbols on ballot papers, and the referendum questions. It is inappropriate for the Supervisor (or indeed the Commission) to be involved in the design of the referendum questions or the ballot papers.

As noted above, the prescribed notice period for polling stations (5 days) under clause 11 conflicts with the Act. This notice period is insufficient for an "informed vote". Best practice (e.g., Australia) provides months of notice for public scrutiny

Recommendation:

- (i) Amend clause 11(1) to apply the provisions of the Act that deal with the notification requirements for polling stations *mutatis mutandis* instead of current draft text.

Clause 14: Facilities to be provided at polling stations

It is unclear what "facilities" the Supervisor must provide, and even more unclear how such "facilities" could be distributed to voters.

Importantly, there is no mention of accessible facilities and procedures for voters with disabilities (e.g. wheelchair accessible polling stations, venues and booths, personal assistants of choice, more convenient voting options) or alternative formats for notices and other materials (such as ballot papers in Braille; and voter education materials and polling venue notices in large print, audio, and Braille). Such accommodations to the extent possible, are necessary to facilitate the right of persons with disabilities to effectively and fully participate in a referendum on an equal basis with others, pursuant to section 47 of the *Rights of Persons with Disabilities Act 2018*.

The term "direction" in sub-clause (2) is ambiguous – it is not clear whether this means directions regarding queues etc. at the polling station, or directions on how to complete the ballot paper. This needs to be clarified.

Recommendations:

- (i) Provide clarifications to address the textual ambiguities noted above;
- (ii) Insert an additional sub-clause to instruct the Supervisor to ensure that all facilities, procedures, and materials including ballot papers are fully accessible for voters with disabilities to the extent practicable.
- (iii) Amend sub-clause (2) to require that notices outside each polling station are in Braille to the extent possible, as well as English, iTaukei and Hindi.

Clause 15: Admittance to polling station

This clause is overly prescriptive and some of its provisions conflict with the Act where it deals with this matter.

Sub-clause (3) references clause 11(1). However clause 11(1) deals with notices of polling stations (i.e., their location etc.) and does not address the notice of poll (which generally relates to polling times). No clause in the Bill provides for such notice of poll.

There is also no indication of what constitutes misconduct under sub-clause (5), and the offence does not have a corresponding penalty.

Recommendations:

- (i) Redraft to provide a simplified and leaner provision aimed at facilitating rather than restricting the polling process;
- (ii) Remove sub-clauses (5) & (6);
- (iii) Draft a separate provision for the notice of poll.

Clause 16: Poll by ballot and ballot papers

The design of the ballot paper and the framing of referendum questions are critical aspects of the referendum process, and the objective in respect of both exercises should be to ensure clarity, intelligibility, and accessibility for voters.

Clause 16 is silent on ballot paper design and content issues but there are a few provisions in the Bill (noted above) where the Supervisor is given some discretion. This is not appropriate. As in other jurisdictions, legislation should specify the way in which referendum questions are presented and the ballot paper formatted. In respect of the ballot papers, this would be consistent with the process followed in Fiji's parliamentary elections, where the form is prescribed in the Schedule to the Act.

Sub-clause (2) is overly prescriptive by requiring the serial number to be produced on the back and the face of the ballot paper. The back of the paper is generally reserved for administrative purposes to avoid any marks on the face of the ballot paper. Moreover, the EMBs have not yet had an opportunity to ascertain whether print providers in Fiji are able to include serial numbers on ballot papers and, if so, where they would be able to locate the serial numbers. It is anticipated that such a question could be answered by the time a revised or replacement Bill is provided for public consultation.

Recommendations:

- (i) Amend to create two separate provisions –
 - the *Manner of Voting* which outlines that voting in a referendum is by ballot and each voter must indicate his or her vote by either writing the word "Yes" in the box/space if

the voter agrees with the Bill; or the word "No" if the voter disagrees. For example, see section 24 of Australia's *Referendum (Machinery Provisions) Act 1984*; and

- the *Form of the Ballot* which can simply stipulate that the referendum ballot paper must be in the form found in a Schedule to the Act. For example, see Nauru *Referendum Procedures Act 2025* (section 13). Australia also specifies a buff background for the ballot papers in the Act (s.25).
- (ii) Delete sub-clause (2) and consider alternative official marks to authenticate each ballot paper. In Australia, one of two options are permitted under section 25A of the *Referendum (Machinery Provisions) Act 1984*: a water mark or a feature approved by the Electoral Commission. In addition, there is a requirement for each ballot paper to be initialed by a presiding officer before handing it over to the voter (s.26). Presiding officers must keep a record of the ballot papers they initial.

Clause 17: Statement of referendum

Clause 17 gives the Supervisor responsibility for declaring the result of the election, compiling a "statement" of the referendum, and publishing the statement in the Gazette. This conflicts with section 160 of the Constitution which mandates the Commission to conduct the referendum, notify the President of the outcome of the referendum, and publish the outcome in the media. The process for the return of the writ for the referendum is also not dealt with here.

Recommendation:

Remove clause 17 and replace with directions to the Commission to notify the President of the result of the referendum and publicise the result in the media.

PART 4 -OFFENCES

It is sobering to note that in at least two neighboring jurisdictions (Nauru and Australia), there are no offences included in their Referendum legislation save a nominal penalty (\$100/\$20) for failing to vote. By contrast, there is an abundance of offences and penalties (including custodial sentences) that fill the space of more than 3 pages of this Bill. This is inconsistent with the spirit of a referendum in a democracy and it runs the risk of discouraging public participation and turnout. This is a serious concern especially as the legitimacy of the referendum

outcome relies more heavily on voter turnout now that the threshold for constitutional change has been lowered to just a simple majority of the votes cast on referendum day.

General recommendation:

Government is urged to consider removing the offences provisions and controls on public participation. There is already ample regulation of potential criminal conduct under the Act. If mandatory voting is contemplated, this would require a corresponding offence/penalty. The penalty should be nominal along the lines of other jurisdictions in the region.

Clause 18: Impersonation:

Clause 7 and Clause 18 are conflicting. The two provisions need to be clearly explained and aligned. Clause 7 captures voting more than once, but not attempting to vote more than once, and provides no penalty for the offence. Clause 18 only addresses the situation where a voter impersonates another person for their first vote, but not for any further attempt to vote or if the voter casts their first vote in their own name.

Neither clause 7 nor clause 18 indicate whether the votes should be counted or omitted from the count.

Clause 19: Undue Influence:

Clause 19 criminalises the act of compelling a voter to vote or refrain from voting. It does not address forcing or compelling people to vote in a certain way.

It is important that the Bill makes a distinction between: encouraging a person to vote one way or the other (persuasive advocacy) in response to the referendum question (lawful); and forcing a person to vote in a certain way by intimidation, threats etc (unlawful).

Clause 20: Bribery:

This provision needs to be clarified and there is no penalty for the offence. Similar to clause 19, it also needs to address using bribery to entice voters to vote in a certain way.

Clause 21: Employer to allow employee reasonable period for voting

We note that the penalty in clause 21 is half that of the penalties for all other offences prescribed in the Bill.

Clause 22: Badges, symbols, etc. prohibited

The framework for public information on a referendum appears to be extremely restrictive, and deviates sharply from accepted norms about the need for active

public participation and engagement. This clause allows only the Supervisor to produce or distribute any printed advertisements, posters, banners, handbills, placards or replicas of ballot paper in connection with any referendum either before, during or after a referendum. This is highly unusual for a referendum process. Such a blanket ban may well be challenged as not being within the allowable restrictions on freedom of expression defined in section 17 (2) and (3) of the Constitution.

The exclusive nature of the powers of the Supervisor in this clause also appears to conflict with section 160 (4) of the Constitution. Further, it would appear that the Commission would itself commit an offence if it were to engage in any of the listed activities in clause 2.

Clause 23: Prohibition of canvassing

This clause prohibits canvassing at voters' homes or places of work and attempting to influence any person to vote or not vote at a referendum. This would also prohibit the Commission and FEO from promoting voter participation. Section 75(2)(b) of the Constitution expressly vests in the Commission responsibility for "voter education" which would include canvassing activities aimed at encouraging and persuading voters to participate in a national referendum.

Additionally, the intent of the clause is not clear, as it prohibits canvassing regarding voting or not voting, but not regarding the subject matter of the referendum.

As indicated above, comprehensive voter education about the mechanics of the referendum, as well as the subject matter of the referendum, are essential for reasoned, informed public debate, high voter turnout, and voters equipped to make informed choices on the referendum question(s). Both the Commission and the FEO must be permitted to provide relevant information and guidance to voters and to perform their constitutional and statutory duties.

The clause should be narrowed to prohibit only coercion, bribery, or intimidation.

Clause 24: Undue influence at or near polling station

This clause allows only political parties represented in Parliament to have a small presence no less than 200 meters away from any polling station. The term "any registered political party" should replace the term "any political party represented in Parliament" for consistency with the definition of "political party" under section 163(1) of the Constitution.

