

REPUBLIC OF FIJI

CONSTITUTION COMMISSION

DRAFT FOR PROPOSED

CONSTITUTION OF FIJI, 2013

Presented to His Excellency Ratu Epeli Nailatikau, CF, LVO, OBE(Mil), OStJ, CSM, MSD,

President of the Republic of Fiji,

on Friday, 21 December 2012,

in accordance with the Fiji Constitutional Process (Constitution Commission) Decree 57 of 2012

FILEDAYS

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by the Constitution Commission

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THE CONSTITUTION OF FIJI, 2013

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PREAMBLE

The People of Fiji declare —

We are Fijian: iTaukei and all others who have come to make their home in these islands.

We recognise the indigenous Fijian and Rotuman peoples who first formed a spiritual connection with these islands, establishing a strong, vibrant culture lasting for thousands of years.

We receive the gifts of these islands, their history, heritage, and name with deep gratitude. Together, we aspire to keep faith with the spirit of tolerance in building our nation. Wishing to heal the divisions of our past, we acknowledge our struggles, and our failure to create a single nation and to establish an inclusive democratic society.

Striving now to live in unity, we resolve—

- to share the spirit of play, work and worship,*
- to create a modern, progressive, multicultural nation founded on trust, tolerance, inclusiveness, compassion, the dignity and equality of each individual, and respect and stewardship of nature's gifts, and*
- to build a just and sustainable government on the foundation of freedom, democracy, social justice, human rights, and the rule of law.*

In humility and hope, determined to overcome the past, and having engaged in open discussion of our visions for Fiji, we adopt this Constitution for ourselves, and as a gift to our children, with the prayer that the generations who follow may live in peace and happiness.

CHAPTER 1—FOUNDING PROVISIONS

1. The Republic of Fiji

- (1) We, the People of Fiji, are one united, multicultural nation, sharing the values of—
 - (a) human dignity, respect for the individual, personal integrity and responsibility, civic involvement and mutual support;
 - (b) human rights for each individual, within a just and fair society;
 - (c) equality for all, and care for the less fortunate, based on the values inherent in this Article, and in the Bill of Rights;
 - (d) national unity and common identity, appreciation of diversity, tolerance, and the inclusion of all communities in the life of the nation; and
 - (e) a prudent, efficient and sustainable relationship with nature.
- (2) All sovereign authority of Fiji belongs to the People, who now affirm that the Republic of Fiji is a sovereign, democratic State, founded on the values set out in clause (1), and—
 - (a) respect for human rights, freedom and the rule of law;
 - (b) an independent, impartial, competent and accessible system of justice;
 - (c) participation of the people, and representation of the diversity of the nation in public bodies;
 - (d) the principles of good governance, including the limitation and separation of powers and other forms of checks and balances; and
 - (e) integrity, transparency, and accountability.

2. The Constitution

- (1) This Constitution is the supreme law of Fiji, which every person has an obligation to respect, uphold and defend.

- (2) The obligations imposed by the Constitution must be fulfilled, and any law, decree or conduct inconsistent with this Constitution is invalid to the extent of the inconsistency.
- (3) Determined to establish an enduring democracy and eliminate the culture of coups, the People declare that—
 - (a) any attempt to establish a government other than in compliance with this Constitution is unlawful; and
 - (b) if such an attempt is made after the effective date of this Constitution—
 - (i) anything done to further that attempt is invalid and of no force or effect; and
 - (ii) no immunities can lawfully be granted under any law to any person in respect of actions taken or omitted in furtherance of such an attempt.
- (4) This Constitution is upheld by the people and through all State organs, and is enforced through the courts in accordance with Article 120, to ensure that—
 - (a) laws and conduct are consistent with the Constitution;
 - (b) rights and freedoms are protected; and
 - (c) duties under this Constitution are performed.

3. Values governing power and authority under the Constitution

- (1) The authority of the Republic of Fiji may be exercised only in accordance with this Constitution and the laws under it.
- (2) Public office is a trust conferred by the people through the Constitution, which vests in the holder the responsibility to serve, rather than the power to rule.
- (3) Everyone exercising authority under this Constitution must always—
 - (a) promote the national values recognised in Article 1; and

- (b) strive to realize the goals of the people of Fiji, which include—
 - (i) living with tolerance toward, and in harmony with, one another;
 - (ii) providing for ourselves by building a stable economy;
 - (iii) reducing poverty and ensuring that the basic needs of the most vulnerable and less fortunate are satisfied;
 - (iv) eliminating injustice, corruption and wastefulness;
 - (v) maintaining our natural heritage for the benefit of future generations; and
 - (vi) living peaceably with all other nations.

4. Distribution of sovereign authority

- (1) The sovereign authority of the People of Fiji is exercised under this Constitution in accordance with the principles and values recognised in this Chapter.
- (2) To secure democracy under the principles of limiting and separating powers, this Constitution distributes the authority of the People among—
 - (a) the National People's Assembly, an annual forum of Officers of the State and representatives of civil society, which considers progress towards the realisation of the national values and goals, as well as new or emerging challenges to the nation, and holds Officers of the State accountable to the people, and has the powers set out in Chapter 6;
 - (b) the President, who is the head of State and symbolises the unity of the nation and the sovereignty of the people, and has the powers set out in Chapter 7;
 - (c) Parliament, which manifests the diversity and unity of the nation, represents the will of the people, oversees the government and enacts legislation, in the manner provided in Chapter 9;

- (d) the Prime Minister and Cabinet, which collectively manage the government and administer the laws enacted by Parliament, in the manner set out in Chapter 10;
- (e) the Courts and other independent tribunals, which administer justice, safeguard the rule of law and protect the rights and freedoms recognised in Chapter 3 by exercising the judicial authority of the Republic, in accordance with Chapter 11;
- (f) autonomous and democratic local governments for all of Fiji, which must be established by legislation consistent with the principles set out in Chapter 12, to deliver services and ensure that the needs of the entire community, including youth, women, minorities and the disabled are considered in local government decisions;
- (g) Independent Commissions and Offices, as established in Chapter 13, which secure and protect constitutional democracy, promote the observance of democratic principles and values by all State organs, and maintain constitutionality and integrity by insulating essential democratic functions from improper influence, manipulation or interference;
- (h) the public service, which carries out the policies of the government and delivers services to the people with high standards of professionalism, ethics, integrity and transparency, in accordance with the principles set out in Chapter 15; and
- (i) the structures of State security, established by Chapter 16, which promote the goal of the people to live in peace and harmony among themselves, to be free from fear, and to live peaceably with all other nations.

5. Languages

- (1) iTaukei and Rotuman are our indigenous languages: all State organs must respect, protect and promote the use of indigenous languages.
- (2) English, iTaukei and Hindustani have equal status in the State, subject to the requirements in Article 100 (2) concerning the languages of Acts of Parliament.

- (3) Each State organ must be prepared to transact business with any person in English, iTaukei or Hindustani, either directly or through a competent translator.
- (4) All other languages used in Fiji must be recognised and respected.

6. Religion

- (1) The People of Fiji acknowledge the significant role of religion in the modern history and development of Fiji and the importance of personal faith in building meaningful lives.
- (2) Religious liberty, as recognised in the Bill of Rights, is a founding principle of the State.
- (3) Religious belief is personal. Therefore, religion and the State are separate, which means—
 - (a) the State must treat all religions equally;
 - (b) the State must not dictate any religious belief;
 - (c) no State organ may prefer or advance, by any means, any particular religion, religious denomination, religious belief, or religious practice over another, or over any non-religious belief; and
 - (d) no person may assert any religious belief as a legal reason to disregard this Constitution or any other law.

7. The People of Fiji

- (1) The People of Fiji respect and honour the history of the iTaukei and Rotuman peoples, recognise the contributions of all communities to the nation, and acknowledge the spirit, value and uniqueness of each individual, affirming their inherent human dignity.
- (2) In return, each individual is encouraged to—
 - (a) enrich their community by—

- (i) behaving with integrity at all times;
 - (ii) caring for the children, teaching and nurturing the youth, and helping them to find their own place within the nation; and
 - (iii) treating the elderly, the vulnerable and the disadvantaged members of the community with dignity, empathy and compassion;
- (b) foster national unity and mutual understanding by—
- (i) according the greatest tolerance and respect to all others, particularly those who are of other religions, cultures or lifestyles; and
 - (ii) endeavouring to respect, learn and use our languages;
- (c) engage in the civic life of the community and nation by—
- (i) exercising their democratic rights; and
 - (ii) promoting democracy, human rights, and the rule of law;
- (d) protect the environment for the benefit of present and future generations; and
- (e) live in harmony with others—
- (i) by avoiding harm to others, and by acknowledging and accepting personal responsibility for actions that affect or harm others; and
 - (ii) by making restitution to those harmed, seeking forgiveness, and being reconciled within the community and nation.
- (3) The identity and sense of place and belonging of each individual and community within Fiji must be respected as we strengthen and develop Fiji in accordance with the values recognized in Article 1.

8. National unity

The spirit of national unity referred to in Article 1—

- (a) is important to developing and nurturing the personal identity of each individual, and promoting a strong sense of national identity and pride;
- (b) is enriched by the languages, arts, customs, festivals, traditions and histories of each community within the nation;
- (c) calls for the heritage of Fiji to be nurtured by—
 - (i) increasing awareness of our country, history and culture; and
 - (ii) protecting sites of historical or cultural significance, and cultural artefacts;
- (d) requires the free expression of creativity, including artistic, academic, literary, scientific and technical innovation; and
- (e) is enhanced by positive responses to the challenge of evolving social changes, technological developments and environmental change.

9. Citizens of Fiji

- (1) As a manifestation of national unity, all citizens of Fiji have equal status, which means that they are—
 - (a) equally entitled to all the rights, privileges and benefits of citizenship; and
 - (b) equally subject to the duties and responsibilities of citizenship.
- (2) Citizenship of Fiji may be acquired only by birth, registration or naturalisation, in accordance with the provisions of Schedule 1.
- (3) Citizens of Fiji may hold dual or multiple citizenship, which means that—
 - (a) upon accepting the citizenship of a foreign country, a person remains a citizen of Fiji, unless they renounce that status;
 - (b) a former citizen of Fiji, who lost that citizenship upon acquiring foreign citizenship, may regain citizenship of Fiji, while retaining that foreign citizenship, unless the laws of that foreign country provide otherwise; and

- (c) upon becoming a citizen of Fiji, a foreign person may retain their existing citizenship, unless the law of that foreign country provides otherwise.
- (4) No person may be deprived of citizenship except in accordance with a law contemplated in Section 7 (b) of Schedule 1.

CHAPTER 2—OUR NATURAL HERITAGE

10. The natural environment

Our island home is a rich and complex natural environment. Each of us now living here—

- (a) acknowledges the spirit in all living things;
- (b) accepts the responsibility to care for and preserve the natural environment;
- (c) bears an obligation to leave a clean and healthy environment to future generations; and
- (d) undertakes to—
 - (i) care for the air, the land, the water, and all living things within them; and
 - (ii) use resources in moderation, and replenish the land.

11. Security of existing land rights

- (1) All ownership of land, and all rights and interests in land, whether freehold, customary or public, that existed immediately before the effective date of this Constitution, continue to exist under this Constitution.
- (2) The ultimate ownership of land held in customary ownership as of the effective date always remains with the customary owners of that land, and cannot be taken by any other person, or transferred or granted to any other person, except to the State in accordance with Article 37.

- (3) The State must not require the transfer or grant of the ultimate ownership of any customary land except as a measure of last resort, preferring to enter into lease arrangements or other interests less than ultimate ownership.
- (4) Freehold land remains freehold when the title is transferred, even if transferred to the State.
- (5) Public land belongs to the people collectively and is held by the State in trust for them.

12. Principles of land use and environmental protection

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

any alteration in land use that may reasonably be anticipated to affect their rights or interests.

- (7) Land administration, including land records, land use consultation, planning, procedures for granting permits, and environmental impact studies, must be participatory, transparent, accessible and cost effective.

13. Fishing grounds and marine areas

Parliament must regulate rights of access to reefs, fishing grounds and similar marine areas, and take appropriate action to protect all marine areas.

