



FIJI LABOUR PARTY

Peace Freedom Justice Democracy

The Director
Fiji Law Reform Commission
Level 5, Civic Tower
Victoria Parade
Suva

FLRC Electoral Law Reform

We are pleased to present our submissions on a review of the Electoral Laws for consideration by the Fiji Law Reform Commission.

Our submissions are focused on: the Composition of Parliament; the Voting Method; Compulsory Voting; Nomination of Candidates; Conduct of Elections; Ballot Papers; Nomination Deposit; Women Representation in Parliament.

We also invite your attention to our submission dated 18 January 2024 (attached) to the Chair of the Electoral Commission in response to her written request dated 21 December 2023. This submission deals comprehensively with our proposals for amendments to the Political Parties Act.

Additionally, we request the Commission to officially obtain the joint submissions dated 18 May 2017 to the Electoral Commission by the Fiji Labour Party, NFP, Freedom Alliance (now defunct) and Sodelpa on reforms to the Electoral legislation.

There were other representations in response to amendments to the Electoral Act vide Acts 9/21, 34/21 and 49/22. We refer to those in the following paragraphs.

Act 9/21 dealt with amendments to administrative and procedural matters and its provisions were of no major concern. However, Act 34/21 was titled an “An Act to Amend the Financial Management Act 2004 but a ‘*consequential amendment*’ to s116 of the Electoral Act was sneaked in through it. The amendment was not only controversial but quite ridiculous in that it required political parties/ candidates or their representatives acting under their direction to “immediately provide a written explanation” as to where will the money for their campaign promises be obtained and should expenditure exceed revenue, then how will the deficit be financed.

Failure to do so would be an electoral offence punishable by a heavy fine and/or a lengthy prison sentence.

All Correspondence to be addressed to the Secretary-General
P.O. Box 2162, Government Buildings, Suva, Fiji Is. Phone: (679) 337 3317 Fax: (679) 337 3173
Email: flp@connect.com.fj; website: www.flp.org.fj

Unfortunately, MPs on the Opposition benches were caught napping and the Bill was passed without a voice raised in dissent.

We submit that this amendment be revoked. It is a matter for the contesting political parties to effectively counter any campaign promises that do not add up.

It should not be for the ruling party to criminalise campaign issues by legislating draconian provisions.

Likewise, an amendment to s6 of the Electoral Act confers extraordinary powers on the Supervisor of Elections to obtain confidential information notwithstanding any other written law on confidentiality, privilege or secrecy.

We submit this amendment, as it stands, is unconstitutional, and that such protected information may only be obtained upon securing a Court Order and only if it is considered by the Court that the information sought is relevant to the Supervisor's functions.

A number of objectionable provisions of the Electoral Act and the Political Parties Act cannot be reviewed/amended without first surmounting the constitutional challenges that stand in its way. It would have been advisable to have dealt with that ahead of moving forward with the Reform process.

We are rather concerned that we may be putting the cart before the horse. We share your opinion that the timeframe set for the Commission to complete its work is rather inadequate considering its complexities.

We now turn to the new issues in our submission. These should be read in conjunction with the other submissions referred to earlier.

Composition of Parliament

Parliament should have a single legislative chamber comprising 55 members elected to represent single-member constituencies determined by a Constituency Boundaries Commission.

The Commission should ensure that the number of voters in each constituency is, as far as reasonably practical, the same.

The number of members and constituencies may be reviewed from time to time as decided by Parliament.

Voting Method

The election of a member for each constituency should be conducted under the preferential system of voting known as the Alternative Vote – similar to that under the 1997 Constitution.

This system is preferred because a successful candidate has to achieve an absolute majority. Further:

- It gives voters an opportunity to have their own choices represented
- It adds value to the votes of the minorities
- It allows like-minded parties to exchange preferences to assist each other win
- It promotes a strong party system, strengthening the parliamentary process

We must move away from the current Leader-centred proportional system that deters the emergence and development of younger leaders and throws up ridiculous results where MPs with 300 or less votes end up being Cabinet ministers!