Apart from this clause, it is not clear from the Bill that civil society groups or political parties (including political parties not represented in Parliament) have any right to advertise, educate and promote their views on what voters should consider when voting at a referendum. Provision should be made for this, in

explicitly allowing civil society groups and independent (local and international) observers. Transparency matches regional standards (e.g., Bougainville, Vanuatu) and ensures public trust

Clause 25: Unlawful assembly

The offence of unlawful assembly established in this clause does not have a corresponding penalty. It is arguably unnecessary as there is a similar offence in the Public Order Act, 1969.

Clause 26: Offence to operate loudspeaker

This is the first time that a referendum meeting has been mentioned in the Bill. A "referendum meeting" needs to be specifically provided for elsewhere and clearly defined, including the timeframe and purpose for such a meeting. This is an opportunity to expressly permit and encourage public engagement and debate, and advocacy for and against the subject of the referendum.

Clause 27: Restriction on referendum activity

The "activity connected with the referendum" must be clearly defined and must also identify whether it is applicable to certain groups only.

Prohibiting persons who are currently not eligible to vote from attending such an event undermines the efforts of the EMBs to educate prospective voters in advance of their voter registration, for example, the voter education programmes currently conducted in schools.

The clause as drafted will also prevent families (particularly women voters) from attending voter information sessions accompanied by their children, and others currently ineligible to vote under section 55 of the Constitution (e.g., those declared to be of "unsound mind"), so potentially discriminates against women and persons with psychosocial disabilities.

Referendum legislation should facilitate wide public participation in public information activities "connected with a referendum", irrespective of whether or not a person qualifies to vote in the referendum.

Clause 28: Regulations

While there is nothing ostensibly wrong with this clause, it should be noted that this cannot be treated as a "fix-all" provision. The Minister cannot by Regulation correct errors or inconsistencies, or fill gaps in the substance of the legislation. Amend to specify that regulations are for operational detail only.

Clause 30: Publication of notice

The Notice itself must reflect that it is an official notice published under the Referendum Act and that any removal, destruction, defacement etc. of such a notice incurs a fine of \$50.

Clause 31: Use of school as polling station

This clause intrudes on the rights associated with private ownership of school properties. The Bill must respect the rights of private schools and seek their consent and terms for the use of school property for the purposes of any referendum.

Clause 32: Expenses

This clause implies that the EMBs are to somehow conduct a referendum and then claim for the expenses incurred. The Bill needs to provide for the allocation of a budget prior to the conduct of the referendum.

IV Conclusion

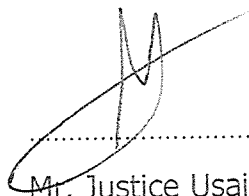
As can be seen from the above, there are some serious shortcomings in the Bill and it has not been tailored to the Fiji context, including the constitutional mandates of the Commission or the Supervisor.

We find the Bill in its current form to be highly unsatisfactory. It would be impossible for the Commission to conduct a referendum for the amendment of the Constitution in accordance with section 160. It is strongly recommended that the Government starts afresh on designing a suitable piece of legislation that will enable the Commission to fulfill its constitutional duty.

In this regard, we highlight the importance of seeking guidance from international good practices and model referendum legislation, and conducting consultations with referendum experts, and key stakeholders like the Commission and the Supervisor who, respectively, have oversight and operational duties for the conduct of a referendum.

This process should not be rushed but given adequate time and thorough consideration. Only in this way can the referendum be conducted in a manner that inspires public trust and confidence; the process be considered legitimate, free and fair; and the outcome accepted as a true reflection of the popular will of the people.

We are available for consultation on our views expressed here, and to provide any information and support should the Committee have any questions or requests.



.....
Mr. Justice Usaia Ratuville

Chairperson, Electoral Commission of Fiji



.....
Ms. Ana Mataciwa

Supervisor of Elections



MINISTRY OF JUSTICE

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28 September 2026

By email

Hon Rakuita Vakalalabure
The Chairperson
Parliamentary Standing Committee on Justice, Law & Human Rights
Suva

Dear Hon Vakalalabure

Additional Submission (28.9.26) on the National Referendum Bill 2025 (Bill No. 46 of 2025)

Bula Vinaka and Greetings from the Ministry of Justice.

We received the revised Bill on 27 September 2026 which incorporated the proposed amendments sent on 26 September 2026. The revised Bill has been reviewed by the Electoral Commission (**EC**) and the Supervisor of Elections and they have submitted the following comments:

1. **Reply to comment Sect 20:** The recommendation by EC is that the majority be included for the President's guidance, but it is not essential (for a constitutional referendum there is the Supreme Court opinion, the other referenda are non-binding so a majority is not required for it).
2. **Reply to comment Sect 21:** On the capitalisation of Rules, the EC requested this because "Rules" is defined in the Electoral Act and is not the same as "rules" used elsewhere. The comment reflects drafting conventions; however, they don't remove the capitals from "Act", "Constitution" or Fiji, including where they had "Fiji" in the header of a now deleted provision.

Further, we request for the following to be considered as new drafting instructions:

3. On the contents page – for clause 21, after "Regulations" insert "and Rules".
4. Clause 10(2)(b) – Delete ", for taking the votes" and substitute with "polling";
5. Clause 15 – Replace "where the voting for" with "Where the day fixed for voting at".
6. Insert after clause 15 "(1)" and the following subclause (2):

(2) Despite anything in this Act or the Electoral Act 2014, including regulations made under those Acts, where the day fixed for voting at a referendum is not the same as the day fixed for polling at an election:

(a) the Electoral Commission may determine that all campaigning (including all regulated campaign-related activities such as the conduct of opinion polls, public forums and meetings, interviews, panel discussions, debates, and the publishing of information) pertaining to the later of those 2 events is suspended during all or part of the campaign period for the earlier event;

(b) any person who contravenes the suspension under subsection (2)(a) commits an illegal electoral practice; and

(c) this subsection does not apply to the Electoral Commission or the Supervisor.

7. Clause 17 – there should be “,” after “in accordance with”.
8. Clause 21(1)(c) – recommend deleting “advocacy”, so it just refers to campaigning and campaign finance.
9. In the Schedule, after the words “Yes or No” delete the words “inside the box” and also delete the illustrated boxes.

Additionally, we note that while clause 14 provides for the Secretary General to Parliament to publish information for the public pertaining to a constitutional referendum, there is no corresponding provision for such information for the public in relation to a non-constitutional referendum.

In view of the urgency surrounding the tabling of this Bill, we have marked up the attached Bill using track changes to reflect the proposed amendments. For ease of reference, the submissions and recommendations contained in this letter have been highlighted in green and are respectfully commended to the Committee for its consideration.

Furthermore we note that the Explanatory Notes are still referring to deleted matters and not capturing all the new content, it is our instruction that the drafters will amend and update the explanatory notes to accurately reflect the changes in the Bill.

We thank the Committee for its indulgence, and we anticipate receiving the revised version of the Bill before its tabled in Parliament this week.

Yours sincerely



.....
MS Selina Kuruleca

The Permanent Secretary, Ministry of Justice

cc:

1. Deputy Prime Minister, Hon Manoa Kamikamica.
2. Minister Responsible for Elections, Suvavou House, Suva.
3. Chairperson of the Electoral Commission.

4. *Supervisor of Elections.*
5. *Solicitor General.*



**SEEP'S WRITTEN SUBMISSION TO THE PARLIAMENTARY
STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS
ON THE NATIONAL REFERENDUM BILL 2025 (BILL NO. 46 OF
2025)**

About SEEP

The Social Empowerment Education Programme (SEEP) is a local non-governmental organization established on the foundational principles of social justice and community empowerment. The organization envisions a Fiji that is just, inclusive, and peaceful, where all citizens have equal opportunities to thrive and contribute meaningfully to national development. This vision reflects a deep commitment to creating a society that upholds the dignity and rights of every individual, regardless of their background or circumstances.

In pursuit of this vision, SEEP has articulated two primary goals that guide its strategic direction and programmatic interventions:

- The first goal focuses on ensuring that marginalized people and communities, with a particular emphasis on women and youth, develop the capacity to make informed decisions and take appropriate actions that will result in them reaping a fruitful and sustainable future.
- The second goal addresses the broader national context, aiming for Fiji to adopt and implement genuine, sustainable, people-centered policies and practices across all sectors of governance and development, recognizing that individual empowerment must be supported by an enabling policy environment.

These organizational goals are operationalized through a set of core principles that inform every aspect of SEEP's work, including being people-centered, amplifying community voice, adopting a rights-based approach, and committing to equality. The organization embraces a strengths-based perspective that builds upon existing community capacities while remaining deeply rooted in Fijian cultural contexts and values. Through integrated practices of democracy, solidarity, and coalition-building with civil society, government agencies, and community groups, SEEP ensures its work remains grounded, accountable, and effective in advancing its vision of a just and inclusive Fiji.

Contact Person

Name: Ms. Chantelle Khan.

Position: Executive Director, SEEP.