14. Natural resources

- (1) Policy, legislation and decision making relating to natural resources must be guided by the following principles:
 - (a) Resource development and use must promote the social and economic benefit of the people.
 - (b) State organs must keep the public informed and involved in decisions relating to resource policy and management.
 - (c) Resource development permits should be granted on the basis of competitive tendering, unless there is a substantial reason to do otherwise.
 - (d) The decision to approve, licence or otherwise permit any development should be made only after careful consideration of all foreseeable benefits and social, economic and environmental consequences.
 - (e) All enterprises engaged in resource extraction must be required to maintain best practice standards in contracting, operations, payments, transparency and accountability.
- (2) All minerals in or under any land or water, belong to the People and are held by the State in trust for the benefit of the People.

- (3) The owners of any particular land, or of any particular registered customary fishing rights, are entitled to receive an equitable share of royalties or other money paid to the State in respect of the grant by the State of rights to extract minerals from that land or the seabed in the area of those fishing rights.
- (4) An Act of Parliament may determine the framework for calculating equitable shares under clause (3), taking into account—
 - (a) any benefits that the owners received or may receive as a result of the mineral exploitation;
 - (b) the risk of environmental damage;
 - (c) any legal obligation of the State to contribute to a fund to meet the cost of preventing, repairing or compensating for any environmental damage;
 - (d) the cost to the State of administering exploitation rights; and
 - (e) the appropriate contribution to the general revenue of the State to be made by any person granted exploitation rights.

15. Duty to consult with respect to land and resources

- (1) If any project is proposed to develop infrastructure, or to develop or extract resources, on any land in a manner that may reasonably be anticipated to adversely affect the rights or interests of other persons or a community with respect to that land or any other land, the State and the proponent of the project have a joint duty, before licensing, permitting or undertaking that project, to —
 - (a) inform those persons or that community about the project in sufficient detail for the affected persons to assess the possible effects of the project on their rights and interests;
 - (b) engage in constructive discussions with the affected persons to identify any reservations they may have about the effects of the project; and

- (c) seek consensus with the affected persons by making any reasonable and necessary modifications to the project to protect their rights and interests and accommodate their reservations.
- (2) State organs, when licensing or permitting a project, must impose conditions which, so far as reasonably possible, protect the rights and interests and accommodate the reservations of the affected persons with respect to the project.
- (3) The duty to consult, as set out in clause (1), continues while the project is underway, so long as it affects the rights or interests of other persons or communities.

16. National Consultative Land Forum

- (1) Parliament must enact legislation to establish a National Consultative Land Forum.
- (2) The Forum must—
 - (a) be chaired by a person with knowledge of land law or land administration in Fiji, who is not the holder of any public office, and not a representative of the interests of either landowners or tenants; and
 - (b) otherwise consist of an equal number of persons drawn from each of the following three stakeholder groups:
 - (i) State organs or enterprises engaged in land policy, land management or the administration of land law, including local government authorities.
 - (ii) Land owners, with a balance between owners of freehold and customary land owners.
 - (iii) Tenants, reflecting the diversity of urban and rural tenants, tenants of freehold, customary and public land, and agricultural, commercial and residential users.
- (3) The purposes of the National Consultative Land Forum are to—
 - (a) educate the public on land ownership, land use and land administration;
 - (b) research issues respecting land, land use and land administration;

- (c) convene meetings for deliberation of land issues in the broader social and economic context, and seek to reach consensus on any such issue;
- (d) make proposals to the government on matters of policy or legislation concerning land and related institutions; and
- (e) review and express advisory opinions on policy or legislative proposals of the government with respect to land in accordance with Article 17.

17. Protection and reform of land laws

- (1) Any policy or legislative proposal by the government with respect to land, land use or land administration, must be referred to the Chair of the National Consultative Land Forum for deliberation and report by the Forum before being adopted or enacted.
- (2) The National Consultative Land Forum may make a unanimous report on any matter, or may make separate reports reflecting the divergent views of the three stakeholder groups within the Forum.
- (3) A Bill amending or repealing an Act listed in Schedule 2—
 - (a) must be expressed as a Bill for an Act to amend or repeal the Act concerned;
 - (b) may not be introduced in Parliament if the National Consultative Land Forum has unanimously rejected the Bill; and
 - (c) to be enacted, requires the support of at least—
 - (i) 48 members of Parliament, if any one of the three stakeholder groups in the Forum has rejected it; or
 - (ii) 36 members of Parliament, if the Forum has issued a unanimous report in favour of the Bill.

CHAPTER 3—OUR HUMAN RIGHTS

Part A—Bill of Rights

18. Rights and freedoms

- (1) Our rights and freedoms express our fundamental values and principles, are essential to our democracy, and manifest our commitment to justice and the rule of law.
- (2) Our rights and freedoms, as recognised in this Chapter—
 - (a) belong to each person and are not granted by the State; and
 - (b) may be limited only to the extent contemplated in Article 48, or expressly set out in relation to a particular right or freedom, or elsewhere in the Constitution.
- (3) The State, and every State organ, must respect, protect, promote and fulfil the rights and freedoms recognised in this Chapter.

19. Right to life

Everyone has the right to life.

20. Right to dignity

Everyone has inherent dignity, is entitled to respect, and has the right to have their dignity respected and protected.

21. Right to equality and freedom from discrimination

- (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms recognised in this Chapter or elsewhere in the law.
- (3) The State may not discriminate directly or indirectly against anyone on one or more grounds, including birth, age, ethnicity, social origin, race, colour, primary language,

religion, conscience, belief, culture, sex, gender, gender identity, sexual orientation, pregnancy, marital status, disability, social status or economic status.

- (4) No person may discriminate directly or indirectly against anyone on one or more of the grounds set out or contemplated in clause (3).
- (5) Treating one person differently from another on any of the grounds set out or contemplated in clause (3) is discrimination, unless it can be established that the difference in treatment is reasonable in the circumstances.
- (6) To promote the achievement of equality, the State may take legislative and other measures designed to protect or advance persons, or categories of persons, who are disadvantaged.

22. Children

- (1) Every child has the right—
 - (a) to be registered at or soon after birth, and to have a name and nationality;
 - (b) to basic nutrition, clothing, shelter, sanitation and health care;
 - (c) to ask questions, and to learn;
 - (d) to rest, to play and to participate in sports and creative activities;
 - (e) to family care, protection and guidance, which includes the equal responsibility of the child's parents to provide for the child—
 - (i) whether or not the parents are, or have ever been, married to each other; and
 - (ii) whether or not the parents are living together, have ever been living together, or are separated;
 - (f) to express their own views on any matter affecting the child;
 - (g) to all the rights recognised in this Constitution, other than those restricted to adults;

- (h) to be protected from abuse, neglect, harmful cultural practices, any form of violence, inhuman treatment and punishment, and hazardous or exploitative labour; and
- (i) not to be detained, except as a measure of last resort, and when detained, to be held—
 - (i) for the shortest appropriate period of time; and
 - (ii) separate from adults, and in conditions that take account of the child's sex and age.
- (2) A child's best interests are the primary consideration in every matter concerning the child.

23. Freedom from slavery, servitude, forced labour and trafficking

- (1) No one may be held in slavery or servitude, or subjected to forced labour or human trafficking.
- (2) Forced labour does not include work that is reasonably required to be undertaken as a civic or communal obligation to participate in the care of the local community.

24. Right to liberty and personal security

- (1) Everyone has the right to liberty, which includes the right not to be detained without trial.
- (2) Everyone has the right to freedom from physical, mental or any other kind of torture.
- (3) Everyone has the right to freedom from cruel, inhumane, degrading or disproportionately severe treatment or punishment.
- (4) Everyone has the right to security of the person, which includes the right to be free from any form of violence from any source, at home, at school, at work or in any other place.
- (5) Everyone has the right to bodily and psychological integrity, which includes the right—

- (a) to make decisions concerning reproduction;
- (b) to exercise control over their own body; and
- (c) not to be subjected to any scientific or medical treatment or procedure without their informed consent.

25. Right to privacy

Everyone has the right to privacy, which includes the right—

- (a) to confidentiality of their personal information;
- (b) to confidentiality of their communications;
- (c) to respect for their private and family life; and
- (d) not to have—
 - (i) their person, home or property searched; or
 - (ii) their possessions seized.

26. Freedom of religion, belief and opinion

- (1) Everyone has freedom of conscience, religion, belief, thought and opinion.
- (2) Everyone has the right, either individually or in community with others, in private or in public, to manifest and practise their religion or belief in worship, observance, practice or teaching.
- (3) Everyone has the right not to be compelled—
 - (a) to act in any manner that is contrary to the person's religion or belief; or
 - (b) to take an oath, or take an oath in a manner, that—
 - (i) is contrary to the person's religion or belief; or
 - (ii) requires the person to express a belief that the person does not hold.

27. Freedom of expression, publication and media

- (1) Everyone has freedom of expression and publication, which includes—
 - (a) freedom to seek, receive and impart information, knowledge and ideas;
 - (b) freedom of the press, including print, electronic and other media;
 - (c) freedom of imagination and creativity; and
 - (d) academic freedom and freedom of scientific research.
- (2) Freedom of expression and publication does not protect—
 - (a) propaganda for war;
 - (b) incitement to violence or insurrection against this Constitution; or
 - (c) advocacy of hatred that—
 - (i) is based on any prohibited ground of discrimination listed or contemplated in Article 21 (3); and
 - (ii) constitutes incitement to cause harm.

28. Freedom of movement and residence

- (1) Everyone has freedom of movement.
- (2) Everyone has the right to leave Fiji.
- (3) Every citizen has the right to apply for and be issued a passport or similar travel document, in accordance with the laws contemplated in Section 7 of Schedule 1.
- (4) Every citizen or former citizen, and any foreign spouse, widow, widower or child of a citizen, has the right to enter Fiji and to remain and reside in Fiji.
- (5) Everyone has a right of access to foreshore land, reefs and similar marine areas.
- (6) The State must take progressive reasonable measures to facilitate or restore public access to any foreshore land, reefs and similar marine areas.

29. Freedom of association

Everyone has freedom of association.

30. Freedom of assembly, demonstration, picket and petition

Everyone has the right, peaceably and unarmed, to assemble, to demonstrate, to picket and to present petitions to public authorities.

31. Political rights

- (1) Every citizen has the freedom to make political choices, and the right—
 - (a) to form or join a political party;
 - (b) to participate in the activities of, or recruit members for, a political party; and
 - (c) to campaign for a political party, candidate or cause.
- (2) Every citizen has the right to free, fair and regular elections for any elective institution or office established under this Constitution.
- (3) Every citizen who has reached age 18 has the right—
 - (a) to be registered as a voter;
 - (b) to vote by secret ballot in any election or referendum under this Constitution;
 - (c) to be a candidate for elected public office, or office within a political party of which the citizen is a member, subject only to satisfying any qualifications for such an office; and
 - (d) if elected, to hold office.

32. Access to information

- (1) Everyone has the right of access to—
 - (a) information held by State organs; and

- (b) information held by another person and required for the exercise or protection of any legal right.
- (2) Everyone has the right to the correction or deletion of untrue or misleading information that affects that person.
- (3) The State must publish and publicize any significant information affecting the nation that would ordinarily be published in a free and democratic society.

33. Education

- (1) Education is a lifelong process of preparation for the responsibilities and opportunities of life.
- (2) Everyone has the right to—
 - (a) early childhood education;
 - (b) free primary and secondary education; and
 - (c) further education.
- (3) The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the right—
 - (a) to free secondary education;
 - (b) to early childhood education, and further education; and
 - (c) to education for persons who were unable to complete their primary education.
- (4) Every religious community or denomination, and every cultural or social community, has the right to establish, maintain and manage places of education whether or not it receives financial assistance from the State, provided that the educational institution maintains any standards prescribed by legislation.
- (5) In exercising its rights under clause (4), a religious community or denomination has the right to provide religious instruction as part of any education that it provides,

whether or not it receives financial assistance from the State for the provision of that education.

- (6) A person attending a place of education has the right to choose whether or not to—
 - (a) receive religious instruction provided at that educational institution; or
 - (b) attend, participate in, or be subjected to any religious ceremony, observance or practice.
- (7) Any standards of education imposed by the State must promote the national values, as recognised in Chapter 1 of this Constitution.

34. Economic participation

- (1) Everyone has the right to full and free participation in the economic life of the nation, which includes the right to choose their own work, trade, occupation, profession or other means of livelihood.
- (2) Everyone has the right, as producer, supplier or consumer, to reasonable access to all markets, including markets for capital, labour, goods and services.

