



FII LAW REFORM COMMISSION

**Issues for Electoral Law Reform
Second Round of Public Consultations**

Voter Registration Act 2012

- Q1 Should the voting age be increased to 21 years? If YES, why? If NO, why not?
- Q2 Should all serving prisoners be allowed to vote? If YES, why? If NO, why not?
- Q3 Should in-patients of mental institutions be allowed to vote?
If YES, under what conditions? If NO, why not?
- Q4 Should the penalties in the Voter Registration Act be reduced? If YES to what? If NO, why not?
- Q5 Should there be a difference of penalties for minor and serious offences?
(a) What offences would you consider to be minor?
(b) What offences would you consider to be serious?
- Q6 Should the National Register of Voters be published at least once annually?
- Q7 Should the National Register of Voters be available at all District Offices for public inspection at no cost?
- Q8 Should all decisions of the Electoral Commission be subject to Appeal to a Court?
If YES, why? If NO, why not?
- Q9 Should the Supervisor's power to summon any person under the Act be deleted?
If YES, why? If NO, why not?
- Q10 Should your Voter ID card be sufficient identification to enable you to vote outside your constituency?

Political Parties Registration Act 2013

- Q11 Should the offence of holding out to be a political party when not registered, be extended beyond "office holders" to include ordinary members? If YES, why?
- Q12 Should the penalties for the above offence be reduced? If YES, to what? If NO, why not?
- Q13 Should the above offence apply to bona fide media reports? If YES, why? If NO, why not?
- Q14 Should the 5000 members required to register a political party be lowered?
If YES, to what? If NO, why not?
(a) Should the members come from all four divisions? If YES, why? If NO, why not?
(b) Should registered voters from outside Fiji be allowed as members required for the registration of political parties? If YES, why? If NO, why not.
- Q15 Should the application fee for the registration of a political party be reduced to \$1000?
If NO, why not?
- Q16 Should all decisions of the Electoral Commission be subject to Appeal to a Court?
If YES, why? If NO, why not?
- Q17 Should the Registrar of Political Parties involve himself/herself with the monitoring of the financing of Political Parties? If YES, what aspects?
- Q18 Should all political parties be required to register an acronym or abbreviation?
- Q19 Should Political Parties be allowed to use vernacular names? If YES, why? If NO, why not?
- Q20 Should provision be made for the "reservation" of political party names before registration?
If YES, for how long should the reservation be held?
- Q21 Should Schedules 1 and 2 to the Act be reduced to their bare minimums and be supported by templates? If YES, what minimum terms and requirements?
- Q22 Should the Registrar be involved in political party compliance with their constitutions?
If YES, to what extent?
- Q23 Should political parties be allowed to merge? If YES, under what circumstances?
- Q24 Should a "public officer" be allowed to be a founding member or a member of a political party?
- Q25 Should trade union officials and employers' association officials be included in the restrictions on "public officers"? If YES, why?
- Q26 Should a registered political party which fails to win any seats in or between two consecutive general elections be deregistered? If YES, why? If NO, why not?
- Q27 Should political parties be defined as "body corporates"? If YES, what for? If NO, why not?
- Q28 Should "office holders" of a political party be made personally liable for its debts?
- Q29 What rights and privileges (if any) should a political party enjoy and exercise while suspended?

- Q30 If a political party is deregistered, should all its MPs lose their seats?
If YES, why?
If NO, should the MPs remain as Independents or be allowed to join another Party?
- Q31 Should all disclosures by political parties and candidates under the Act be required to be published online by the Registrar? If NO, why not?
- Q32 Should candidates be required to declare their assets and liabilities?
If NO why not?
If YES, should that also include the assets of their spouses and children?
- Q33 Should the law limit the type of fund-raising activities that Political Parties and candidates can undertake? If YES, why and how? If NO, why not?
- Q34 Would there be a more level playing field if there were no restrictions on donations for political parties and candidates and pro rata limits were placed on campaign expenditures?
If YES, what would be a desirable limit? If NO, why not?