Address: 61 Richard Road, Domain, Nasese.

1.0. Introduction

The Social Empowerment Education Program (SEEP) extends its sincere gratitude to the Parliamentary Standing Committee on Justice, Law and Human Rights for the opportunity to present this written submission on the National Referendum Bill 2025 (Bill No. 46 of 2025). As an organization guided by the principles of social justice, empowerment, equality, and people-centred democracy, we welcome the introduction of this Bill as a necessary step toward establishing a formal legal framework for consulting the people of Fiji on matters of national importance, particularly regarding amendments to our supreme law. Our vision is of a Fiji that is just, inclusive, and peaceful, where all citizens; especially marginalized groups such as women, youth, rural communities, and persons with disabilities, have equal opportunity to participate in shaping the nation's future.

This submission is therefore grounded in the 2013 Constitution of the Republic of Fiji, which guarantees:

- The sovereignty of the people and the supremacy of the Constitution in its Preamble and Sections 1 and 2,
- Affirms equality before the law and freedom from discrimination in Section 6, protects the rights to life, liberty, and
- Security in Sections 8 and 9, and enshrines the fundamental freedoms of speech, expression, assembly, association, and
- Political participation in Sections 17, 18, 19, and 23.

We believe that any legislation governing referenda must be meticulously crafted to operate in harmony with these constitutional guarantees, and it is through this lens that we offer our analysis.

The National Referendum Bill 2025 represents a landmark legislative initiative, being Fiji's first attempt to create a comprehensive legal framework for conducting referendums since the promulgation of the 2013 Constitution.¹ The Bill was tabled in Parliament in December 2025 and has been referred to this Standing Committee for review, with the requirement to report back to Parliament in 2026 before a final debate and vote.² This legislative effort follows a landmark Supreme Court advisory opinion issued in August 2025, which affirmed the lawfulness of the 2013 Constitution while narrowing the supermajority requirements for constitutional amendment, ruling that any constitutional amendment must receive a two-thirds majority in Parliament and a simple majority of votes cast in a national referendum. The Supreme Court notably acknowledged that the 2013 Constitution "was imposed on the people,

¹ Lativerata, L (2025). Fiji Parliament Refers Landmark Referendum Bill to Committee, Concludes 2025 Session. maitv. [Fiji Parliament Refers Landmark Referendum Bill to Committee, Concludes 2025 Session - Mai Tv](#).

² Waqairadovu, E (2025). Parliament clears referendum paths. FBC News. [Parliament clears referendum path – FBC News](#).

not chosen by them," creating a "democratic deficit," and that its amendment provisions effectively disempowered the people from effecting democratic change.³

In principle, SEEP strongly supports the codification of a referendum process, as it promotes certainty, transparency, and the rule of law in what should be the ultimate act of democratic participation. We acknowledge several positive elements within the Bill, including the establishment of a clear legal framework that prevents future constitutional votes from being conducted on an ad hoc basis, the designation of the Supervisor of Elections as an independent authority to oversee the process, and provisions ensuring that polling day is declared a public holiday with accessible polling stations and protections against impersonation, bribery, and undue influence.⁴ Furthermore, we appreciate that the Government has subjected this Bill to review by this Standing Committee, inviting scrutiny from the public, civil society, and legal experts, which signals an openness to refinement and improvement, with the Government itself acknowledging that submissions will enable the Standing Committee to recommend refinements ensuring the Bill reflects its intended purpose without inadvertently limiting constitutional freedoms.⁵

However, despite these procedural strengths, SEEP has identified specific provisions within the Bill that raise profound human rights concerns, and this submission will elaborate in detail on these issues in the body that follows. The analysis will examine the severe restrictions on freedom of expression contained in Clauses 22 and 23, which civil society organisations have warned could criminalise civic education, public awareness campaigns, academic commentary, and ordinary discussion between citizens.⁶ The submission will also address the Bill's failure to mandate balanced voter information, the insufficient notice period for the referendum question, and the broader implications for democratic governance in Fiji, drawing on constitutional provisions, international standards including the Venice Commission's Code of Good Practice on Referendums, and the submissions of other civil society organisations that have engaged with this Committee.⁷⁸ Through this detailed analysis, SEEP aims to demonstrate that while the Bill anticipates the need for administrative order, it fundamentally fails to anticipate the need for democratic participation, public deliberation, and informed consent that are essential to any legitimate referendum process.

³ Waqavakatoga, W (2026). Constitutional amendments centre stage in Fiji. [Constitutional amendments take centre stage in Fiji | East Asia Forum](#).

⁴ Lativerata, L (2025). Fiji Parliament Refers Landmark Referendum Bill to Committee, Concludes 2025 Session. maitv. [Fiji Parliament Refers Landmark Referendum Bill to Committee, Concludes 2025 Session - Mai Tv](#).

⁵ Fiji Government (2025). Government Responds to Concerns on the Referendum Bill 2025. [Fiji Government - GOVERNMENT RESPONDS TO CONCERNS ON THE REFERENDUM BILL 2025](#).

⁶ Waqairadovu, A (2026). Dialogue Fiji warns Referendum Bill threatens democratic freedoms. FBC News. [Dialogue Fiji warns Referendum Bill threatens democratic freedoms – FBC News](#).

⁷ Devi, S (2026). In Fiji, Political party raises concerns overdraft referendum bill. International IDEA. [In Fiji, political party raises concerns over draft referendum bill | Constitution Net](#).

⁸ Waqairadovu, A (2026). Dialogue Fiji warns Referendum Bill threatens democratic freedoms. FBC News. [Dialogue Fiji warns Referendum Bill threatens democratic freedoms – FBC News](#).

2.0. SEEP RESPONSES AND RECOMMENDATIONS

2.1. Section 5 – Circumstances in which a referendum may be held

SEEP expresses its support for the provision in Section 5 that enables referendums to be conducted on constitutional amendments and matters of national importance. This foundational element of the Bill properly recognises that certain decisions are of such profound significance that they require direct authorisation from the citizenry rather than determination by elected representatives alone. The inclusion of constitutional amendments within the scope of permissible referendum questions is particularly appropriate given the Supreme Court's observation that the 2013 Constitution "was imposed on the people, not chosen by them," creating a "democratic deficit" that can only be remedied through direct popular participation in shaping the nation's foundational legal document.⁹

By providing a mechanism for citizens to vote on proposed changes to their Constitution, Section 5 gives effect to the principle of popular sovereignty enshrined in the Preamble and Sections 1 and 2 of the Constitution, and responds to the Supreme Court's call for a process that ensures "the people's voice is directly included in the democratic process".¹⁰ The provision also appropriately contemplates referenda on broader matters of national importance, acknowledging that certain policy questions may transcend ordinary parliamentary deliberation and warrant the legitimacy that comes from direct democratic endorsement.

However, while supporting the scope of matters currently identified in Section 5, SEEP recommends that this provision be expanded to explicitly empower civil society organisations and community coalitions to initiate proposals for referendums on matters of national importance. The current formulation appears to contemplate referenda being initiated exclusively through parliamentary processes, which, while appropriate for constitutional amendments, unnecessarily restricts the potential for citizens to directly place questions before the electorate. Section 23 of the Constitution guarantees every citizen the right to "campaign for a political party, candidate or cause," and Section 19 enshrines the right to freedom of association, including the right to form and join organisations for the advancement of collective interests.¹¹

These constitutional guarantees contemplate that organised groups of citizens should have meaningful opportunities to participate in shaping the national agenda, not merely to respond to questions formulated by others. By expanding Section 5 to include a mechanism for civil society-initiated referenda, the Bill would give practical effect to these constitutional rights and

⁹ Ledua, M (2025). Court Opinion draws mixed reactions: Reducing the threshold from 75 percent of MP's to two thirds, combined with a referendum, makes the amendment process both democratic and stable. Fiji Sun. [Court opinion draws mixed reactions | Fiji Sun](#).

¹⁰ Ledua, M (2025). Court Opinion draws mixed reactions: Reducing the threshold from 75 percent of MP's to two thirds, combined with a referendum, makes the amendment process both democratic and stable. Fiji Sun. [Court opinion draws mixed reactions | Fiji Sun](#).