Moreover, voters prefer to have an MP they can identify with and one who can empathise with them or understand their problems. Under the present system, they cannot hold any MP accountable to them.

Compulsory Registration and Voting

Every person who is eligible must register and vote in every election.

Given the declining number of voters in the successive elections since 2014 (84.6%), 2018 (72%) and 2022 (68.3%) it is imperative that action is taken to persuade our people to exercise their franchise and participate in the democratic process to choose their government.

Registration as a Voter

Fiji citizens, residing in Fiji or abroad, and former Fiji citizens residing abroad who are 18 years and over should be entitled to be registered as a voter.

A person:

- a) declared or adjudged to be of unsound mind; or
- b) who is serving a sentence of imprisonment of 12 months or more in Fiji or abroad; or

- c) who is disqualified for a period from registration as a voter under a law relating to electoral offences;
should not have a right to be registered as a voter.

Nomination of Candidates for Election

A person may be nominated for election to Parliament only if he/she is

- a) a registered voter
- b) a citizen of Fiji

A person who:

- a) is serving a sentence of imprisonment when nominated
- b) is an undischarged Bankrupt
- c) is convicted of an electoral offence
- d) is not ordinarily resident in Fiji for at least 2 years immediately before being nominated
- e) has an interest in an agreement or contract entered into with the government or a government authority, being an interest prescribed by Parliament as an interest that should not be held by a Member of Parliament

should be ineligible to be nominated as a candidate.

A person who holds a public office should be deemed to have vacated his/her office upon filing his/her nomination with the Supervisor of Elections.

A person who has held office as:

- a) a member of the Constituency Boundaries Commission
- b) a member of the Electoral Commission
- c) a member of the Parliamentary Emoluments Commission
- d) the Supervisor of Elections
- e) a member of the Constitutional Offices Commission

is ineligible for nomination as a candidate.

NOTE: Public office does not include:

- a) the office of a Minister
- b) the Leader of the Opposition; or
- c) an office held by a Minister by virtue of his appointment as a Minister

Conduct of Elections

The conduct of elections should be reverted to that preceding the imposition of the 2013 Constitution and the Electoral Decree 2014 (Decree 11 of 2014).

We propose a week-long election period with the counting of votes done at centralized locations in the four administrative regions; each having a returning officer appointed by the Supervisor of elections (see s40-s124 of the Electoral Act 1998 (now repealed)).

Schools, community halls and suitable public buildings can be used as polling stations as in the past. There should not be undue restrictions placed on political parties from erecting their polling sheds and receiving voters who support them.

Ballot Papers

Each Ballot Paper should bear a serial number and there should be absolute transparency and accountability in the processes of printing of ballot papers; its issuance to the Returning Officers/Presiding Officers at every polling station and in the preparation of the National and polling station Ballot Paper Accounts.

Ballot papers should provide sufficient space for display of symbols of political parties or those of Independent candidates, alongside their names.

Nomination Deposit

The deposit should be reduced to \$250 per candidate and fully refunded to a Party should it receive 2.5% of the total votes cast in the election.

In the case of an independent candidate, the deposit should be refunded should the candidate receive 2.5% of the total votes cast for that constituency.

Women Representation

We firmly believe in fair representation of women in Parliament. They comprise around 50% of our population as well as registered voters. While there are no legal or constitutional obstacles to women representation in Parliament, there are cultural constraints and political attitudes that need to be considered.

Currently there are only 5 women in Parliament making up just 10% of the total number of MPs. This is the lowest compared to the number of women MPs in 2014 (8 or 16%) and 2018 (10 or 19.6%).

We propose that a threshold of 30% or 16 MPs be accepted for women representation in Parliament and that it be applied in the following manner:

- a) no action is required should the number of women elected as MPs constitute 30% or more of the total number of seats
- b) should the number of women elected MPs be less than 30% of the total number of seats, then the number should be made up from the unelected women candidates in the order of the number of votes they received and they be recognized as nominated MPs

We propose that nominated women MPs be given the right to speak. As unelected MPs, they should not have the right to vote.