Electoral Act 2014

- Q35 Should all convicted persons who have served their terms be subjected to a stand-down period before standing as a candidate? If YES, under what conditions? If NO, why not?
- Q36 Should dual citizens be allowed to stand for elections? If YES, under what conditions? If NO, why not?
- Q37 Should persons who have completed their sentences for serious breaches against the electoral legislation be allowed to stand for elections without any stand-down period?
If YES why? If NO, why not?
- Q38 Should there be drug testing of all candidates for elections? If YES, why? If NO, why not?

Local Constituencies

The first round of consultations throughout Fiji revealed that there was a uniform rejection of the current electoral system and a strong preference for Local Constituencies, so that voters could identify their representative MP in order that they can raise with him or her local issues of importance and ensure accountability of MPs to their voters. A few submitters mentioned communal constituencies.

- Q39 Should there be local constituencies such as the open constituencies used in the 2006 Elections?
If YES, how many constituencies would you recommend?
- Q40 Should there be a separate local constituency for the island of Rotuma, given its remoteness and special position in the history of Fiji? If YES, why? If NO, why not?
- Q41 Should voters registered in a constituency (which will be on their voter registration card) be allowed to vote at designated polling venues outside their constituency? If NO, why not?
- Q42 Should there be government funded constituency offices, where the MPs will be available for voters to raise their concerns? If NO, why not?

Electoral Boundaries

If local constituencies are introduced, constituency boundaries will be required.

- Q43 Should there be a separate Boundaries Commission created?
(a) If YES, what would an ideal composition be?
(b) Would powers should it have?

Women's representation

During public consultations we were reminded that despite being independent for 55 years and holding numerous general elections since then, we have failed to consistently increase the number of women in our Parliament and currently there are only 5 women in our 55 member Parliament (less than 10%). There are cultural, economic and social barriers to women's participation.

Uniformly, submitters called for an increase of women representatives in Parliament. Many called for Reserved Seats for Women and/or a quota for women candidates on political party lists. These are the sort of Special Measures envisioned under CEDAW.

- Q44 (a) If there are reserved seats in Parliament for women, how many should there be?
(c) If there is a quota for women candidates on party lists, what percentage should be mandatory?

Proportionality

Many countries which have constituencies, also have a "proportionality" element which ensures that the percentage of seats accruing to a party in Parliament reflects the percentage of votes that party receives in an election.

Thus if a Party receives 60% of the votes cast, it will have 60% of the seats in Parliament. If a Party receives 30% of the votes cast, it will have 30% of the seats in Parliament.

Q45 Do you think that proportionality should be an element in our proposed Electoral System?

If YES, why? If NO, why not?

Open v Closed Lists

The current electoral system has an "Open List" proportional element where each Political Party's share of seats, is based on its share of the total number of votes cast. The required number of MPs are then selected from the Party List, ranked by the number of votes received by each candidate. Only those standing in the election can be on the Open List.

In a Closed List system proportional system, each Political Party prior to polling day submits its full list of candidates (maximum of the number of seats in Parliament) ranked in the order decided by the Party. While a party can include on its List people who do not stand in a constituency, a Closed List can have significant benefits in terms of diversifying representation to Parliament.

Q46 Do you have a preference between an Open and Closed List? If YES, please explain your preference.

5% Threshold

The current electoral laws require that at the national level a political party or independent candidate is not entitled to any seat in Parliament unless it receives a minimum of 5% of the total votes cast. On this threshold, with the current 55 seat Parliament, each seat represents roughly 1.8% of the total votes cast. In our consultations submitters told us that a system (with the 5% threshold) which keeps out candidates with thousands of votes while allowing MPs to enter Parliament with just a few hundred votes was grossly unfair.

Q47 Should the 5% threshold be reduced? If NO, why not? If YES, what should it be reduced to?