¹¹ UN Women (2025). Fiji: Constitution of the Republic of Fiji 2013. Political Rights and Association. [Fiji](#)

align Fiji's referendum framework with international good practice, where citizens' initiatives are recognised as a legitimate complement to parliamentary referrals.¹²

The expansion of Section 5 to include civil society-initiated referenda would also serve the important purpose of ensuring that marginalised voices are not excluded from national decision-making processes. As the Fiji Women's Rights Movement has observed, women, youth, rural communities, and persons with disabilities often rely on grassroots organising, community discussions, and accessible communication channels to make their voices heard, yet these groups are frequently underrepresented in formal parliamentary processes.¹³ Governance specialists have emphasised that meaningful constitutional engagement requires "wide participation: male, female, gender diversity, different religions, and including the rural communities as well," and that civic education, town halls, open forums, and direct conversations with youth are necessary to ensure that all segments of society can participate in shaping the nation's future.¹⁴

A mechanism allowing civil society organisations and community coalitions to initiate referenda on matters affecting their constituents would provide an essential avenue for these marginalised groups to place issues of concern directly before the electorate, rather than depending entirely on parliamentary gatekeepers to determine which questions merit popular consideration. International IDEA has similarly suggested that Fiji could consider additional public engagement mechanisms, such as citizens' assemblies, to ensure that any constitutional review process "genuinely reflects the voices and aspirations of the Fijian people".¹⁵

Recommendations

SEEP therefore recommends that Section 5 be amended to include a provision establishing a clear, workable mechanism for citizen-initiated referenda, setting appropriate signature thresholds and procedural requirements to ensure that such initiatives demonstrate genuine public support while remaining accessible to well-organised community coalitions. This recommendation is grounded in Section 14 of the Constitution, which guarantees freedom of association and the right to participate in political activities, and in Section 23, which protects the right to campaign for a cause.¹⁶

By expanding the scope of referendum initiation beyond Parliament alone, the Bill would transform Section 5 from a purely procedural provision into a genuine instrument of participatory democracy, empowering civil society to complement parliamentary deliberation with citizen-driven agenda-setting. Such an expansion would also respond to the broader democratic aspirations articulated by the Fiji Human Rights and Anti-Discrimination

¹² Chand, A (2026). New law needed before any referendum on Fiji's Constitution-International IDEA. The Fiji Times. [New law needed before any referendum on Fiji's constitution - International IDEA - The Fiji Times](#).

¹³ Selby, K (2025). Blatant propaganda: Fiji Lawyers, civil society push back against proposed National referendum bill. RNZ. ['Blatant propaganda': Fiji lawyers, civil society push back against proposed National Referendum Bill | RNZ News](#).

¹⁴ Mala, R (2025). Experts say civic education is key to constitutional change. FBC news. [Experts say civic education is key to constitutional change – FBC News](#).

¹⁵ Chand, A (2026). New law needed before any referendum on Fiji's constitution-International IDEA. The Fiji Times. [New law needed before any referendum on Fiji's constitution - International IDEA - The Fiji Times](#).

¹⁶ UN Women (2025). Fiji: Constitution of the Republic of Fiji 2013. Political Rights and Association. [Fiji](#)

Commission, which has characterised the referendum process as "a breakthrough" that "allows the people, for the first time, to directly shape an instrument that was originally imposed on them".¹⁷ Extending that principle beyond constitutional amendments to encompass citizen-initiated referenda on matters of national importance would fully realise the promise of popular sovereignty and ensure that the National Referendum Bill establishes not merely a framework for occasional parliamentary referrals, but a lasting mechanism for ongoing citizen participation in democratic governance.

2.2. Section 6 – Person qualified to vote

SEEP acknowledges that Section 6 of the Bill appropriately relies upon the National Register of Voters as the foundational mechanism for determining eligibility to participate in any referendum. This reliance ensures consistency with existing electoral infrastructure and maintains the integrity of the voter database that has been developed and refined through successive electoral cycles. However, SEEP observes that a passive registration system, wherein citizens are merely permitted to vote if their names appear on the register, is insufficient to guarantee the universal and equal participation that a legitimate referendum demands. The effectiveness of any referendum in expressing the sovereign will of the people depends not only on the accuracy of the voter roll but also on the comprehensiveness of its coverage across all segments of society.

As the Fijian Elections Office has itself demonstrated through its Nationwide Registration of Voters Drive for the 2022 General Election, proactive outreach is essential to ensure that no person is deprived of the opportunity to register, with FEO teams travelling to some of the most remote villages, crossing rivers and making journeys on foot to provide voter services to Fijians in rural and maritime areas.¹⁸ This existing practice, which resulted in 200,899 voter engagements and 19,879 new registrations during a 49-day drive, establishes a clear precedent that the State acknowledges its responsibility to actively reach voters rather than merely waiting for voters to reach registration centres.¹⁹

The constitutional imperative for such proactive measures is firmly rooted in Section 6 of the 2013 Constitution, which guarantees equality before the law and freedom from discrimination, and in Section 23, which affirms that every citizen who has reached the age of 18 years has the right to be registered as a voter and to vote by secret ballot in any election or referendum under the Constitution.²⁰ These provisions impose a positive obligation upon the State to create the conditions necessary for the meaningful exercise of political rights, particularly for marginalized groups who face structural barriers to participation. Academic research examining the impact of gender-blind and race-blind electoral provisions in Fiji has found that despite progressive elements in the 2013 Constitution, diverse voices continue to be marginalised in Fijian politics, with women's parliamentary representation falling from ten out of 51 MPs (19.6%) after the 2018 elections to six out of 55 (10.9%) after the 2022 elections, demonstrating that formal legal equality does not automatically translate into substantive participatory

¹⁷ Magimagi, S (2025). Fijians urged to participate in constitution reform. FBC News. [Fijians urged to participate in constitution reform – FBC News](#)

¹⁸ Fiji One News (2022). FEO Concludes Voter Registration drive for the 2022 General Election. [Fiji One News](#)

¹⁹ Fiji One News (2022). FEO Concludes Voter Registration drive for the 2022 General Election. [Fiji One News](#)

²⁰ UN Women (2025). Fiji: Constitution of the Republic of Fiji 2013. Political Rights and Association. [Fiji](#)

equality.²¹ Rural communities, women, youth, and persons with disabilities face distinct and compounding barriers to voter registration, including geographical isolation, limited access to information, mobility constraints, and socioeconomic factors that render a passive registration system inherently discriminatory in its practical effects.

Recommendations

SEEP therefore recommends that Section 6 be strengthened by requiring proactive voter registration drives in rural and marginalised communities as a statutory obligation rather than a discretionary practice. Such a requirement would align the Bill with the demonstrated capabilities and established practices of the Fijian Elections Office, which has already pioneered community-based approaches including the Pilot Community Elections Advocate Training of Trainers program, through which community-based representatives are directly trained to become election awareness trainers who then conduct awareness sessions with their community members, making elections a topic of discussion at the grassroots level and arming people with direct information.²²

This community-led approach is particularly effective for reaching marginalised populations, as evidenced by the work of organisations such as the National Council of Women Fiji, whose civic education projects have successfully reached rural women, young sex workers, and street women who had never been involved in electoral events, enabling them to get registered and vote for the first time.²³ The Voter Outreach for Transparent Elections (VOTE-Fiji) Project, launched in 2024 with support from the United Nations Development Programme and the Australian and New Zealand governments, further demonstrates the importance of targeted outreach, with its explicit focus on increasing women's participation in the electoral space and supporting people living with disabilities, fostering a more inclusive electoral environment and ensuring that no one is left behind .

The requirement for proactive registration drives must be accompanied by special outreach to women and youth, who constitute significant proportions of the population yet remain underrepresented in political participation. Women make up approximately half of Fiji's population, and half of Fiji's population were recorded to be under the age of 27.5 according to the Fiji Bureau of Statistics 2017 Census results, yet young diverse women are not provided with meaningful and inclusive opportunities to contribute to or be consulted on Fiji's law .²⁴

²¹ Kant, R & Baker, B (2025). A Fiji (parliament) for all Fijians? The Impact of gender-blind and race-blind electoral provisions in a divided society. Democratization, 1-22. [Citations: A Fiji \(parliament\) for all Fijians? The impact of gender-blind and race-blind electoral provisions in a divided society.](#)

²² Fiji Elections Office (2022). Launch of the Pilot Community Elections Advocate Training of Trainers Community. [Launch of the Pilot Community Elections Advocate Training of Trainers Community | Fijian Elections Office.](#)

²³ UNDEF (2016). Lessons Learned: Civic education and empowerment for more women in leadership, from villages to parliament in Fiji. [Civic education and empowerment for more women in leadership, from villages to parliament in Fiji | Undef lessons learned.](#)

²⁴ Pacific Women Lead (2022). My Guide to Voting Launch: Fiji's Young Women's Forum. [Pacific Women Lead - My Guide to Voting Launch: Fiji Young Women's Forum](#)

The Fiji Young Women's Forum has documented through its divisional dialogues with women between the ages of 18 and 35 that diverse young women require targeted information and accessible pathways to participate in democratic processes, leading to the development of resources such as the My Guide to Voting booklet, which aims to empower diverse young women to think critically about their right to vote and their role in Fiji's democratic process.²⁵ By embedding proactive and targeted registration requirements directly into Section 6 of the Bill, Parliament would ensure that the referendum process is not merely formally accessible but substantively inclusive, giving effect to the constitutional guarantee of equality and non-discrimination and affirming that every Fijian citizen, regardless of geography, gender, age, or disability, possesses an equal claim to participate in shaping the nation's future through the ultimate act of democratic expression.