35. Right to an adequate standard of living

- (1) Everyone has the right to an adequate standard of living, which includes the right—
 - (a) to work, and to a just minimum wage;
 - (b) to have reasonable access to transportation or other means of conveying the produce of their labour to marketplaces;
 - (c) to accessible and adequate housing and sanitation;
 - (d) to be free from hunger, and to have adequate food of acceptable quality;
 - (e) to clean and safe water in adequate quantities; and

- (f) to social security schemes, whether private or public, for their support in times of need, including the right to such support from public resources if they are unable to support themselves and their dependants.
- (2) Everyone has the right to health, and to the conditions and facilities necessary to good health, and to health care services, including reproductive health care.
- (3) A person must not be—
 - (a) denied emergency medical treatment; or
 - (b) evicted from their home, or have their home demolished, without an order of a court made after considering all the relevant circumstances.
- (4) No legislation may permit arbitrary evictions.
- (5) The State must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of the rights recognised in clauses (1) and (2).

36. Employment relations

- (1) Everyone has the right to fair employment practices and working conditions.
- (2) Every worker has the right to form and join a trade union, and participate in its activities and programmes, and to strike.
- (3) Every employer has the right to form and join an employers' organisation, and to participate in its activities and programmes.
- (4) Trade unions and employers have the right to bargain collectively.

37. Freedom from arbitrary expropriation

- (1) Everyone has the right not to have any interest in any property expropriated other than in accordance with legislation contemplated in clause (2), and no law may permit arbitrary expropriation of any interest in any property.
- (2) Legislation may authorise compulsory expropriation of property—

- (a) only as a last resort when necessary for a public purpose; and
- (b) on the basis that the owner will be promptly paid agreed compensation for the property, or failing agreement, just and equitable compensation as determined by a court, after considering all relevant factors, including—
 - (i) the public purpose for which the property is being acquired;
 - (ii) the history of its acquisition by the owner;
 - (iii) the market value of the property;
 - (iv) the interests of any person affected by the acquisition; and
 - (v) any hardship to the owner.

38. Environmental rights

Everyone has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations through legislative and other measures.

39. Executive and administrative justice

- (1) Everyone has the right to executive or administrative action that is lawful, rational, proportionate, procedurally fair, and reasonably prompt.
- (2) Everyone who has been adversely affected by any executive or administrative action has the right to be given written reasons for the action.
- (3) Any executive or administrative action may be reviewed by a court, or if appropriate, another independent and impartial tribunal, in accordance with the law.

40. Access to courts or tribunals

- (1) Everyone has the right to have any dispute that can be resolved by application of law decided within a reasonable time in a fair public hearing before a court or, if appropriate, another independent and impartial tribunal.

- (2) In any civil, criminal or other matter before a court, everyone has the right to justice that is timely and not excessively expensive or distant.
- (3) The State, through legislation and other measures, must provide for legal aid for those who cannot afford to pursue justice on the strength of their own resources, if injustice would otherwise result.
- (4) If any fee is required to access a court or tribunal, it must be reasonable and must not impede access to justice.
- (5) In any proceedings, evidence obtained in a manner that infringes any right in this Chapter, or any other law, must be excluded unless the interests of justice require it to be admitted.

41. Rights of arrested and detained persons, and prisoners

- (1) An arrested person has the right—
 - (a) to be informed promptly, in language that the person understands, of—
 - (i) the reason for the arrest;
 - (ii) the right to remain silent, and the right to consult a legal practitioner; and
 - (iii) the consequences of not remaining silent;
 - (b) to remain silent;
 - (c) to communicate with a legal practitioner, and with other persons whose assistance is necessary;
 - (d) not to be compelled to make any confession or admission that could be used in evidence against the person;
 - (e) to be held separately from persons who are serving a sentence;
 - (f) to be brought before a court as soon as reasonably practicable, but in any case—

—

- (i) not later than 48 hours after being arrested; or
 - (ii) not later than the end of the next court day immediately following the arrest, if the 48 hours would end outside ordinary court hours, or on a day that is not an ordinary court day;
 - (g) at the first court appearance, to be charged or informed of the reasons for the detention to continue, or to be released; and
 - (h) to be released on reasonable terms and conditions, pending a charge or trial, unless there are compelling reasons for the person not to be released.
- (2) A person who has been arrested for an offence that is punishable by a fine only, or by imprisonment for not more than 6 months, has the right to be released, and not remanded in custody.
- (3) Every prisoner, and any person detained for any other reason, has the right—
- (a) to be informed promptly of the reason for being detained;
 - (b) to choose, and to consult, a legal practitioner, and to be informed promptly of this right;
 - (c) to have a legal practitioner assigned to the detained person by the State and at State expense, if injustice would otherwise result, and to be informed promptly of this right;
 - (d) to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;
 - (e) to conditions of detention that are consistent with human dignity, including at least the opportunity to exercise regularly and the provision, at State expense, of adequate accommodation, nutrition, reading material and medical treatment; and
 - (f) to communicate with, and be visited by, the person's—
 - (i) spouse or life partner, or next of kin;

- (ii) chosen social worker;
 - (iii) chosen religious counsellor; and
 - (iv) chosen medical practitioner.
- (4) Whenever this Article requires information to be given to a person, that information must be given simply and clearly in a language that the person understands.
- (5) A person who is deprived of liberty by being detained, held in custody or imprisoned under any law retains all the rights and freedoms set out in this Chapter, except to the extent that any particular right or freedom is clearly incompatible with the fact of being so deprived of liberty.

42. Rights of accused persons to a fair trial

- (1) No person may be tried at all for—
- (a) any act or omission that was not an offence under either national or international law at the time it was committed or omitted; or
 - (b) an offence in respect of an act or omission for which that person has previously been either acquitted or convicted.
- (2) Every person charged with an offence has a right to a fair trial, which includes the right—
- (a) to be informed of the charge with sufficient detail to answer it;
 - (b) to have adequate time and facilities to prepare a defence;
 - (c) to choose, and to be represented by, a legal practitioner, and to be informed promptly of this right;
 - (d) to have a legal practitioner assigned by the State and at State expense, if injustice would otherwise result, and to be informed promptly of this right;
 - (e) to be informed in advance of the evidence on which the prosecution intends to rely, and to have reasonable access to that evidence;

- (f) to a public trial before an ordinary court;
 - (g) to have the trial begin and conclude without unreasonable delay;
 - (h) to be present when being tried, unless—
 - (i) the court is satisfied that the person has been served with a summons or similar process requiring attendance at the trial, and has chosen not to attend; or
 - (ii) the conduct of the person makes it impracticable to conduct the trial;
 - (i) to be tried in a language that the person understands or, if that is not practicable, to have the proceedings interpreted in such a language without cost to the person;
 - (j) to be presumed innocent, to remain silent, not to testify during the proceedings, and not to be compelled to give self-incriminating evidence, and to have no adverse inference drawn from the exercise of any of these rights;
 - (k) to call witnesses and present evidence, and to challenge evidence presented against the person;
 - (l) to a copy of the record of proceedings within a reasonable period and on payment of a reasonable prescribed fee;
 - (m) to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time that the offence was committed and the time of sentencing; and
 - (n) of appeal to, or review by, a higher court.
- (3) Whenever this Article requires information to be given to a person, that information must be given as simply and clearly as practicable, in a language that the person understands.

Part B—Elaboration of Rights and Freedoms

43. Elaboration of rights in relation to particular groups

Articles 44 to 47—

- (a) elaborate certain rights and freedoms to ensure greater certainty as to their application to particular groups of persons; and
- (b) are not to be construed as—
 - (i) limiting or qualifying any right or freedom; or
 - (ii) limiting the application to other groups of any rights or freedoms recognised in this Chapter.

44. Persons with disabilities

- (1) A person with any disability has the right—
 - (a) to be treated with dignity and respect, and to be addressed and referred to in a manner that is not demeaning;
 - (b) to be free from abuse and violence, and from treatment without their informed consent;
 - (c) to be educated, to live, to work and to engage in recreation and sporting activities, as part of the general community;
 - (d) to reasonable access to all places, public transport and information;
 - (e) to use sign language, Braille or other appropriate means of communication; and
 - (f) of access to necessary materials, substances and devices relating to the person's disability.
- (2) Persons with disability have the right to reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures, to enable their full participation in society and the effective realisation of their rights.

45. Women, men and families

- (1) Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, educational, social, cultural and sporting spheres.
- (2) Women and men have—
 - (a) equal rights relating to land, land ownership, land occupation and land use;
 - (b) an equal right to inherit, to have access to property, and to manage property, and
 - (c) the right to equal pay for work of equal value.
- (3) Marriage is based on the full and free consent of each party to the marriage.
- (4) Each party to a marriage has equality of status, rights and responsibilities before, during, and at the dissolution of marriage.
- (5) Women have the right—
 - (a) to maternal health care services;
 - (b) appropriate paid pregnancy and maternity leave; and
 - (c) not to be dismissed from work during pregnancy or maternity leave.
- (6) Men have the right to—
 - (a) appropriate paid paternity leave; and
 - (b) not to be dismissed from work during paternity leave.
- (7) Women and men have the right to be free from any law, culture, custom or tradition that undermines their dignity, health, welfare, interest or status.
- (8) The parties to a *de facto* relationship have the same rights, responsibilities and status as the parties to a marriage.

46. Elderly

- (1) The elderly have the right—
 - (a) to participate fully in society;
 - (b) to pursue their personal development;
 - (c) to be free from all forms of discrimination and abuse;
 - (d) to live in dignity and respect, and to be addressed and referred to in a manner that is not demeaning; and
 - (e) to live independent, active and full lives, making their own choices free from coercion or undue influence.
- (2) The elderly continue to have all of their rights including, in particular, the right to an adequate standard of living recognised in Article 35.
- (3) The State, and any other supplier of any goods or services, may—
 - (a) provide preferential attention or service to the elderly; and
 - (b) offer or provide goods or services at a discounted price to the elderly generally.

47. Cultural, religious and linguistic communities

- (1) A person who belongs to a cultural, religious or linguistic community has the right, with other members of that community—
 - (a) to enjoy their culture, practise their religion, and use their language; and
 - (b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.
- (2) The rights recognised in clause (1) may not be exercised in a manner inconsistent with any provision of this Chapter.

Part C—Applying the Bill of Rights

48. Limitation of rights under law

- (1) A right or freedom set out in this Chapter must not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—
 - (a) the nature of the right or freedom;
 - (b) the importance of the purpose of the limitation;
 - (c) the nature and extent of the limitation; and
 - (d) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.
- (2) The State or a person seeking to justify a particular limitation must demonstrate to the court, tribunal or other authority that the requirements of this Article have been satisfied.

49. Limitation of rights under states of emergency

- (1) Any legislation enacted or promulgated in consequence of a declaration of a state of emergency under Article 181—
 - (a) may limit a right or freedom in this Chapter only to the extent that—
 - (i) the limitation is strictly required by the emergency, and is justifiable under Article 48; and
 - (ii) the legislation is consistent with the Republic's obligations under international law applicable to a state of emergency; and
 - (b) takes effect only when it has been published.
- (2) A person detained under legislation contemplated in clause (1) retains all the rights recognised in this Chapter, subject only to the limitations referred to in clause (1).

- (3) Any legislation contemplated in clause (1)—
 - (a) must not authorise or permit the detention of a person for more than 7 days before being brought before a court as required by Article 41 (1)(f); and
 - (b) must require that every detainee be given reasonable opportunity to communicate with, and to be visited by —
 - (i) the detainee’s spouse, life partner or next of kin;
 - (ii) a political representative;
 - (iii) a religious counsellor or social worker; and
 - (iv) a legal practitioner chosen by the detainee.

50. Application of rights

- (1) This Chapter applies to all law and binds Parliament, the Cabinet, the judiciary, and all State organs.
- (2) A provision of this Chapter binds a natural or legal person, taking into account—
 - (a) the nature of the right or freedom recognised in that provision; and
 - (b) the nature of any restraint or duty imposed by that provision.
- (3) When deciding any matter according to the common law, a court must apply and, where necessary, develop the common law in a manner that respects the rights recognized in this Chapter.
- (4) A legal person has the rights and freedoms recognised in this Chapter, to the extent required by the nature of the right or freedom, and the nature of the particular legal person.
- (5) In applying any right under Article 35, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.

51. Interpretation of this Chapter

- (1) In addition to complying with Article 184, when interpreting and applying this Chapter, a court, tribunal or other authority—
 - (a) must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
 - (b) must consider international law relevant to the protection of the rights and freedoms in this Chapter; and
 - (c) may consider foreign law from other open and democratic societies.
- (2) This Chapter does not deny, or prevent recognition of, any other right or freedom recognised or conferred by common law, customary law, or legislation, except to the extent that it is inconsistent with this Chapter.