Other Relevant Matters:

Grant to Political Parties

In the course of the 2023 Budget consultation, Finance Minister and NFP leader Biman Prasad acting in collusion with the other two parties in the Coalition (PAP and Sodelpa), hatched a plan to use the parliamentary budget to provide funding for their respective parties.

It was a preposterous, totally unscrupulous scheme – never heard of before in Fiji's parliamentary history. The Parliamentary Budget was thereby doubled – increased from \$8m a year to \$16m to facilitate the payout. It was done surreptitiously. There was no mention of it in the 2023/24 Budget address or debate, or during the committee stage of budget proceedings. The information was withheld from the public.

The matter only came to light when the Secretary-General to Parliament wrote to Fiji First Secretary-General Aiyaz Khaiyum in August 2023 notifying him of the allocation. He then made it public.

As a result of the notorious deal, each political party in Parliament received an annual grant of \$325,000. The money no doubt was to be used to pay their election debts and build up funds for the 2026 general elections.

However, this was disguised as payment for “parliamentary expenses such as staffing and other recurring expenses” in the letter that the Secretary-General to Parliament sent to the four parliamentary political parties.

This explanation is absurd as expenses of political parties in Parliament are ordinarily covered by Parliament. This means that the extra \$325,000 would be over and above ordinary parliamentary expenses.

Labour wrote to the Secretary General to Parliament on 27 September 2023 querying the secret payment issue but received no reply. We also raised it with the then Chair of the Electoral Commission in a letter dated 4 December 2023, and again received no response.

The two letters detail Labour’s objection to this totally unjustified grant to the governing political parties. It should be investigated.

There should be appropriate rules governing grants to political parties. And it should be properly administered by the Electoral Commission and not Parliament which should always maintain its independence from party political processes. A matter of good governance – accountability and transparency.

Moreover, the \$325,000 annual grant is grossly unfair as it puts political parties outside Parliament at a distinct disadvantage *vis a vis* parties in parliament. Fiji Labour Party, for instance, has a known and vigorous record for holding the government accountable at all times, as a service to the constituents. We are often doing the work that should be done by the Opposition.

In the lead up to the general elections, this creates an extremely uneven playing field. More specifically as the current Political Parties Act places severe constraints on fund raising by political parties.

We urge the Review Commission to look into this obnoxious scheme to fund the ruling political parties at taxpayers’ expense.

Annual grants to certain Media Organisations

Recent developments in the Media ahead of the 2026 general elections are also of concern.

We refer to the \$1.7m government grant allocated to Communications Fiji Ltd (CFL) for a period of 14 months ending July 2026. A lesser grant of approximately \$500,000 was made to Mai TV.

The payouts are exorbitant, given under the guise of providing Public Service Broadcast. In the case of CFL, it works out at \$121,428 a month or just over \$4,000 per day - preposterous and totally unwarranted!

The PSB service is being provided by the State-owned Fiji Broadcasting Commission for which it receives an annual grant from government.

We see no need for this grant to be extended to privately-owned commercial media organisations. It actually tantamounts to 'buying' the media which can no longer be viewed as independent and impartial in its coverage of news.

Ever since this development, the Fiji Labour Party has noticed a substantial drop in the coverage of its media releases by the CFL network. Indeed, they have stopped running our statements critical of the Coalition.

This is not only in gross violation of media ethics, it also interferes with the people's right to information and the dissemination of critical news. How can the voters make informed decisions if they are presented only one side of an issue or none at all?

We raise this matter here because a free, unfettered, independent media is as crucial to the conduct of free, fair and democratic elections as are fair electoral laws.



Mahendra P. Chaudhry
Secretary-General/Leader
Fiji Labour Party

21 May 2025

Attchs: Submission to EC on Review of Electoral Laws
 : Letter Secretary-General to Parliament
 : Letter Chair Fijian Electoral Commission