2.3. Section 12 – Polling day at referendum to be public holiday

The designation of polling day as a public holiday represents a foundational mechanism for enabling widespread civic participation, and the SEEP initiative formally voices its support for this provision. By declaring a public holiday, the state actively removes occupational and time-related barriers that might otherwise suppress voter turnout, thereby giving practical effect to the constitutional guarantee of political rights. As enshrined in Section 23 of the Constitution of the Republic of Fiji, every citizen possesses the right to free, fair, and regular elections, including the specific right to vote by secret ballot in any election or referendum conducted under the Constitution.²⁶ This constitutional protection extends to all citizens who have reached eighteen years of age, establishing voting not merely as a privilege but as a fundamental right that the state must actively facilitate.²⁷ Making polling day a non-working day thus represents a critical state intervention that minimises impediments to exercising this fundamental right, recognising that citizens should not be forced to choose between their livelihood and their democratic participation.

However, while a public holiday effectively removes temporal barriers to voting, it does not automatically eliminate the geographic and logistical obstacles that disproportionately affect Fijians residing in rural and maritime communities. The SEEP initiative therefore recommends that this provision be substantially strengthened by ensuring that the formal declaration of a public holiday translates into practical, physical access for all citizens regardless of their location. Consistent with Section 23 of the Constitution, which fundamentally underpins the political equality of all Fijians without distinction, the organisation specifically recommends that comprehensive transport assistance be formally provided to rural and remote communities.²⁸ This measure is essential to guarantee that geographic isolation does not become a de facto barrier to the ballot box, thereby ensuring genuinely equal opportunity to vote and

²⁵ UNDEF (2016). Lessons Learned: Civic education and empowerment for more women in leadership, from villages to parliament in Fiji. [Civic education and empowerment for more women in leadership, from villages to parliament in Fiji | Undef lessons learned.](#)

²⁶ UN Women (2025). Fiji: Constitution of the Republic of Fiji 2013. Political Rights and Association. [Fiji](#)

²⁷ Fiji Government (2013). Constitution of the Republic of Fiji. [Constitution of the Republic of Fiji, Fiji, WIPO Lex.](#)

²⁸ UN Women (2025). Fiji: Constitution of the Republic of Fiji 2013. Political Rights and Association. [Fiji](#)

upholding the principle of universal suffrage that is deeply embedded within the Constitution's political rights framework. The Constitution itself contemplates such accessibility measures, as Section 34 explicitly guarantees every person the right of reasonable access to transportation, further strengthening the constitutional basis for transport assistance on polling day.²⁹

The operationalisation of such transport assistance has clear and successful precedent within Fiji's recent electoral history, demonstrating both the feasibility and the necessity of this recommendation. During the 2022 General Election, the Fijian Elections Office signed a formal memorandum of understanding with the Ministry of Rural and Maritime Development, the Ministry of Commerce, Trade, Tourism and Transport, and the Land Transport Authority to provide free transportation services for voters on polling day.³⁰ This multi-stakeholder approach was designed to address the specific challenge that "many locations such as inner city and town roads and the distant rural locations where bus services are not available" had previously experienced lower than expected turnout despite the availability of voting services.³¹ The Electoral Commission recognised that direct planning, preparation, execution, and monitoring of transportation services by the Fijian Elections Office itself was necessary to ensure that transport arrangements were best suited to the specific needs of each polling location, with services commencing as early as 7am and maintaining higher frequency during morning hours

Building upon this established precedent, SEEP recommends that transport assistance be formally integrated into the legislative framework governing referendums rather than remaining an administrative arrangement subject to change between elections. By embedding transport assistance provisions within Section 12 itself, the legislation would evolve from a symbolic gesture of accessibility into a comprehensive, legally enforceable mechanism for enfranchisement. This approach would ensure that the right to vote is not only formally available but practically achievable for every Fijian citizen, including those in the most remote island communities and rural settlements. Such an amendment would give full effect to the constitutional vision articulated in the Preamble, which declares that all Fijians are "united by common and equal citizenry" and commits to a democratic State founded on "equality for all and care for the less fortunate".³² The provision of transport assistance on a day already declared a public holiday would represent the culmination of the state's constitutional duty to remove all barriers; temporal, economic, and geographic, to the full exercise of democratic rights by every Fijian citizen.

²⁹ Fiji Government (2013). Constitution of the Republic of Fiji. [Constitution of the Republic of Fiji, Fiji, WIPO Lex.](#)

³⁰ USP (2022). MOU for Free public transportation on election day. [MOU for free public transportation on election day – Wansolwara News.](#)

³¹ USP (2022). MOU for Free public transportation on election day. [MOU for free public transportation on election day - WansolwaraNews.](#)

³² Fiji Government (2013). Constitution of the Republic of Fiji. [Constitution of the Republic of Fiji, Fiji, WIPO Lex.](#)

2.4. Section 14 – Facilities to be provided at polling stations

SEEP commends the explicit requirement within Section 14 for polling stations to display notices in the three main languages of Fiji: English, iTaukei, and Hindi. This trilingual mandate is a practical application of the Constitution's commitment to recognising the country's multicultural composition, as articulated in the Preamble which acknowledges the distinct linguistic and cultural heritage of the iTaukei, Rotuman, and descendants of indentured labourers and immigrants.³³ By mandating notices in these three languages, Section 14 takes a fundamental step toward ensuring that all citizens, regardless of their primary language, can access crucial electoral information and participate meaningfully in the referendum process. This provision aligns with the constitutional value of common and equal citizenry, affirming that democratic participation must be linguistically accessible to the nation's diverse population.

Nevertheless, to fully realise the Constitution's vision of an inclusive democracy, SEEP recommends a critical amendment to this section to explicitly mandate disability-friendly facilities. Drawing direct authority from Section 42 of the Constitution, which enshrines the rights of persons with disabilities to reasonable access to all places, public buildings, and information, as well as the right to use sign language, braille, or other appropriate means of communication, SEEP argues for specific infrastructural and procedural accommodations.³⁴ The Constitution explicitly guarantees persons with disabilities "reasonable access to all places, public buildings and services" and "the use of sign language, braille or other appropriate means of communication".³⁵ These constitutional guarantees must be given effect within the electoral framework to ensure that the approximately 14.3 percent of Fiji's population living with disabilities can exercise their political rights with dignity and independence.³⁶

Recommendations

SEEP therefore recommends that Section 14 be amended to mandate specific accommodations, including the installation of ramps for wheelchair access, the provision of accessible voting booths, and the availability of sign language interpreters at polling stations. This recommendation aligns with the comprehensive advocacy of the Fiji Disabled Peoples Federation (FDPF), which has consistently called for the integration of both physical accessibility; such as ramps, accessible entrances, adequate lighting, and accessible restrooms and systematic accessibility into all aspects of the electoral process.³⁷ Systematic accessibility encompasses the provision of information in diverse accessible formats, including braille and tactile materials for the visually impaired, large print for low vision, audio formats, easy-to-read formats for individuals with intellectual disabilities, and sign language interpretation both in

³³ Fiji Government (2013). Constitution of the Republic of Fiji. [Constitution of the Republic of Fiji, Fiji, WIPO Lex.](#)

³⁴ Kate, T (2021). Physionet UK's second consignment to benefit Fijians Living with Disabilities. The Fiji Times. [Physionet UK 's second consignment to benefit Fijians living with disabilities - The Fiji Times.](#)

³⁵ Fiji Government (2013). Constitution of the Republic of Fiji. [Constitution of the Republic of Fiji, Fiji, WIPO Lex.](#)

³⁶ Pratap, M (2025). Abolish outdated terms and support disabled candidates: Macanawai. Fiji Village. [Abolish outdated terms and support disabled candidates:M acanawai.](#)

³⁷ Rina, S (2025). Calls for Inclusivity. The Fiji Times. [Call for inclusivity - The Fiji Times.](#)

person and via video for the deaf community.³⁸ Furthermore, accessible communication channels such as text messaging and accessible phone lines should be available for inquiries and support, ensuring that persons with disabilities can access not only polling stations but also the full range of electoral information and assistance .

Such an amendment would ensure consistency between Section 14 and the constitutional mandate to protect and fulfil the rights of persons with disabilities, thereby creating a truly inclusive electoral environment. Notably, there is promising precedent for such accommodations, as the Fijian Elections Office (FEO) has demonstrated commitment to accessibility through initiatives developed in collaboration with the Election Disability Access Working Group (EDAWG), a body established by the FDPF with support from the Disability Rights Fund.³⁹ These initiatives have included the preparation of Voter Instruction Booklets in larger fonts for visually impaired voters, the provision of candidate lists in braille through the Fiji Society for the Blind, and the conduct of Community Elections Advocates Training with Organizations of Persons with Disabilities .⁴⁰

The FEO has also conducted disability sensitisation training for its staff, facilitated by the FDPF, to ensure that electoral officials understand the importance of accessibility and their roles in promoting it.⁴¹ As Supervisor of Elections Ana Mataciwa has affirmed, true democracy requires proactive action to provide equal participation opportunities for everyone, and the FEO remains committed to making the electoral process fully accessible . By embedding these proven accommodations directly into Section 14, the referendum legislation would transform ad hoc initiatives into guaranteed rights, fulfilling Fiji's obligations under both the Constitution and the Convention on the Rights of Persons with Disabilities, which the nation has ratified.⁴²

2.5. Section 17 - Statement of Referendum:

The current requirement under Section 17 to publish the official statement of referendum results in the government Gazette represents a necessary procedural step for establishing a formal and authoritative legal record. This method ensures that the outcome is documented in an official capacity, creating a verifiable and permanent archive of the referendum results. However, while publication in the Gazette fulfills the essential function of legal notification, its reach is inherently limited to those who have ready access to such official publications or the means to consult them. The Gazette, by its nature as a specialized government document, does not serve as an effective primary communication tool for the general populace,

³⁸ Rina, S (2025). Calls for Inclusivity. The Fiji Times. [Call for inclusivity - The Fiji Times](#).