52. Fiji Human Rights Commission

- (1) The Fiji Human Rights Commission is established as an Independent Commission under Chapter 13 of this Constitution.
- (2) The Fiji Human Rights Commission consists of a Chair and 2 other members. At least one of the 3 members must be qualified to be a judge of the High Court.
- (3) The chair of the Fiji Human Rights Commission may be full or part time, as determined by the Constitutional Offices Commission when making an appointment. All the other members of the Fiji Human Rights Commission serve part time.
- (4) The Fiji Human Rights Commission is responsible for—
 - (a) promoting the protection and observance of, and respect for, human rights in public and private institutions, and to develop a culture of human rights in Fiji;
 - (b) education about the rights and freedoms recognised in the Bill of Rights, as well as other internationally recognised rights and freedoms;
 - (c) monitoring, investigating and reporting on the observance of human rights in all spheres of life;

- (d) making recommendations to any State organ concerning the matters affecting the rights and freedoms recognised in the Bill of Rights, including recommendations concerning existing or proposed legislation;
 - (e) receiving and investigating complaints about alleged abuses of human rights and taking steps to secure appropriate redress if human rights have been violated;
 - (f) investigating or researching, on its own initiative or on the basis of a complaint, any matter in respect of human rights, and making recommendations to improve the functioning of public or private entities;
 - (g) monitoring compliance by the State with obligations under treaties and conventions relating to human rights; and
 - (h) performing any other functions conferred on the Commission by legislation.
- (5) Any person has the right to complain to the Fiji Human Rights Commission, alleging that a right or freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.
- (6) The Fiji Human Rights Commission has other general powers, as set out in Article 147 including, in particular, the authority to enforce compliance with rights by issuing a notice under 147 (3)(c).

CHAPTER 4—CIVIC AND POLITICAL LIFE

Part A—Community and Civil society

53. Civil society

- (1) An active civil society, freely and peacefully engaged in the political life of Fiji, is a natural expression of the rights and freedoms recognised in Chapter 3.
- (2) Democratic constitutionalism depends upon—
 - (a) civil society being active in raising awareness of the human rights and other values recognised by this Constitution, and in discussion, debate, decision making, and governance; and
 - (b) wide participation of the people, including organised civil society, in public affairs.
- (3) The State must—
 - (a) recognise, facilitate and not impede the role of the people and civil society in the promotion and protection of constitutional democracy;
 - (b) promote the principles of fairness, openness, participation and accountability; and
 - (c) comply with the principles set out in Article 54 in any legislation requiring registration of civil society organisations.

54. Regulation of civil society

- (1) Registration of civil society organisations may be required only if there is good reason for it.
- (2) If legislation requires civil society organisations to register—
 - (a) the legislation must not impose unreasonable criteria or conditions for registration; and

- (b) registration must not be refused unless the organisation does not satisfy the legislated registration criteria.

55. Participation in public decisions

- (1) Public participation expresses the right of the people to exercise their sovereignty in direct engagement with their representatives, and strengthens Fiji's democratic culture by drawing on the experiences and knowledge of the people.
- (2) Policy and law making bodies must permit and actively promote public participation in their work, in accordance with the following principles:
 - (a) Public bodies must ensure that they make information available about their roles, composition, procedures and opportunities for public participation.
 - (b) Adequate notice and information must be given for any opportunity to address specific issues.
 - (c) The participation process must be inclusive, with appropriate opportunities for all interest groups, including women, people speaking different languages, people with disabilities, youth and minorities, to become involved, bearing in mind the diverse ways in which different groups are accustomed to engaging in public discussion.
 - (d) Public input must be given due attention and consideration.
- (3) When reporting to the public, policy and law making bodies must indicate the extent to which they have engaged the public in participation, and summarise any impact public participation has had on their decision making.

56. Recognition of Bose Levu Vakaturaga

The Bose Levu Vakaturaga is recognised as a custodian of iTaukei culture and traditions, and as a non-partisan organ of civil society existing to—

- (a) promote wider understanding of iTaukei culture, and its traditional values and practices, in a manner consistent with the multicultural character of Fiji;

- (b) promote the development of traditional practices in accordance with the values of this Constitution; and
- (c) advise any State organ, at the request of the government, on matters relating to iTaukei language, culture, traditional values and practices.

Part B –The Public Media

57. Regulation of public media

- (1) Free and open discussion and dissemination of ideas is essential in a democratic society.
- (2) Broadcast and other electronic media may be subject to licensing procedures only for the purpose of regulating the airwaves and other forms of signal distribution.
- (3) Other media must not be subject to licensing.
- (4) Licensing procedures under clause (2) must be independent of control by government, political interests or commercial interests.
- (5) All State-owned media—
 - (a) are free to determine the editorial content of their broadcasts or other communications independent of political or government control;
 - (b) must be impartial; and
 - (c) must afford fair opportunity for the presentation of divergent views and dissenting opinions.
- (6) An Act of Parliament must establish a body to set media standards and regulate and monitor compliance with those standards, which must—
 - (a) be independent of control by government, political interests or commercial interests; and
 - (b) reflect the interests of all sections of the society.

Part C— Political Parties

58. Basic requirements for political parties

- (1) Every political party must—
 - (a) uphold the supremacy of the Constitution, and the rule of law;
 - (b) respect and promote human rights and freedoms, including gender equality;
 - (c) respect the right of all persons to participate in the political process, including minorities and marginalised groups;
 - (d) abide by democratic principles of good governance, promote and practise democracy internally through regular, fair and free elections within the party, and have a democratically elected governing body; and
 - (e) observe any code of conduct for political parties that has been prescribed by legislation.
- (2) A political party must promote national unity and strive to be inclusive, and must not—
 - (a) engage in advocacy of hatred;
 - (b) engage in or encourage violence or intimidation of its members, supporters, opponents or any other person;
 - (c) establish or maintain a paramilitary force, militia or similar organisation;
 - (d) engage in bribery, corruption or any other criminal conduct, or encourage or knowingly permit its members or candidates to do so; or
 - (e) accept or use public resources to promote its interests or the interests of its officers, members or candidates, except—
 - (i) as contemplated in Article 61, or provided by legislation; or

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

59. Political party funding

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

60. Campaigning

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

61. Legislation on political parties

Parliament must enact legislation—

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

CHAPTER 5—GOOD GOVERNANCE AND LEADERSHIP

62. Serving the public

The assignment of authority and responsibilities to a public officer by or under this Constitution is an expression of public trust and confidence, as recognised in Article 2 (2), and is to be exercised in a manner that—

- (a) is consistent with the values, principles and goals of this Constitution;
- (b) demonstrates respect for the people;
- (c) brings honour to the nation and dignity to the office; and
- (d) promotes public confidence in the integrity of the office.

63. Leadership principles

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

64. Conduct of office holders

- (1) This Article applies to the following, each of whom is an Officer of the State —

- (a) the President;
 - (b) the Speaker and Deputy Speaker of Parliament;
 - (c) Members of the Cabinet, and the Leader of the Opposition;
 - (d) Members of Parliament;
 - (e) Judges, magistrates, and other judicial officers;
 - (f) Members of Independent Commissions and Independent Officers;
 - (g) Ambassadors, High Commissioners and Consuls General;
 - (h) Governor of the Reserve Bank of Fiji;
 - (i) Permanent Secretaries, and any holder of an equivalently ranked office;
 - (j) Commissioner of Police;
 - (k) Commissioner of Correctional Services;
 - (l) the Commander of the Republic of Fiji Military Forces; and
 - (m) any other office holder prescribed by an Act of Parliament.
- (2) An Officer of the State identified in clause (1) must—
- (a) behave, in public life, in private life, and in association with other persons, in a manner that avoids—
 - (i) any conflict between personal interests and public or official duties;
 - (ii) compromising any public or official interest in favour of a personal interest; or
 - (iii) demeaning the office the officer holds; and

- (b) must comply with the Code of Conduct of Officer Holders, set out in Schedule 4, and with any other applicable Code of Conduct established under this Constitution.
- (3) Parliament may enact legislation establishing, or providing for the establishment of, Codes of Conduct governing particular offices, or categories of offices, listed in clause (1).

65. Protection for whistle blowers

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

66. Ethics and Integrity Commission

- (1) The Ethics and Integrity Commission is established as an Independent Commission under Chapter 13 of this Constitution.

- (2) The Ethics and Integrity Commission consists of a full time Chair and 2 part time members.
- (3) The Ethics and Integrity Commission is responsible for—
 - (a) consulting with and educating State organs, and the public, including civil society, about ethical standards of good governance and integrity;
 - (b) establishing norms and standards for Codes of Conduct for State organs;
 - (c) monitoring compliance with Codes of Conduct binding on Officers of the State, and coordinating—
 - (i) the administration of those Codes; and
 - (ii) responses by competent authorities to contraventions of those Codes;
 - (d) investigating corrupt practices in any sphere of life, and—
 - (i) referring any such matter to the Director of Public Prosecutions; or
 - (ii) prosecuting any such matter directly, to the extent permitted by an Act of Parliament;
 - (e) investigating or researching, on its own initiative or on the basis of a complaint, any matter in respect of ethical governance and corrupt practices, and making recommendations to improve the ethical standards of State organs;
 - (f) making recommendations to the government concerning ethical governance and corrupt practices, including recommendations concerning existing or proposed legislation;
 - (g) monitoring compliance by the State with obligations under treaties and conventions relating to corrupt practices; and
 - (h) performing any other functions conferred on the Commission by legislation.
- (4) Any person has the right to complain to the Ethics and Integrity Commission, alleging that—

- (a) an Officer of the State has acted in a manner inconsistent with this Constitution or a Code of Conduct binding on that Officer; or
 - (b) a person has engaged in, or is engaging in, corrupt practices.
- (5) The Ethics and Integrity Commission has other general powers, as set out in Article 147 including, in particular, the authority to enforce compliance with this Chapter and any relevant code of conduct by issuing a notice under 147 (3)(c).

67. Standards and procedures for removal from office

An Officer of the State, other than an officer contemplated in Article 64 (1)(m), may be removed from office for incapacity or wrongdoing only in accordance with the relevant procedures and standards set out in Schedule 5.

CHAPTER 6—THE NATIONAL PEOPLE’S ASSEMBLY

Part A—Functions and Composition of Assembly

68. Functions of Assembly

- (1) The National People’s Assembly is an annual assembly of the people, in which representatives of civil society and Officers of the State meet to—
 - (a) consider new or emerging challenges to the nation;
 - (b) consider progress towards the realisation of the national goals recognised in the Constitution;
 - (c) receive reports from the President, Prime Minister, Independent Commissions and Independent Officers on the state of the Republic during the previous year;
 - (d) make recommendations to the Cabinet, Parliament, or any Independent Commission or Independent Officer;
 - (e) consider, debate and hold an advisory vote on any proposed amendments to the Constitution; and
 - (f) elect the President, when required.
- (2) The National People’s Assembly—
 - (a) meets in a regular annual session for the first full week of October each year, with an agenda determined by the Assembly’s Executive Committee established under Article 69 (2); and
 - (b) may be convened at other times by the Speaker of Parliament, after consulting the Assembly’s Executive Committee, to address any matter of urgent national concern.
- (3) The National People’s Assembly—
 - (a) may adopt a resolution on any matter of public importance; and

- (b) in a resolution under paragraph (a), may make non-binding recommendations to the government generally, or to any Officer of the State or State organ, to take any specific action.
- (4) The proceedings of the National People's Assembly must be conducted in accordance with rules made by the Assembly's Executive Committee.

69. Composition of Assembly

- (1) The National People's Assembly consists of—
 - (a) the President of Fiji, and any person who has previously been elected President of Fiji;
 - (b) the Speaker and Deputy Speaker of Parliament, who are the Chair and Deputy Chair, respectively, of the Assembly;
 - (c) the Prime Minister and other members of the Cabinet, and the Leader of the Opposition;
 - (d) 4 members of Parliament selected by the Prime Minister, and 6 members of Parliament selected by the Leader of the Opposition, to represent the diversity of Parliament;
 - (e) 10 representatives of local government in urban areas, and 10 representatives of local government in rural areas;
 - (f) the Ombudsman, the Chair of the Fiji Human Rights Commission, and the Chair of the Ethics and Integrity Commission;
 - (g) 10 women and 10 men appointed by the Constitutional Offices Commission on the basis of qualifications, in accordance with Article 70; and
 - (h) 36 women and 36 men, chosen by lot by the Electoral Commission from among individuals nominated by civil society, in accordance with Article 71.
- (2) The Executive Committee of the Assembly consists of—
 - (a) The Deputy Speaker of Parliament, as Chair of the Committee; and

- (b) 6 other members elected each year at the meeting of the Assembly, to serve for the following year.