Senate

Many persons have suggested that there needs to be a Senate which could be a "checks and balance" mechanism on the House of Representatives, and have a wider range of cross-cutting representation than in the Lower House.

Q48 Do you agree?

(a) If YES, how many senators should there be?

(b) What kinds of representatives would you like to see in such a Senate?

Q49 Should the members be nominated or elected? Please explain your preference.

Q50 Should the Senate have any veto powers over legislation passed by the Lower House of Representatives? If YES, over what specific legislation?

General

Q 51 Should anyone involved in the past three coups (1987, 2000 and 2006) be disqualified from standing for any elections? If YES, why? If NO, why not?

Q52 Should senior civil servants be eligible for co-option as senior polling officials during elections? If NO, why not?

Q53 Should there be a media and campaign blackout period before polling day? If YES, for how long before polling day? If NO, why not?

Caretaker Government mode

Many members of the public have raised concerns that Government assets and powers may have been misused during the campaign period.

Q54 Should provisions be made in the law for a Caretaker Government after the announcement of the campaign period? If YES, what minimum guidelines?

If YES, who should manage government business during this caretaker period?

Making Elections Fun again

During the public consultations many submitters asked us to bring the “fun” back to elections.

Q55 Do you agree? If YES, what changes would you recommend?

Q56 Should there be early announcement of the election date? If YES, how early?

Impartiality of Electoral Officials

The law requires that all electoral officials (Electoral Commission, the Supervisor of Elections and all electoral officials) be impartial in the performance of their duties.

Q56 If there is a conflict of interest what should happen?

Q57 Who should monitor and enforce this obligation?

Q58 What should be the penalty for failing to comply with this obligation?

Civil Society Actors

Q59 Should the restrictions on civil society actors be reduced or removed?

If YES, specify what? If NO, why not?

Enhancing Participation of Persons with Disability

Q60 Could elections be made more accessible for persons with disabilities, the elderly and the sick?

If YES, explain how.

Q61 Should there be state funding for candidates with disabilities to assist with minimizing barriers to their participation as candidate? If YES, how? If NO, why not?

Elections for Trade Unions and other Organisations

Q62 Should the Elections Office be responsible for conducting elections for trade unions and other organisations? If YES, should those organisations pay for the service?

Election Management Body Architecture

It has been suggested that Fiji's electoral management may be improved, and be more cost effective, if the Electoral Commission was amalgamated with the Elections Office.

Q63 Do you agree that the Electoral Commission and the Elections Office should be amalgamated?

If YES, explain why. If NO, explain why not?

Current Legislation

Q64 What would be your top five recommendations for improvements to each of the current laws?

(a) The Electoral (Registration of Voters) Act 2012

(b) The Political Parties (Registration, Conduct Funding and Disclosures) Act 2013

(c) The Electoral Act 2014.

2013 Constitution

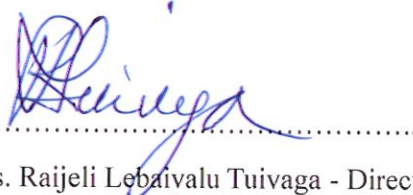
Q65 Should the Constitution contain electoral provisions beyond the principle of the electoral system? If YES, what additional provisions?

Invited stakeholders and relevant institutions are encouraged to make written submissions with recommendations for review or reform via the Fiji Law Reform Commission through the following methods:

- Online Portal submissions on the FLRC website at <https://flrc.gov.fj/submission-form/>
- Email at electorallawreformfiji@gmail.com
- Hand-delivered submissions at the FLRC Office, Level 5 Civic Tower Suva (located behind the Suva City Library)
- Post at Fiji Law Reform Commission, P.O Box 2519, Government Buildings, Suva or
- Scan the QR Code provided below this advertisement

Please note that all written submissions should specify the subject as “**FLRC Electoral Law Reform**”.

Any queries or further clarification on the above may be directed via email to electorallawreformfiji@gmail.com or you may contact Ms. Leah Duru at 9086053 or by telephone on 3303900 or 3303646.



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