³⁹ Kawano-Chi, M (2024). Learning together for Inclusion: A spotlight on Fiji. Disability Rights Fund. [Learning Together for Inclusion: A Spotlight on Fiji - Disability Rights Fund](#).

⁴⁰ Fiji Election Office (2022). FEO to Implement New Initiatives for Voter Inclusion in this Election. [FEO to Implement New Initiatives for Voter Inclusion in this Election | Fijian Elections Office](#).

⁴¹ Prasad, S.S (2025). FEO conducts Disability Sensitisation Training. FBC News. [FEO conducts Disability Sensitisation Training – FBC News](#).

⁴² Pratap, M (2025). Abolish outdated terms and support disabled candidates: Macanawai. Fiji Village. [Abolish outdated terms and support disabled candidates:Macanawai](#).

particularly for communities outside of administrative and urban centers where awareness of and access to such publications is significantly constrained.

The limitation of relying solely on the Gazette becomes particularly pronounced when considering the communication landscape of Fiji's rural and remote communities. Recent data highlights a profound digital divide, with the Fiji Bureau of Statistics reporting that only 39% of households in rural areas have access to reliable internet, compared to 84% in urban centres.⁴³ This disparity in connectivity means that a significant portion of the population cannot reliably access online versions of official publications. Furthermore, the digital exclusion of rural Fijians has been identified as a human rights concern, as it directly impacts access to information and participation in democratic life.⁴⁴ In this context, restricting the dissemination of referendum results to the Gazette risks creating an information vacuum in the very communities where access to timely and authoritative results is most critical for affirming their participation in the democratic process.

Recommendations

To address this information gap and ensure that the referendum outcome reaches all citizens effectively, SEEP recommends a multi-platform dissemination strategy that leverages existing, trusted communication networks. The national broadcaster, Fiji Broadcasting Corporation (FBC), operates an extensive network of radio stations specifically designed to serve the entire populace. FBC's public service broadcasters, Radio Fiji One and Radio Fiji Two, are governed by a contract with the government to provide essential information and are particularly popular with rural and maritime populations. The utility of radio for community engagement is well-established, with initiatives like the "Qoli Vakamatau" radio show demonstrating how platforms such as FBC Radio One can effectively engage hard-to-reach communities by providing critical information in the iTaukei language and creating space for national dialogue.⁴⁵ Furthermore, FBC's recent investment in a fully equipped broadcast hub in Labasa underscores a strategic recommitment to bridging the information gap and ensuring that communities in the Northern division are better connected to national media.⁴⁶ By utilizing these existing public service broadcasting infrastructures, the referendum results can be announced in English, iTaukei, and Hindi, thereby ensuring that language is not a barrier to understanding the outcome.

Furthermore, the recommendation to disseminate results in accessible formats is grounded in Fiji's domestic legal framework, which mandates the protection of rights for persons with disabilities. The Rights of Persons with Disabilities Act 2018 provides an authoritative definition of "communication," which explicitly includes "languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of

⁴³ Vucukula, E (2025). Bridging digital gaps: Rural Fijians Struggle with limited internet access-Nafeez. [Bridging digital gaps | Rural Fijians struggle with limited internet access – Nafeez](#).

⁴⁴ Vucukula, E (2025). Bridging digital gaps: Rural Fijians Struggle with limited internet access-Nafeez. [Bridging digital gaps | Rural Fijians struggle with limited internet access – Nafeez](#).

⁴⁵ 4FJ (2020). 4FJ FISH SMART START NATIONAL TALANOA WITH ON FBC RADIO WAVES. [Radio Program — News & Events — 4fjmovement.org](#)

⁴⁶ Batibasaga, T (2025). FBC to open a new broadcast hub in Labasa. FBC News. [FBC to open new broadcast hub in Labasa – FBC News](#)

communication".⁴⁷ This legislative standard compels public information campaigns to adopt inclusive practices. Therefore, beyond radio and community forums, the statement of results should be made available in formats such as large print, Braille, and audio recordings to comply with this mandate and ensure that all citizens, including those with sensory impairments, can exercise their right to access information. By complementing the official Gazette publication with community radio broadcasts, local forums, and accessible multi-format materials, the dissemination of referendum results would truly reflect a commitment to inclusive democracy and ensure that every Fijian, regardless of their location, literacy level, or disability, is fully informed of the outcome.

2.6. Section 18 -27 Offences

The inclusion of specific offences within the referendum framework is essential for maintaining the integrity of the electoral process and deterring conduct that could subvert the democratic will of the people. Clearly defined prohibitions against bribery, impersonation, and interference with ballot papers serve to establish clear boundaries for acceptable conduct and provide the legal basis for prosecuting those who seek to corrupt the process. These provisions function as a critical deterrent, signalling that any attempt to undermine the integrity of a referendum will be met with legal sanction. As reflected in Fiji's Electoral Act 2014, which prohibits the use of State authority to pressure or intimidate any person, the creation of specific offences is a legislative cornerstone for safeguarding democratic processes against abuse.⁴⁸

However, while the enumeration of offences is necessary, SEEP emphasises the importance of safeguarding voters' rights against intimidation and undue influence, particularly within vulnerable communities. The very provisions designed to protect the process must be carefully calibrated to ensure they do not inadvertently chill legitimate political discourse or disproportionately impact specific populations. The Fiji Women's Rights Movement has raised concerns that overly broad provisions risk criminalising ordinary advocacy and limiting the ability of individuals and organisations to engage in referendum-related discussions, with such restrictions disproportionately affecting women, youth, and marginalised groups who rely on grassroots organising and community discussions to participate in civic life.^{49,50}

Clear safeguards must therefore be embedded within the legislative framework to protect marginalised groups from coercion, ensuring that the offences provisions target genuine malfeasance rather than legitimate civic engagement. This requires a precise statutory construction that distinguishes between unlawful undue influence and protected political speech, thereby upholding the constitutional guarantees of freedom of expression and assembly.

⁴⁷ Fiji Government (2018). Rights of Person with Disabilities Act 2018. [Rights of Persons with Disabilities Act 2018](#).

⁴⁸ Fiji Government (2014). Section 113, Election Act 2014 amended in 2021. [ans 9434 585855888 | International IDEA](#).

⁴⁹ Magimagi, S (2026). FWRM raises concern over the draft national Referendum Bill. FBC News. [FWRM raises concern over draft national Referendum Bill – FBC News](#)

⁵⁰ Naimatau, K (2026). Referendum Bill threatens women, Youth participation. Fiji Sun. [Referendum Bill threatens women, youth participation | Fiji Sun](#)

The electoral experience of comparable jurisdictions, including Singapore and Australia, demonstrates that restrictions can be appropriately limited to specific timeframes, such as polling day, to prevent undue influence without suppressing the broader civic discourse essential to an informed electorate.⁵¹

Furthermore, the enforcement of offences provisions must be accompanied by robust institutional mechanisms that actively protect vulnerable voters from coercion. This includes ensuring that the supervisory authorities possess both the capacity and the mandate to investigate complaints of intimidation, particularly those occurring in rural and remote communities where geographic isolation may render voters more susceptible to pressure. By establishing clear reporting pathways and guaranteeing that complaints are investigated with due diligence, the legislative framework can transform prohibitory language into meaningful protection, giving practical effect to the constitutional prohibition against forcing, pressuring, or intimidating any person in relation to their electoral participation.⁵²

2.7. Section 21 – Employer to allow employees a reasonable period for voting

SEEP supports unequivocally the protection of workers' rights to vote as enshrined in Section 21, which mandates that employers allow employees a reasonable period for voting. This provision recognises that the constitutional guarantee of political rights under Section 23 of the Constitution of the Republic of Fiji remains a theoretical abstraction if citizens cannot practically access the ballot box due to occupational obligations. By imposing a positive duty upon employers to facilitate voting, the provision acknowledges the intersection of labour participation and civic engagement, ensuring that the exigencies of employment do not function as an implicit disenfranchisement. This protection is particularly significant within the Fijian context, where over forty per cent of employment is situated within the informal sector, and workers in such arrangements often lack the institutional protections afforded to formal employees.⁵³

Nevertheless, the mere articulation of this right is insufficient without corresponding enforcement mechanisms that ensure compliance across all sectors of the economy. SEEP recommends that such mechanisms be strengthened to guarantee that the statutory entitlement to voting time is not rendered empty through employer non-compliance or subtle force. This requires the designation of a clearly mandated authority, such as the Fijian Elections Office or the Ministry of Employment, to receive complaints, conduct investigations, and impose sanctions upon employers who contravene the provision. The Supervisor of Elections already possesses broad powers to require information and documents relevant to the performance of functions under electoral law, and this existing authority could be extended to encompass enforcement of employer obligations.