Part B— Appointments of Civil Society Members of Assembly

70. Appointments by the Constitutional Offices Commission

- (1) To qualify for appointment as a member of the National People’s Assembly under Article 69 (1)(g), a person must—
 - (a) be a citizen of Fiji and be registered on the voters’ register;
 - (b) have a record of active engagement or leadership in civil society;
 - (c) have a record of honesty and integrity in their personal and professional life; and
 - (d) not hold any public office.
- (2) Each year, the Constitutional Offices Commission must—
 - (a) invite expressions of interest from individuals who are willing to serve as members of the Assembly;
 - (b) appoint members from among the qualified persons who respond to the invitation; and
 - (c) strive to ensure that the members appointed reflect the ethnic and cultural diversity of Fiji.
- (3) The Constitutional Officers Commission must deliver to the Speaker of Parliament a list of the members it has appointed to the Assembly.
- (4) At least 2 of the women and 2 of the men who have been appointed by the Commission and hold office as members must be youth at the time of their appointment, unless the Commission has an insufficient number of qualified youth candidates.

71. Appointment of members by the Electoral Commission

- (1) The members of the National People's Assembly to be appointed by the Electoral Commission under Article 69 (1)(h) must be citizens of Fiji who are registered on the voters register for an electoral district.
- (2) The members of the Assembly to be appointed under this Article are to be allocated among the 4 electoral districts, as follows:

Electoral district	Number to be appointed in first year	Number to be appointed each year after the first year
Central Division	15 women and 15 men	5 women and 5 men
Western Division	12 women and 12 men	4 women and 4 men
Northern Division	6 women and 6 men	2 women and 2 men
Eastern Division	3 women and 3 men	1 woman and 1 man

- (3) Once every year, the Electoral Commission must call for nominations. In response to a call for nominations, any civil society association, organization or other group may nominate up to 10 persons who—
 - (a) are registered voters;
 - (b) are persons of integrity, with a record of civic involvement or community leadership; and
 - (c) have consented in writing to serve in the Assembly, if appointed.
- (4) Each nomination must indicate the electoral district in which the nominee is registered, and whether the nominee is a man or a woman.
- (5) A person may not be nominated by more than one group in any year.
- (6) The Electoral Commission must—

- (a) verify that each nominee is a registered voter, and the electoral district in which the nominee is registered; and
 - (b) separate the nominations into 8 groups, representing the women and men, respectively, nominated in each of the four electoral districts.
- (7) When nominations have closed—
- (a) if there are as many nominees in any group as there are seats to be filled in that group, or if there are fewer nominees than there are seats to be filled, the Electoral Commission must appoint all the nominees in that group to be members of the Assembly; or
 - (b) if there are more nominees in any group than there are seats to be filled in that group, the Electoral Commission must select by lot from that group of nominees the number of names required to fill the seats allocated to that group, as set out in the Table in clause (2).
- (8) If there are fewer nominees in any group than there are seats to be filled, the remaining seats will be vacant.
- (9) The Electoral Commission must deliver to the Speaker of Parliament a list of the members it has appointed to the Assembly.

72. Term of office and vacancies

- (1) Each person appointed under Article 70 or 71 may serve for a term of three years, subject to the reduced terms of the first people appointed, as set out in Section 8 (2) of Schedule 6.
- (2) If a vacancy arises—
 - (a) among the members appointed by the Constitutional Officers Commission, the Commission may appoint another qualified person of the same gender to fill the vacancy; or
 - (b) in any group of members appointed by the Electoral Commission, that Commission must select by lot another person from among the most recent

nominees remaining in that group. If there are no remaining nominees in the particular group, the seat remains vacant until the end of the vacating member's term.

- (3) A person appointed to fill a vacancy in the Assembly serves for the remaining period of the vacating member's term.
- (4) A person may not be re-appointed within the period of 5 years after their term ends, subject to clause (5) and to Section 8 (3) of Schedule 6.
- (5) Clause (4) does not apply to a person who has been appointed to fill a vacancy in another person's term.

CHAPTER 7—THE PRESIDENT**73. The President of Fiji**

- (1) The President is the Head of State and symbolises the Republic, the unity of the nation, and the sovereignty of the people.
- (2) Using the moral authority of the office, the President promotes the realisation of the national values and goals of the Republic.
- (3) As Head of State, the President—
 - (a) may represent Fiji to any other nation or in any international forum;
 - (b) signs instruments of consent by Fiji to be bound by international agreements;
 - (c) receives foreign diplomatic and consular representatives;
 - (d) appoints judges in accordance with the recommendation of the Judicial Service Commission under Article 129;
 - (e) appoints the members of Independent Commissions and holders of Independent Offices, in accordance with the recommendation of the Constitutional Offices Commission under Article 149;
 - (f) appoints individuals in accordance with the recommendation of the Public Service Commission under Article 166, to represent Fiji as High Commissioners, Ambassadors or Consuls General;
 - (g) exercises the power of mercy, in accordance with Article 139; and
 - (h) may confer honours in the name of Fiji, in accordance with legislation.
- (4) The President—
 - (a) delivers the opening address of the National People's Assembly each year, describing the state of Fiji's constitutional democracy, and the progress towards realisation of the national goals set out in Chapter 1; and

- (b) may address Parliament, at the request of the Speaker and the Prime Minister.
- (5) The President may assent to and sign each Act of Parliament, or refer it back to Parliament in accordance with Article 108.
- (6) The President's powers and functions are subject to the Constitution and the law, and—
 - (a) must be exercised or performed in accordance with any recommendation required by this Constitution; or
 - (b) may be exercised at the discretion of the President only to the extent expressly provided for in this Constitution or an Act of Parliament.

74. Election of President

- (1) The President is elected by the National People's Assembly, and all of the members of Parliament, meeting together in joint session at the Assembly.
- (2) An election for President must be held on the second last day of business at the annual meeting of the National People's Assembly—
 - (a) in the fifth calendar year after the incumbent President was elected; or
 - (b) in any year in which a person is serving as Acting President under Article 76.
- (3) The President's term of office begins when the President assumes office under Article 75, and ends when the person next elected under clause (2) assumes office under that Article.
- (4) An election of the President must be conducted by—
 - (a) the Speaker of Parliament, unless the office of Speaker is vacant, or the Speaker has been nominated as a candidate for President; or
 - (b) the Deputy Speaker of Parliament, in the circumstances contemplated in paragraph (a).

- (5) In any year in which the National People's Assembly is to elect a President, any member of the Assembly, or member of Parliament, may nominate, and any other member of the Assembly, or member of Parliament, may second, the nomination of any qualified woman or man as a candidate for President.
- (6) To be eligible to assume office as President a person must—
- (a) be a citizen of Fiji, have been a citizen for not less than 15 years, and not be a citizen of any other country when nominated;
 - (b) not be a member of, or hold any office in, any political party;
 - (c) not hold any other public office;
 - (d) not be a candidate for election to any other office in the State;
 - (e) not have been subject to a sentence of imprisonment for an offence at any time during the 5 years immediately before being nominated; and
 - (f) not be disqualified from holding an Office of the State under Schedule 5.
- (7) No one may be elected to the office of President more than once, but any service as Acting President does not constitute being elected to the office of President.
- (8) Voting for President must be by secret ballot, and—
- (a) the successful candidate is the person who has the support of more than half of the votes cast; or
 - (b) if no candidate in the first vote receives more than half of the votes cast—
 - (i) a second vote must be held between the two leading candidates in the first round; and
 - (ii) the successful candidate is the person who has the support of more than half of the votes cast in the second round.

75. Assumption of office of President

The President must be sworn in and assume office the day after being elected, by taking the oath or affirmation of office administered by the Chief Justice, in a public ceremony at the National People's Assembly.

76. Vacancies and acting President

- (1) The President may resign from office by delivering a written statement of resignation to the Chief Justice.
- (2) The President may be removed from office for incapacity or wrongdoing, but only in accordance with Schedule 5.
- (3) The Speaker of Parliament acts in the office of President—
 - (a) at any time during the President's term when the President is unable to perform the functions of office because of illness or absence; or
 - (b) upon a vacancy arising in the office of the President, until a new President has been elected and assumed office.

CHAPTER 8—REPRESENTATION OF THE PEOPLE

77. Representative government

- (1) The People of Fiji exercise their legislative sovereignty primarily through elected representatives in Parliament and local government bodies.
- (2) The people's representatives are chosen by secret ballot in free and fair elections administered by the Electoral Commission.
- (3) Legislation regulating elections must always—
 - (a) ensure that voting is easy and takes into account the needs of persons with disabilities, or other special needs; and
 - (b) provide for a timely means of review, recount and contesting disputes arising during, or as a result of, the conduct of an election.

78. Voter qualification and registration

- (1) Every citizen of Fiji over the age of 18 years is entitled to be registered to vote in the manner and form prescribed by an Act of Parliament.
- (2) The Electoral Commission must maintain a single, national common voters' register, divided by electoral district.
- (3) Every registered citizen—
 - (a) ordinarily resident in Fiji on an election day is entitled to vote in that election; or
 - (b) not ordinarily resident in Fiji on election day is entitled to vote to the extent provided in an Act of Parliament.

79. Proportional representation system

- (1) The election of members of Parliament is by a closed list proportional representation system, in which each voter has one vote.
- (2) The 71 seats in Parliament are to be allocated as follows:

- (a) 60 seats are to be filled by candidates representing multi-member electoral districts and awarded in accordance with Article 81.
 - (b) 11 seats are to be filled in accordance with a mechanism to ensure proportional distribution of the seats in Parliament among the parties contesting the election, and awarded in accordance with Article 81.
- (3) Fiji is to be divided into 4 electoral districts, the boundaries of which must be set by an Act of Parliament.
- (4) The Electoral Commission must allocate the 60 seats in Parliament referred to in clause (1) (a) among the 4 electoral districts ensuring that—
 - (a) as far as practicable, the seats are distributed among the districts in proportion to the population of each district at the most recent census; but
 - (b) no electoral district has fewer than 5 seats, in order to ensure a reasonable minimum number of representatives from districts comprising widely scattered islands.

80. Candidates for election to Parliament

- (1) In each electoral district, candidates for election to Parliament may be either—
 - (a) nominated by inclusion on a political party's list of candidates for that electoral district, in accordance with an Act of Parliament; or
 - (b) nominated as an independent candidate, in accordance with an Act of Parliament.
- (2) Party lists must rank candidates in the order they are to be awarded seats in Parliament.
- (3) In ranking candidates, each party must alternate between women and men, subject to the temporary adjustments allowed by Section 6 in Schedule 6.
- (4) A party may list—

- (a) candidates in as many, or as few, electoral districts as the party wishes to contest;
 - (b) fewer candidates than the number of members to be elected in any particular electoral district, but must list at least 2 candidates in the district; or
 - (c) more candidates than the number of members to be elected in any particular electoral district, but must not list more than 150% of the number of seats to be contested in the district.
- (5) A person may be a candidate for election to Parliament, or to any local government body established under Chapter 12, only if the person—
- (a) is a citizen of Fiji;
 - (b) is registered on the voters' register;
 - (c) is ordinarily resident in Fiji when nominated;
 - (d) is not a member of the Electoral Commission, and has not been a member of that Commission at any time during the 4 years immediately before being nominated;
 - (e) is not subject to a sentence of imprisonment of at least 12 months when nominated;
 - (f) has not been subject to a sentence of imprisonment for an offence involving dishonesty or violence at any time during the 5 years immediately before being nominated; and
 - (g) is not disqualified from holding an Office of the State under Schedule 5.
- (6) Every candidate, and every party listing a candidate, must comply with any Code of Election Conduct published by the Electoral Commission.

81. Awarding of seats following election

- (1) In each election for Parliament—

- (a) the seats allocated to each electoral district must be awarded to candidates in that district, in proportion to the votes cast in that district, for—
 - (i) each party contesting the election in that district; and
 - (ii) each independent candidate in that district, if any; and
- (b) the 11 seats referred to in Article 79 (1)(b) must be awarded among the parties contesting the election, according to the following principles:
 - (i) A party does not qualify for any of the 11 seats unless it received at least 1% of the total number of votes cast nationally.
 - (ii) The seats are to be distributed among the qualifying parties in a manner that ensures, as far as practicable, that the total number of seats in Parliament awarded to any particular party is proportionate to the number of votes cast nationally for that party in the election.
- (2) The Electoral Commission must prescribe rules for awarding seats under clause (1), that accord with an internationally accepted method for awarding seats to candidates within a proportional representation system similar to the system established under this Chapter.
- (3) A person who holds a public office when elected to Parliament is deemed to have vacated that office upon election.