⁵¹ Chand, A (2025). Turaga defends the National Referendum Bill amid free speech concerns. The Fiji Times. [Turaga defends National Referendum Bill amid free speech concerns - The Fiji Times](#).

⁵² Fiji Government (2014). Section 113, Election Act 2014 amended in 2021. [ans 9434 585855888 | International IDEA](#).

⁵³ United Nations (2025). Fiji. [Fiji | United Nations in Fiji, Solomon Islands, Tonga, Tuvalu, and Vanuatu](#).

The imperative for robust enforcement is particularly acute in industries where women and youth are disproportionately employed, consistent with the constitutional mandate to ensure equal enjoyment of political rights under Section 23. Women in Fiji remain predominantly employed in the informal sector and earn less than men, rendering them more vulnerable to employer pressure and less able to assert their statutory rights without fear of reprisal.⁵⁴ Similarly, young Fijians face high rates of unemployment and precarious employment arrangements, which may disincentivise them from demanding voting time from employers upon whom they depend for economic survival.⁵⁵ The enforcement framework must therefore be sensitive to these power asymmetries, providing accessible complaint mechanisms that do not require workers to expose themselves to retaliation.

Ultimately, the strengthening of enforcement mechanisms for Section 21 represents an essential complement to the formal declaration of voting as a protected activity. By ensuring that employers who deny voting rights face meaningful consequences, and that workers possess accessible avenues for redress, the legislative framework can translate the paper promise of political rights into practical reality. This approach aligns with the constitutional architecture, which binds all branches and levels of government to uphold human rights, and implicitly extends this obligation to private actors whose conduct may impede the exercise of those rights.⁵⁶ Through such comprehensive protection, Fiji can ensure that the right to vote is not contingent upon the vagaries of individual employment circumstances, but stands as a universal entitlement available to all citizens.

2.8. Section 23 – Prohibition of canvassing

The prohibition of canvassing during designated periods, as contemplated in electoral legislation, represents a legislative effort to insulate voters from undue influence and maintain the sanctity of the polling environment. SEEP notes, however, that while this Section seeks to prevent electoral misconduct, its broad application risks inadvertently limiting legitimate civic education and suppressing the healthy democratic debate essential to an informed electorate. The challenge lies in distinguishing between coercive canvassing, which undermines free choice, and informational activities that empower citizens to participate meaningfully in the democratic process. As the Multinational Observer Group has previously recommended, a review of restrictions on election-related activities for civil society organisations is necessary to ensure wider participation in the electoral system by all sectors of society.⁵⁷ Without careful calibration, provisions intended to protect electoral integrity may instead create an information vacuum that disadvantages precisely those communities most in need of civic education.

To address this concern, SEEP recommends that Section 23 be amended to explicitly permit regulated civic education and awareness campaigns led by civil society organisations, provided such activities remain strictly non-partisan and rights-based in their approach. This

⁵⁴ United Nations (2025). Fiji. [Fiji | United Nations in Fiji, Solomon Islands, Tonga, Tuvalu, and Vanuatu](#).

⁵⁵ Nailatikau, M, M & Seru, L (2023). Young Voices on Fiji's new political era. The Interpreter. [Young voices on Fiji's new political era | Lowy Institute](#)

⁵⁶ Fiji Government (1997). 1997 Constitution of Fiji: Chapter 4.

⁵⁷ Kate, T (2023). The Election Laws. The Fiji Times. [The election laws - The Fiji Times](#).

recommendation draws direct constitutional authority from Section 17 of the Constitution of the Republic of Fiji, which guarantees to every person the right to freedom of speech, expression, thought, opinion and publication, including the freedom to seek, receive and impart information, knowledge and ideas.⁵⁸ While Section 17(3) acknowledges that these freedoms may be limited in the interests of the orderly conduct of elections, such limitations must be necessary and proportionate .

A blanket prohibition on canvassing that encompasses genuine civic education fails this proportionality test. The Fijian Elections Office has itself recognised the vital role of civil society as stakeholders in the electoral process and has committed to developing these relationships, particularly with domestic civil society organisations.⁵⁹ Furthermore, initiatives such as the Community Election Advocates Programme demonstrate that structured, non-partisan civic engagement can enhance rather than threaten electoral integrity.⁶⁰ By amending Section 23 to create a clear pathway for regulated civil society participation in voter education, the legislation would harmonise the legitimate goal of preventing undue influence with the constitutional imperative of fostering an informed and engaged citizenry.

2.9. Section 28 – Regulations

The effectiveness of any electoral legislation ultimately depends not only on its substantive provisions but also on the quality and inclusivity of the regulatory frameworks that govern its implementation. Section 28, which empowers the making of regulations for carrying out the purposes and provisions of the Act, therefore represents a critical juncture where democratic principles must be translated into administrative practice. SEEP recommends that these regulations be developed with the active participation of community organisations, women's groups, youth organisations, and marginalised community representatives to ensure that practical, inclusive, and rights-based approaches are embedded at every level of electoral administration.

This participatory approach to regulation-making reflects the fundamental principle that democracy thrives when all voices are heard and when those most affected by electoral laws have a meaningful opportunity to shape their implementation.⁶¹ The current electoral law reform process, launched by the Fijian Government with a mandate to ensure that laws are fair, inclusive, and aligned with international best practices, provides an ideal opportunity to institutionalise such participatory mechanisms.⁶²

⁵⁸ Fiji Government (2013). Freedom of Speech, expression and publication (SCH CON 17).<https://laws.gov.fj/Acts/View Section/98595?query>.

⁵⁹ Kate, T (2023). The Election Laws. The Fiji Times. [The election laws - The Fiji Times](#).

⁶⁰ Fiji One News Team (2025). FEO Launches Community Election Advocates Programme to Boost Public Trust in Democratic Processes. [Fiji One News](#).

⁶¹ Fiji Law Reform Commission (2025). Government Launches Electoral Law Reform, Public Consultations ahead. [Govt launches electoral law reform, public consultations ahead - Fiji Law Reform Commission](#).

⁶² Fiji Government (2025). Launch of Electoral Legislation Reform Process. [LAUNCH OF ELECTORAL LEGISLATION REFORM PROCESS - Ministry of Justice](#).

The imperative for inclusive regulation-making is further underscored by Fiji's constitutional commitments to non-discrimination and the recognition of distinctive group rights. As part of the comprehensive review of electoral legislation currently underway, the reform Commissioners will undertake extensive consultations with political parties, civil society organisations, electoral experts, government agencies, and the general public.⁶³ SEEP's recommendation extends this consultative imperative to the subsequent stage of regulation development, ensuring that the voices of women, youth, and marginalized communities are not only heard during the legislative reform phase but continue to inform the detailed rules that govern electoral practice. This approach aligns with the recognition by the Electoral Commission and Fijian Elections Office that temporary special measures may be necessary to enhance gender diversity and women's representation, and that a review of processes should identify and rectify any potential barriers to participation.⁶⁴

Practical initiatives such as the BRIDGE Voter and Civic Education workshop, which brought together civil society organisations representing disability advocates, women's advocates, faith-based groups, youth organisations, and democracy defenders, demonstrate both the feasibility and the value of structured engagement with diverse community stakeholders.⁶⁵ By embedding such participatory practices into the formal regulatory development process, Fiji would ensure that its electoral framework not only meets international standards of procedural fairness but also reflects the lived experiences and practical needs of all its citizens.

2.10. Section 31 – Use of school as polling station

The practice of designating schools as polling stations is a practical and widely accepted mechanism for facilitating electoral participation, and the SEEP initiative voices its support for this provision. Schools are often strategically located within communities, making them naturally accessible venues for voters across urban and rural settings. Their existing infrastructure: including classrooms, hallways, and administrative facilities, provides the necessary spatial and logistical framework to accommodate the voting process, from voter queuing to ballot casting and counting.

This accessibility is particularly vital in rural and remote areas where dedicated public facilities may be scarce, ensuring that the democratic process can reach citizens regardless of their geographic location. The Fijian Elections Office has previously demonstrated its capacity to collaborate with educational institutions, as evidenced by the School Election Toolkit (SET) pilot programme launched in partnership with the Ministry of Education, which engaged secondary schools in simulated electoral processes and fostered civic awareness among students.⁶⁶

⁶³ Fiji Government (2025). Launch of Electoral Legislation Reform Process. [LAUNCH OF ELECTORAL LEGISLATION REFORM PROCESS - Ministry of Justice](#).

⁶⁴ Kate, T (2023). The Election Laws. The Fiji Times. [The election laws - The Fiji Times](#).

⁶⁵ Fiji Election Office (2024). Fiji Election Office Voter and Civic Education Workshop. [Fijian Elections Office Voter and Civic Education Workshop – BRIDGE](#)

⁶⁶ Madigibuli, A (2024). The elections program keeps students in tune. The Fiji Times. [Elections program keeps students in tune - The Fiji Times](#).

⁶⁷However, while the utilisation of schools for electoral purposes is supported, SEEP emphasises that this practice must not come at the expense of students' uninterrupted access to education, a right constitutionally enshrined in Section 31 of the Constitution of the Republic of Fiji. Section 31 explicitly guarantees every person the right to early childhood, primary, secondary, and further education, imposing a corresponding obligation upon the State to take reasonable measures to progressively realise this right.⁶⁸ The disruption caused by converting classrooms into polling stations, securing premises for electoral materials, and hosting election officials can result in the suspension of regular academic activities, often for multiple days. This impact is disproportionately felt in rural areas, where schools frequently serve as the sole community hub and where alternative venues are limited.⁶⁹

Consequently, SEEP recommends that electoral authorities, in consultation with the Ministry of Education, Heritage and Arts, develop protocols to minimise educational disruption, such as scheduling polling on weekends or during school holidays, and ensuring that the preparation and dismantling of polling stations do not encroach upon instructional time.

Beyond the imperative of educational continuity, SEEP urges that schools used as polling stations must be rendered safe, welcoming, and accessible environments for all members of the community, particularly for girls, women, and persons with disabilities. The presence of electoral activity can introduce unfamiliar adults and heightened foot traffic into school grounds, potentially creating safety concerns for students, especially young girls, who may be on or near the premises during polling periods.

Furthermore, the physical infrastructure of many schools may not inherently accommodate voters with disabilities, contradicting the constitutional mandate under Section 42, which guarantees persons with disabilities the right to reasonable access to all places and to use appropriate means of communication.⁷⁰ SEEP recommends that advance accessibility audits be conducted at all schools designated as polling stations, with temporary ramps, accessible pathways, and clear signage installed where permanent structures are lacking. Additionally, school environments should be monitored to ensure that electoral activities do not inadvertently disrupt community activities or compromise the security and comfort of female students and staff.

Finally, SEEP recommends that electoral authorities adopt a flexible approach by considering the use of alternative community facilities where feasible, consistent with the State's obligation to uphold the right to education under Section 31. Fiji possesses a network of community halls, religious centres, and other public venues that have historically served as polling locations and could effectively accommodate voters without disrupting educational activities.

⁶⁷ Waqairadovu, A (2024). FEO introduces School Election Toolkits. FBC News. [FEO introduces School Election Toolkits – FBC News](#).

⁶⁸ Fiji Government (2013). Constitution of the Republic of Fiji 2013. [Fiji](#).

⁶⁹ Kishore, R (n.d). Country Profiles: Fiji- National Information Centre for-Fiji Education. [Fiji - Asia-Pacific Network of National Information Centres \(APNNIC\)](#)

⁷⁰ Kawano-Chi, M (2024). Learning together for Inclusion: A spotlight on Fiji. Disability Rights Fund. [Learning Together for Inclusion: A Spotlight on Fiji - Disability Rights Fund](#).

The Fijian Elections Office has previously demonstrated its capacity to utilise diverse venues, as evidenced by the designation of community halls and other facilities in past elections. Where suitable alternatives exist within reasonable proximity, SEEP encourages their prioritisation over schools to safeguard students' learning environments. In cases where schools must be used, the engagement of school communities; including principals, teachers, and parent associations in planning and implementation is essential to ensure that the democratic right to vote is exercised in a manner that respects and protects the parallel right of every Fijian child to an uninterrupted education.

3.0. Conclusion

The Social Empowerment Education Program (SEEP) respectfully submits this written representation to the Parliamentary Standing Committee on Justice, Law and Human Rights concerning the National Referendum Bill 2025. SEEP expresses its sincere appreciation to the Committee for the opportunity to contribute to the legislative review process on a matter of fundamental importance to Fiji's democratic development. SEEP welcomes the introduction of this Bill as a significant step toward establishing a formal legal framework for consulting the people of Fiji on matters of national importance, particularly regarding amendments to the supreme law of the Nation. This submission has been framed by the 2013 Constitution of the Republic of Fiji, which affirms the sovereignty of the people, guarantees equality before the law, and enshrines the fundamental freedoms of speech, expression, assembly, and political participation. SEEP maintains that any legislation governing referendum must operate in harmony with these constitutional guarantees.

SEEP affirms its support in principle for the codification of a referendum process, recognising that such legislation promotes certainty and transparency in what constitutes the ultimate act of democratic participation. The Bill contains several positive elements worthy of acknowledgement, including the establishment of a clear legal framework preventing future constitutional votes from being conducted on an ad hoc basis, the designation of the Supervisor of Elections as an independent authority, and provisions declaring polling day a public holiday with protections against electoral offences. Furthermore, SEEP appreciates that the Government has subjected this Bill to review by this Standing Committee, thereby inviting scrutiny from the public, civil society, and legal experts. This process signals an openness to refinement that will enable the Committee to recommend amendments ensuring the Bill fulfils its intended purpose without inadvertently limiting constitutional freedoms.

Notwithstanding these procedural strengths, SEEP has identified specific provisions requiring careful amendment to fully realise the democratic promise of a legitimate referendum process. The analysis has examined the necessity of expanding citizen-initiated referendum mechanisms under Section 5, the importance of proactive voter registration drives under Section 6, the need for transport assistance to remote communities on polling day, mandatory disability-friendly facilities at polling stations, multi-platform dissemination of referendum results in accessible formats, and the protection of educational continuity when schools are used as polling venues. Throughout each recommendation, SEEP has drawn upon constitutional provisions, international standards including the Venice Commission's Code of Good Practice on Referendums, and established practices of the Fijian Elections Office to demonstrate both the feasibility and necessity of these proposed amendments.

SEEP therefore urges the Committee to recommend amendments that transform this Bill from a framework concerned primarily with administrative order into one that actively fosters democratic participation and informed consent. The Supreme Court's observation that the 2013 Constitution "was imposed on the people, not chosen by them" created what the Court itself described as a "democratic deficit" that can only be remedied through genuine popular participation in shaping the nation's future. By adopting the recommendations contained in this submission, Parliament can ensure that the National Referendum Bill establishes a lasting mechanism for inclusive and meaningful citizen participation in Fiji's democratic governance. SEEP respectfully thanks the Committee for its consideration and remains available to provide further clarification should the Committee require it.

Respectfully Submitted,



Social Empowerment Education Programme.

4.0. Appendix

Comparative Table: SEEP Proposed Sections and Constitutional Alignment

Proposed Section	Proposed wording of the Section	Constitutional Alignment (2013 Constitution of Fiji)	Rationale
Section 33 – Civic Education	<i>“The Electoral Commission shall, prior to the conduct of any referendum, undertake nationwide civic education campaigns to ensure that all citizens are informed of the issues to be decided. Such campaigns must be conducted in English, iTaukei, and Hindi, and must be accessible to rural communities, women, youth, and persons with disabilities.”</i>	Section 23 – Political rights (right to free, fair, and regular elections); Section 17 – Freedom of speech, expression, and publication	Ensures voters are informed, promotes equal participation, and prevents misinformation.
Section 34 – Accessibility for Persons with Disabilities	<i>“The Supervisor of Elections shall ensure that all polling stations and referendum processes are accessible to persons with disabilities, including the provision of ramps, accessible booths, assistive technologies, and sign language interpreters where practicable.”</i>	Section 42 – Rights of persons with disabilities	Guarantees equal access to democratic participation for persons with disabilities.
Section 35 – Transparency of Referendum Questions	<i>“All referendum questions shall be framed in clear and simple language, avoiding ambiguity, and shall be published in the Gazette and through public media at least 30 days prior to polling day.”</i>	Section 17 – Freedom of expression; Section 23 – Political rights	Prevents confusion, ensures clarity, and strengthens transparency in democratic processes.

Proposed Section	Proposed wording of the Section	Constitutional Alignment (2013 Constitution of Fiji)	Rationale
Section 36 – Community Voice in Referendum Initiatives	<i>“Parliament shall establish a mechanism by which registered civil society organisations, community coalitions, and recognised traditional institutions may submit proposals for consideration as matters of national importance to be referred to a referendum.”</i>	Section 19 & 23 – Freedom of association and political participation	Empowers communities and civil society to influence national decision-making.
Section 37 – Gender Equality in Referendum Administration	<i>“The Electoral Commission shall ensure gender balance in the appointment of presiding officers and other officials engaged in the conduct of a referendum, and shall report annually to Parliament on compliance with this requirement.”</i>	Section 15 & 26 – Equality before the law and freedom from discrimination	Promotes gender equality in democratic institutions and strengthens representation.