82. Electoral Commission

- (1) The Electoral Commission is established as an Independent Commission under Chapter 13 of this Constitution.
- (2) The Electoral Commission consists of a Chair and 2 other members appointed under Article 149, each of whom serves on a part time basis. At least one of the 3 members of the Commission must be qualified to be a judge of the High Court.
- (3) The Electoral Commission has general oversight responsibility for the conduct of free and fair elections in accordance with any relevant legislation, and in particular for—

- (a) the registration of citizens as voters, and the regular revision of the voters register;
 - (b) voter education;
 - (c) the registration of candidates for election;
 - (d) the settlement of electoral disputes, including disputes relating to or arising from nominations, but excluding election petitions and disputes subsequent to the declaration of election results;
 - (e) facilitating the observation, monitoring and evaluation of elections;
 - (f) regulating the amount of money that may be spent by or on behalf of a candidate or party in respect of any election;
 - (g) the code of conduct for candidates and parties contesting elections; and
 - (h) monitoring and enforcing compliance with the legislation concerning elections.
- (4) In addition, the Electoral Commission has the powers and functions set out in Article 147 including, in particular, the authority to enforce compliance with the Constitution and the electoral law by issuing a notice under Article 147 (3)(c).

CHAPTER 9—PARLIAMENT

Part A—Establishment, role and composition of Parliament

83. Establishment of Parliament

- (1) The legislative authority of the Republic is derived from the people and is vested in and exercised by Parliament.
- (2) Parliament manifests the diversity and unity of the nation, represents the will of the people, and exercises their sovereignty.
- (3) Parliament must protect this Constitution and promote the democratic governance of the Republic.

84. Role of Parliament

- (1) Parliament is elected to represent the people and to ensure government by the people under the Constitution. It does this by providing a national forum for public deliberation and resolution of issues, by passing legislation, by scrutinising and overseeing executive action, including the process of negotiating international agreements, and by ensuring that reports and recommendations from State organs are received, considered, and acted upon.
- (2) Each Member of Parliament is expected to diligently represent the people living in the member's electoral district, to visit and meet constituents on a regular basis, to report to them and inform them of issues, hear their concerns and suggestions, and to communicate their views to Parliament and the Cabinet.

85. Composition of Parliament

Parliament consists of—

- (a) 71 members elected in accordance with Chapter 8, each of whom must satisfy the qualifications set out in Article 80 (5); and
- (b) the Speaker of Parliament, chosen in accordance with Article 91.

86. Date of elections for Parliament

- (1) Elections for Parliament must be held—
 - (a) ordinarily, on the second Monday in August of the calendar year that is 4 years after the year of the previous election; or
 - (b) on a date determined by the Electoral Commission, if the Speaker has declared Parliament dissolved before the end of its ordinary term, as contemplated in Article 88.
- (2) A date determined by the Electoral Commission under clause (1)(b) must fall between 40 and 60 days immediately after the date on which the Speaker declared Parliament dissolved.

87. Term of Parliament

The term of each Parliament is the period from the date the Parliament was elected, until the date of the next general election, as determined in Article 86, which period will ordinarily be 4 years but may vary from the ordinary period, in the case of an early dissolution of Parliament.

88. Early dissolution of Parliament

- (1) The Speaker must declare Parliament dissolved early if Parliament has adopted a resolution to dissolve early, supported by at least 36 members.
- (2) A resolution for early dissolution of Parliament may be moved—
 - (a) only on the grounds that the government lacks the confidence of Parliament;
 - (b) only by the Leader of the Opposition; and
 - (c) only if Parliament has first rejected a motion of no confidence in the Prime Minister under Article 116.
- (3) No motion for early dissolution may be made within—
 - (a) 18 months immediately after the beginning of Parliament's term; or

- (b) 9 months immediately before the end of Parliament's ordinary 4 year term.

89. Tenure of members and vacancies

- (1) A person elected to Parliament continues to hold that seat until it has been vacated, Parliament is dissolved, or the term of Parliament ends.
- (2) A seat in Parliament is vacated if the member—
 - (a) dies, resigns or ceases to be a member under clause (3);
 - (b) ceases to be qualified to be a member under Article 80 (5); or
 - (c) has been removed, in accordance with Schedule 5.
- (3) A person who was elected to Parliament as a member of a particular party, or who was elected as an independent candidate but has subsequently joined a political party in Parliament, ceases to be a member of Parliament upon—
 - (a) voluntarily leaving the party; or
 - (b) being expelled from the party for a breach of party discipline.
- (4) If a seat held by a member of a political party is vacated, the Electoral Commission must award the seat to the next candidate of the same party and, if possible, the same gender in the most recent election who was next in line to receive a seat immediately after the most recent election, and is still available to serve at the time of the vacancy.
- (5) If no candidate from the most recent election satisfies the criteria set out in clause (4) at the time of a vacancy, the seat must remain vacant until the next general election.
- (6) If a seat held by a person elected as an independent member is vacated during the term of Parliament, the seat remains vacant until the next general election.
- (7) The High Court has exclusive authority to hear and determine any question whether—
 - (a) a person has been validly elected as a member of Parliament;

- (b) the seat of a member has become vacant; or
 - (c) the Electoral Commission has properly filled a vacancy.
- (8) A question contemplated in clause (7) must be heard and determined within 6 months after the petition or application was filed with the High Court.

Part B—Parliament's officers, committees, sittings and business

90. Speaker and Deputy Speaker of Parliament

- (1) Parliament has 2 presiding officers, namely, a Speaker, and a Deputy Speaker.
- (2) The Speaker has an official status within the State equivalent to that of the Chief Justice.
- (3) The Speaker, Deputy Speaker, or any other person presiding at any time, in the performance of the functions of Speaker—
 - (a) is independent and subject only to the Constitution and the law;
 - (b) serves to secure the honour and dignity of Parliament;
 - (c) is responsible for ensuring—
 - (i) the rights and privileges of all members; and
 - (ii) public access to the proceedings of Parliament and its committees;
 - (d) has authority to maintain order and decorum in Parliament, in accordance with its Standing Orders and parliamentary tradition; and
 - (e) must act impartially, and without fear, favour or prejudice.
- (4) Ordinarily, the Speaker presides over every sitting of Parliament.
- (5) If the Speaker is unavailable, or temporarily absent—
 - (a) the Deputy Speaker presides; or

- (b) in the absence of the Deputy Speaker, another member presides, who has been elected by the members either—
 - (i) to serve in that capacity whenever there is an absence; or
 - (ii) specifically to preside during a particular absence.

91. Election of Speaker and Deputy Speaker

- (1) At its first sitting after an election, and whenever required to fill a vacancy, Parliament must elect, by simple majority vote—
 - (a) a Speaker from among persons who are qualified to be elected as members of Parliament, but are not members; and
 - (b) a Deputy Speaker from among the members of Parliament.
- (2) The Speaker assumes office by taking the oath or affirmation of office set out in Schedule 3, as administered by the Chief Justice, and the Deputy Speaker assumes office by taking the oath or affirmation of office, as administered by the Speaker.
- (3) A vacancy will exist in the office of Speaker or Deputy Speaker if the office holder—
 - (a) resigns from office, in a letter addressed to President;
 - (b) no longer qualifies to be a member of Parliament or becomes a holder of another public office;
 - (c) ceases to be a member of Parliament, in the case of the Deputy Speaker;
 - (d) is dismissed by the members, on a motion supported by at least 48 members;
 - (e) is removed from office for incapacity or wrongdoing, in accordance with Schedule 5; or
 - (f) dies in office.

92. Leader of the Opposition

The members of Parliament who are not supporting the government must elect a person from among themselves to be the Leader of the Opposition, in a manner similar to the procedure for electing the Prime Minister, as set out in Article 115.

93. Ministers from outside Parliament

Ministers who are not members of Parliament may attend Parliament or any of its committees, and may speak and introduce motions in Parliament or any of its committees, but may not vote.

94. Committees

- (1) Parliament may establish committees.
- (2) Parliament must balance the composition of each of its committees, as far as possible to be consistent with the proportionate representation of parties and independent members in Parliament, and to reflect the social, cultural and gender diversity of Parliament.
- (3) Despite clause (2), a majority of the members of the committee responsible for public accounts must be members who are not supporting the government and the committee must be chaired by a member who is not supporting the government.

95. Standing orders

- (1) Parliament may make standing orders for the orderly conduct of the proceedings of Parliament, and of its committees, with due regard to representative and participatory democracy, accountability, transparency and public involvement.
- (2) The standing orders must establish procedures for Parliament and its committees that—
 - (a) reflect and promote the nation's values;
 - (b) are consistent with the Bill of Rights;
 - (c) secure the rights of—

- (i) minority parties and independent members to participate in a manner consistent with democracy; and
- (ii) all members to participate fully and effectively;
- (d) provide for financial and administrative assistance to each party and independent member to enable them to perform their functions effectively;
- (e) require explanatory materials to accompany any legislation that is introduced, or any international agreement that is submitted to Parliament, which materials must outline the anticipated constitutional, human rights, regulatory and financial implications of any such draft legislation or agreement; and
- (f) secure the right of public access to the proceedings of Parliament and its committees.

96. First sitting of Parliament after an election

- (1) Parliament must meet in its first sitting on the 14th day after a general election.
- (2) At the first sitting, the agenda of business is—
 - (a) swearing in of members, presided over by the Chief Justice;
 - (b) the election and swearing in of the Speaker, presided over by the Chief Justice;
 - (c) the election and swearing in of the Deputy Speaker, presided over by the Speaker;
 - (d) the election of the Prime Minister, presided over by the Speaker, and conducted in accordance with Article 115; and
 - (e) the election of the Leader of the Opposition, presided over by the Speaker, and conducted in accordance with Article 92.
- (3) The Prime Minister assumes office upon being sworn in by the President.

97. Other sittings of Parliament

- (1) A sitting of Parliament may be held at any place within Fiji, and may commence at any time, that the Speaker decides.
- (2) The Speaker—
 - (a) must call a sitting of Parliament if requested to do so by—
 - (i) the Prime Minister; or
 - (ii) at least 24 of the members of Parliament; and
 - (b) may call a sitting of Parliament at any other time.

98. Quorum

- (1) A sitting of Parliament may not begin, or continue, unless at least 24 members are present.
- (2) A vote on a Bill may not be held in Parliament unless at least 35 members are present.
- (3) The Speaker must adjourn a sitting if a quorum is not present.

99. Voting

- (1) Except as otherwise provided in this Constitution, any question proposed for decision in Parliament must be determined by a majority of the members present and voting.
- (2) On a question proposed for decision in Parliament—
 - (a) the person presiding has no vote; and
 - (b) in the case of a tie, the question is lost.
- (3) A member must not vote on any question on which the member, to the exclusion of other members of Parliament, or the public generally, has a pecuniary interest.

- (4) The person presiding must not be counted when reckoning the number of members for the purpose of voting, or determining if a quorum is present.

100. Languages of Parliament

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

101. Petitions, public access and participation

- (1) Everyone has the right to petition Parliament, requesting it to consider any matter within its authority, or to enact, amend or repeal any legislation.
- (2) Parliament must—
 - (a) conduct its business in an open manner, and hold its sittings and those of its committees, in public; and
 - (b) facilitate petitions, and public participation in the legislative and other processes of Parliament and its committees.
- (3) Parliament and its committees may not exclude the public, including any media, from any sitting unless, in exceptional circumstances, the Speaker has ordered the exclusion of the public on grounds that are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

102. Powers, privileges, immunities and discipline

Every member of Parliament, and anyone else speaking in Parliament, has—

- (a) freedom of speech and debate in Parliament or its committees, subject to the standing orders; and

- (b) parliamentary privilege in respect of anything said in Parliament or its committees.

103. Power to call for evidence

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

104. Secretary General and staff of Parliament

- (1) There is to be a Secretary General for Parliament, to be appointed in accordance with the Standing Orders, and with the approval of the House.
- (2) The office of the Secretary General, and offices of members of the staff of the Secretary General, are offices in the Parliamentary Service.

Part C—Parliament's Legislative Authority

105. Legislative role of Parliament

- (1) The authority of Parliament to make laws is exercised through the enactment of Bills passed by Parliament and assented to by the President.
- (2) No person or body other than Parliament has authority to make any law in Fiji, except under authority conferred by this Constitution or by an Act of Parliament.

106. Exercise of legislative powers

- (1) Any member or committee of Parliament may introduce a Bill in Parliament, but only the Minister responsible for finance, or another minister authorised by Cabinet, may introduce a Money Bill, as described in Article 107.
- (2) A Bill must not deal with more than one general topic.
- (3) Parliament may proceed to consider any Bill in accordance with its standing orders, which must provide—
 - (a) a structured process for introduction, deliberation, amendment and enactment of Bills; and
 - (b) sufficient time to elapse between the steps in the process for members and committees to give due consideration to each Bill.
- (4) A Bill may proceed more quickly than permitted by the standing orders if—
 - (a) when the Bill was introduced, the mover requested that Parliament approve consideration of the Bill without delay; and
 - (b) at least 48 members voted in support of that request.

107. Money Bills

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

- (2) A Money Bill may not deal with any matter other than those listed in clause (1).

108. Presidential assent and referral

- (1) When a Bill has been passed by Parliament, the Speaker must send it to the President for assent.
- (2) Within 14 days after receipt of a Bill, the President must either—
 - (a) assent to the Bill; or
 - (b) if the President has reservations about the constitutionality of the Bill, refer the Bill back to Parliament for reconsideration, noting the President's reservations.
- (3) If the President refers a Bill back for reconsideration, Parliament may—
 - (a) amend the Bill in light of the President's reservations;
 - (b) pass the Bill a second time with or without amendment; or
 - (c) abandon the Bill.
- (4) If, after considering the President's reservations, Parliament has passed the Bill a second time, with or without amendments, the Speaker must re-submit the Bill to the President for assent, and the President must assent to the Bill within 7 days.
- (5) If the President does not assent to a Bill or refer it back within the period set out in clause (2), or does not assent to a Bill within the period set out in clause (4), the Bill will be taken to have been assented to on the expiry of that period.

109. Coming into force of laws

- (1) Within 7 days after a Bill has been assented to, the Speaker must cause a copy of the Bill to be published in the *Gazette* as an Act of Parliament.
- (2) Subject to clause (3), an Act of Parliament comes into force—
 - (a) on a date determined by or in accordance with the Act; or

- (b) on the 14th day after its publication in the *Gazette*, if the Act does not determine a date or provide for a date to be determined.
- (3) An Act that confers a direct pecuniary interest on members of Parliament, to the exclusion of the general public, must not come into force until after the first sitting of Parliament after the next general election.

110. Regulations and similar laws

- (1) No person or State organ may make any regulation, or issue any other instrument having the force of law, except as expressly authorised by this Constitution or an Act of Parliament.
- (2) An Act of Parliament that authorises any State organ, Officer of the State, or other person to make regulations or issue any instrument having the force of law—
 - (a) must specify—
 - (i) the purpose and objectives for which that authority is conferred, which must be within the purpose and objectives of the authorising Act of Parliament itself;
 - (ii) the limits of the authority being given; and
 - (iii) the nature and scope of the law that may be made;
 - (b) must not authorise anyone to make any law that—
 - (i) amends the Act of Parliament itself, or any other Act; or
 - (ii) authorises another person or State organ to make regulations or issue any instrument having the force of law; and
 - (c) may impose conditions on the authority to make laws, including referral of the law to Parliament for approval before it is made.
- (3) A person or State organ making any regulations or issuing any instrument having the force of law—

- (a) must be guided by the values of this Constitution;
- (b) so far as practicable, must provide reasonable opportunity for public participation in the development and review of the law before it is made; and
- (c) must not make any law that—
 - (i) falls beyond the scope, purpose or limits contemplated in clause (2)(a);
 - (ii) is within the categories contemplated in clause (2)(b); or
 - (iii) conflicts with an Act of Parliament.
- (4) Any regulation or other instrument having the force of law must be submitted to the Speaker for Parliamentary review, and the Speaker must refer the law to the appropriate committee as soon as practicable.
- (5) Within 90 days, the committee to which a law is referred may—
 - (a) approve the law without amendment;
 - (b) require the authorised law maker to review and revise the law, in accordance with the committee's written reservations; or
 - (c) refer the law to the Parliament, with a motion that it negate the law, supported by written reasons for the motion.
- (6) If the committee does not act within the time specified in clause (5), or Parliament does not vote within 60 days to negate the law under clause (5)(c), the law must be regarded as having been approved.
- (7) Any revision or negation of a law, as contemplated in clause (5), does not affect anything done under that law while it was in force.

111. Parliamentary authority over international agreements

- (1) An international agreement binds the Republic only after it has been approved by Parliament, unless it is an agreement referred to in clause (2).

- (2) An international agreement of a technical and administrative nature, entered into by the Cabinet, may bind the Republic without approval by Parliament, but must be tabled in Parliament.

CHAPTER 10—THE NATIONAL EXECUTIVE

Part A—Principles and Structure of the National Executive

112. Principles of executive authority

- (1) Executive authority derives from the people of Fiji and must be exercised—
 - (a) in accordance with this Constitution and Acts of Parliament; and
 - (b) following the principle that State office is a public trust, which vests in the holder the responsibility to serve, rather than the power to rule.
- (2) Executive authority is to be exercised in a manner that respects the values in Chapter 1 and the principle of service to the people of Fiji for their well-being and benefit.

113. The Cabinet

- (1) The Cabinet consists of the Prime Minister and not more than 14 other Ministers, one of whom must be designated as Deputy Prime Minister.
- (2) The Cabinet is chaired by the Prime Minister, and—
 - (a) develops, implements and co-ordinates national policy;
 - (b) prepares the annual budget of the State for consideration by Parliament;
 - (c) prepares and initiates legislation;
 - (d) implements legislation enacted by Parliament;
 - (e) negotiates treaties and other international instruments on behalf of Fiji;
 - (f) directs and co-ordinates the functions of ministries, government departments and the security services; and
 - (g) performs any other executive function provided for in this Constitution or in legislation.

- (3) Cabinet members are accountable individually and collectively to Parliament for the exercise of their powers and the performance of their functions.
- (4) A Minister must appear before Parliament, or a committee of Parliament, when required, and answer any question concerning a matter for which the Minister is responsible.
- (5) Cabinet members must provide Parliament with full and regular reports concerning matters for which they are responsible.
- (6) The Cabinet may seek an opinion from the Supreme Court on any matter concerning the interpretation or application of the Constitution.

Part B—The Prime Minister

114. Office of Prime Minister

- (1) The Prime Minister is the head of the government and Chair of the Cabinet.
- (2) Once each year, the Prime Minister must present to Parliament a speech outlining the policies and programmes of the government for the following year.
- (3) The Prime Minister—
 - (a) appoints and dismisses the Ministers;
 - (b) designates a minister to be Deputy Prime Minister; and
 - (c) by notice published in the *Gazette*, assigns responsibility for the implementation and administration of each Act of Parliament to any Minister.
- (4) The Deputy Prime Minister, or another Minister assigned by the Prime Minister, acts in the place of the Prime Minister at any time that the Prime Minister is unavailable or unable to perform the functions of that office.

115. Election of Prime Minister

- (1) At its first sitting after a general election, and whenever required to fill a vacancy, Parliament must elect one of its members to be Prime Minister.

- (2) The Speaker must call for nominations and, if only one person is nominated and seconded, the Speaker must declare that person elected as Prime Minister; but if more than one person is nominated and seconded, the Speaker must conduct a vote, as follows:
 - (a) If any candidate has the support of at least 36 members of Parliament, the Speaker must declare that person elected as Prime Minister.
 - (b) If no candidate in the first vote receives at least 36 votes—
 - (i) a second vote must be held between the 2 leading candidates in the first round; and
 - (ii) the Speaker must declare the person who has the support of more than 50% of the votes cast in the second round elected as Prime Minister.
 - (c) On a motion by any member, the Speaker may adjourn Parliament for a maximum of 7 days between the first and second votes for election of the Prime Minister.
- (3) The Prime Minister is elected to serve for the full term of Parliament, unless—
 - (a) required to resign under clause (4);
 - (b) dismissed in a no confidence vote under Article 116; or
 - (c) removed for incapacity or wrongdoing under Schedule 5.
- (4) No person may serve as Prime Minister for more than a total of 8 years, and any person serving as Prime Minister must resign upon completion of a total of 8 years service.
- (5) A vacancy arises if the Prime Minister—
 - (a) resigns, by written notice to the President;
 - (b) ceases to be, or ceases to qualify to be, a member of Parliament;
 - (c) is removed from office under Schedule 5; or

- (d) dies in office.
- (6) When a vacancy arises in the office of Prime Minister, the Deputy Prime Minister must act as Prime Minister until Parliament elects a new Prime Minister under clause (1).
- (7) The Prime Minister assumes office by taking the oath or affirmation of office set out in Schedule 3, as administered by the President.

116. No confidence in the Prime Minister

- (1) Parliament may dismiss the Prime Minister by a motion of no confidence, which must also propose the name of another member of Parliament to be Prime Minister.
- (2) At least 4 sitting days must elapse between the date on which a motion of no confidence is introduced, and the date on which it is called for a vote.
- (3) A motion of no confidence passes if it is supported by at least 36 members.
- (4) If a motion of no confidence passes—
 - (a) the incumbent Prime Minister immediately ceases to hold office;
 - (b) every other member of the Cabinet is deemed to have resigned; and
 - (c) the person proposed to be Prime Minister, in the motion, assumes that office immediately upon being sworn in by the President.
- (5) If a motion of no confidence fails, no further motion of no confidence may be introduced for at least six months.

Part C—Ministers

117. Appointment of Ministers

- (1) When choosing Ministers, the Prime Minister must endeavour to select a Cabinet which, taken as a whole, reflects the ethnic, cultural and gender diversity of Fiji.
- (2) A Minister may be appointed from inside or outside Parliament, but—

- (a) no more than 4 members of the Cabinet may be from outside Parliament;
 - (b) each Minister appointed from outside Parliament must be a person who satisfies the requirements for being a candidate for election to Parliament, as set out in Article 80 (5); and
 - (c) Parliament must approve, by a simple majority vote, each appointment of a minister who is not a member of Parliament.
- (3) The Minister designated to be Deputy Prime Minister must be a member of Parliament.
- (4) Each member of Cabinet assumes office by taking the oath or affirmation of office set out in Schedule 3, as administered by the President.
- (5) The Prime Minister—
- (a) may re-assign or dismiss a Minister at any time; and
 - (b) may designate a different Minister to be Deputy Prime Minister at any time.

118. Minister's term of office

Each Minister—

- (a) continues in office unless removed by the Prime Minister, or under Schedule 5, or ceases to qualify to be a member of Parliament; and
- (b) may resign by delivering a written statement of resignation to the Prime Minister.

CHAPTER 11—JUSTICE AND THE RULE OF LAW

Part A—Principles of Justice

119. Justice under law

- (1) The rule of law assures that the authority entrusted to Officers of the State and to State organs is never exercised arbitrarily or impulsively.
- (2) Justice under the rule of law dictates that laws must —
 - (a) be coherent and understandable, not only to lawgivers and judges, but to the ordinary people who have to govern their own lives according to law;
 - (b) apply to all persons equally, impartially and without regard to status or identity;
 - (c) be sufficiently certain to allow people to predict how the law may affect or will judge their actions, and so enable them to govern their own conduct;
 - (d) be reasonable and not impose demands beyond the power of the people whose lives are affected by those laws; and
 - (e) be respectful of the liberty of the people.
- (3) In applying the rule of law—
 - (f) officers of the court must act fairly and with integrity;
 - (g) prosecutorial discretion is to be exercised fairly and reasonably;
 - (h) justice is not to be delayed or hindered by undue regard to procedural technicalities;
 - (i) access to the courts must not be frustrated by geographic, procedural or financial impediments;
 - (j) courts must hold regular sessions at predictable and convenient times, even in remote locations;

- (k) alternative forms of dispute resolution, including reconciliation, mediation, arbitration, restorative justice, and traditional dispute resolution mechanisms may be applied in appropriate circumstances, in accordance with any applicable legislation;
 - (l) the views of victims of crimes must be received and considered by the court in rendering judgments; and
 - (m) when restorative justice is practised, it must be based on the willing participation of the victim and the genuine acceptance of responsibility by the offender.
- (2) Parliament may make provision for the application of customary laws, subject to this Constitution.

120. Authority of courts to enforce the Constitution

- (1) Everyone has the right to institute court proceedings alleging that any law, act or omission is contrary to this Constitution.
- (2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by—
- (a) a person acting on behalf of another person who cannot act in their own name;
 - (b) a person acting as a member of, or in the interest of, a group or class of persons;
 - (c) a person acting in the public interest; or
 - (d) an association acting in the interest of one or more of its members.
- (3) In addition to matters initiated under clause (1), in any other matter before any court any party, or the court on its own initiative, may raise a constitutional issue respecting any law, act or omission.
- (4) When deciding a matter contemplated in this Article, whether instituted under clause (1) or raised under clause (3), a court—

- (a) must declare that any law or conduct that is inconsistent with this Constitution is invalid to the extent of the inconsistency; and
 - (b) may make any order that is just and equitable.
- (5) A court that has declared any law invalid may make a further order—
- (a) limiting the retrospective effect of the declaration of invalidity; or
 - (b) suspending the declaration of invalidity for any period and on any conditions, necessary to allow the competent authority to correct the defect.

Part B—The Courts

121. Judicial authority and independence

- (1) The judicial authority of the Republic is vested in the courts and tribunals established by or under this Constitution.
- (2) The courts, the judges and all other judicial officers are independent, and subject only to the Constitution and the law, which they must apply without fear, favour or prejudice.
- (3) No person or State organ may interfere with the judicial functioning of the courts, or unreasonably interfere with the administrative functioning of the courts.
- (4) State organs, through legislative and other measures, must assist and protect the courts to ensure their independence, impartiality, accessibility and effectiveness.
- (5) Parliament must ensure that the Judiciary has adequate financial and other resources to perform its functions and exercise its powers properly.
- (6) The Judiciary has control of its own budget and finances, as approved by Parliament.
- (7) An order or decision issued by a court binds all persons to whom, and State organs to which, it applies.

122. Judicial system

- (1) The courts of Fiji are—

- (a) the Supreme Court;
 - (b) the Court of Appeal;
 - (c) the High Court;
 - (d) the Magistrates Courts;
 - (e) Military Courts; and
 - (f) any other court established by legislation contemplated in clause (3)(b).
- (2) The Supreme Court, the Court of Appeal and the High Court have the authority conferred on them by this Constitution or by any legislation.
- (3) Parliament may—
- (a) determine the authority and functions of the Magistrates' courts; and
 - (b) establish and determine the authority of other courts, which may have a status similar to the High Court, or the Magistrates' Court, or lower than the Magistrates' Court.

123. The Supreme Court

- (1) The Supreme Court consists of—
- (a) the Chief Justice, who is the President of the Supreme Court; and
 - (b) between 7 and 15 other persons appointed as judges of the Supreme Court, to serve as occasion requires.
- (2) If necessary, any of the Justices of Appeal may sit on a matter being heard by the Supreme Court.
- (3) The Supreme Court is properly constituted to hear a matter when 3 judges are sitting, but may sit with 5 judges if the Chief Justice so directs.
- (4) The Supreme Court—

- (a) is the final appellate court of Fiji;
 - (b) has exclusive authority, subject to any requirements set out in legislation, to hear and determine appeals from judgments of the Court of Appeal; and
 - (c) has original authority in the following matters:
 - (i) constitutional questions referred under Article 113 (6);
 - (ii) applications to disallow or terminate a declaration of a state of emergency under Article 181 (7)(b); and
 - (iii) any other matter contemplated in clause (5)(a).
- (5) When it is in the interests of justice, the Supreme Court may give permission to any person to—
- (a) bring a matter directly before it; or
 - (b) appeal directly to it from any court.
- (6) An appeal may be brought to the Supreme Court from a judgment of the Court of Appeal only if—
- (a) the Court of Appeal gives permission to appeal because the matter is of public importance; or
 - (b) the Supreme Court gives permission to appeal.
- (7) In the exercise of its appellate authority, the Supreme Court may—
- (a) vary, set aside or affirm decisions or orders of the Court of Appeal, or other court in the case of an appeal contemplated in clause (5)(b); and
 - (b) make any other order necessary for the administration of justice, including an order for a new trial or an order awarding costs.
- (8) Decisions of the Supreme Court are binding on all other courts of Fiji.

124. The Court of Appeal

- (1) The Court of Appeal consists of the number of judges determined by an Act of Parliament, appointed to serve as Justices of Appeal, one of whom is appointed as the President of the Court of Appeal.
- (2) If necessary, any of the judges of the High Court, other than the Chief Justice, may sit on a matter being heard by the Court of Appeal.
- (3) The Court of Appeal is properly constituted to hear a matter when 3 judges are sitting, at least 2 of whom must be Justices of Appeal.
- (4) The Court of Appeal has authority to hear and determine appeals—
 - (a) from all judgments of the High Court; or
 - (b) in any other matter assigned to it by legislation.
- (5) The Court of Appeal must hear any appeal from a final judgment of the High Court in a matter—
 - (a) arising under this Constitution or involving its interpretation; or
 - (b) heard at first instance in the High Court.
- (6) Parliament may provide for appeals to the Court of Appeal, as of right or with permission, from other judgments of the High Court.

125. The High Court

- (1) The High Court consists of the Chief Justice and at least 10 other judges.
- (2) An Act of Parliament may determine the total number of judges of the High Court.
- (3) The High Court has—
 - (a) original authority to hear and determine—
 - (i) any civil or criminal proceeding; and

- (ii) any matter arising under this Constitution or involving its interpretation;
 - (b) any other original authority conferred on it by legislation;
 - (c) authority to hear and determine appeals from all judgments of Magistrates' Courts, other courts established under Article 122 (3)(b), or tribunals; and
 - (d) authority to supervise any proceedings before a subordinate court or tribunal.
- (4) On an application made to the High Court under clause (3)(d), the court may make any order, issue any writ or give any direction that it considers appropriate to ensure that justice is duly administered by the subordinate court or tribunal.
- (5) If, in any proceedings in a subordinate court, a question arises as to the interpretation of this Constitution, the court may decide the matter, and its decision may be appealed as of right to the High Court.

126. Military courts

- (1) Military courts must be structured under an Act of Parliament.
- (2) The authority of military courts is limited to offences of a strictly military nature committed by military personnel.
- (3) Despite clause (2), military courts do not have authority over military personnel accused of serious human rights violations, such as extrajudicial executions, enforced disappearances or torture.
- (4) Military secrecy may be claimed in a military court only when the importance of keeping particular information secret outweighs the evidentiary value of that information in the proceedings.
- (5) The organisation and operation of military courts must ensure the right of everyone to a fair trial before a competent, independent and impartial tribunal, in accordance with Article 42.

- (6) Judges in military courts must possess the necessary legal training and qualifications and display integrity and competence, and are appointed in accordance with Article 129 (2).
- (7) The Court of Appeal has authority to hear any appeals from decisions of military courts.

127. Court rules and procedures

- (1) The Supreme Court, Court of Appeal, High Court, and any court having an equivalent status to the High Court has the authority to protect and regulate its practice and procedures, in accordance with legislation and the rules contemplated in clause (2).
- (2) An Act of Parliament must provide for the establishment of committees to make rules for regulating and prescribing the practice and procedure to be followed in each court.
- (3) Each committee referred to in clause (2) must include at least one legal practitioner and one person who is not a legal practitioner and has never been a judge.

Part C—Judges

128. Independence of judges

- (1) The office of a judge of a superior court must not be abolished while a person holds that office.
- (2) The salaries and benefits payable to, or in respect of, a judge or retired judge must not be varied to the disadvantage of that judge, except as part of an overall austerity reduction similarly applicable to all Officers of the State as permitted by Article 161 (4).
- (3) The remuneration and benefits payable to or in respect of judges are a charge on the Consolidated Fund.
- (4) A member of the Judiciary is protected from civil or criminal action for anything said or done, or omitted to be done, in the performance of a judicial function.

129. Appointment of judges

- (1) The Chief Justice is appointed by the President in accordance with the recommendation of the Judicial Service Commission, made after consulting the Prime Minister and the Leader of the Opposition.
- (2) All other judges are appointed by the President in accordance with the recommendation of the Judicial Service Commission.
- (3) The Judicial Service Commission must appoint a judge or a person who is qualified for appointment as a judge to act as Chief Justice during any period when the office of Chief Justice is vacant, or when the Chief Justice is unable to perform the functions of office.

130. Criteria and qualifications for appointment

- (1) When recommending persons for appointment to judicial office the Judicial Service Commission must be guided by the principles—
 - (a) first, that judges should be of the highest competence and integrity; and
 - (b) second, that the composition of the judiciary should, as far as practicable, reflect the ethnic, cultural and gender diversity of Fiji.
- (2) A person is qualified for appointment as a judge only if the person—
 - (a) holds, or has held, high judicial office in Fiji or in another country prescribed by legislation; or
 - (b) in the case of appointment to the—
 - (i) Supreme Court or the Court of Appeal, has at least 10 years experience as a legal practitioner or legal academic in Fiji, or in another country prescribed by an Act of Parliament; or
 - (ii) High Court or a court of equivalent status, has at least 7 years experience as a legal practitioner or legal academic in Fiji, or in another country prescribed by an Act of Parliament.

- (3) A person must not be appointed as a judge, magistrate or other judicial officer if the person is disqualified from holding an Office of the State under Schedule 5.

131. Other appointments

- (1) The Judicial Service Commission must appoint—
 - (a) magistrates and other judicial office holders in accordance with relevant Acts of Parliament; and
 - (b) persons to offices that are not judicial offices, to the extent provided by an Act of Parliament.
- (2) The Judicial Service Commission must obtain the consent of the Prime Minister before recommending a non-citizen for appointment to a judicial office, other than an office of judge.

132. Oath of office

Before taking office, a judge or magistrate must take the oath of office set out in Part B of Schedule 3.

133. Tenure of office

- (1) A foreign person appointed to be a judge in Fiji serves for a single, non-renewable term for a period determined in each case by the Judicial Service Commission at the time of appointment.
- (2) Any other appointment as a judge continues until the judge reaches retirement age, which is—
 - (a) for the Chief Justice, and other judges of the High Court, age 70; and
 - (b) for the judges of the Supreme Court or the Court of Appeal, age 75.
- (3) A person who retired as Chief Justice, or as a judge of the High Court, but has not reached age 75, is eligible for appointment as a judge of the Supreme Court or as a Justice of Appeal.

134. Removal of judges or judicial officers for cause

A judge, magistrate or other judicial officer may be removed from office for incapacity or wrongdoing, only in accordance with the provisions of Schedule 5.

*Part D—Independent Justice Institutions***135. Judicial Service Commission**

- (1) The Judicial Service Commission is established as an Independent Commission under Chapter 13 of this Constitution.
- (2) The Judicial Service Commission consists of—
 - (a) the Chief Justice;
 - (b) one High Court Judge, chosen by the Judges of the High Court;
 - (c) one person designated by the Minister responsible for justice;
 - (d) one person designated by the Fiji Law Society; and
 - (e) one woman and one man, not being lawyers, to represent the public, appointed by the Constitutional Offices Commission.
- (3) A person or body appointing or designating a member of the Commission may also appoint or designate an alternate member, to serve in place of the member, when the member is unavailable.
- (4) The members of the Judicial Service Commission must choose one of their number to be the Chair of the Commission.
- (5) The Judicial Service Commission promotes and facilitates the independence and accountability of the judiciary and the efficient, effective and transparent administration of justice.
- (6) In addition to any other powers assigned by this Constitution or other laws, the Judicial Service Commission is responsible for—
 - (a) recommending persons for appointment as judges;

- (b) recommending persons for appointment as Solicitor General;
- (c) appointing, receiving complaints against, investigating and removing from office or otherwise disciplining registrars and magistrates, in the manner prescribed by an Act of Parliament;
- (d) promoting programmes for the continuing education and training of judges and judicial officers; and
- (e) advising the Minister responsible for justice on any matter relating to the judiciary or the administration of justice.

136. The legal profession

- (1) The independence and integrity of the judicial system requires an independent legal profession, whose members fearlessly protect the rule of law while serving the court and the interests of their clients in all things, including in bringing, presenting and arguing matters before the courts.
- (2) The practice of law may be regulated by legislation, but State organs must not—
 - (a) harass or intimidate lawyers or their clients, or interfere in their relationship;
 - (b) infringe upon lawyer-client privilege; or
 - (c) undermine the independent governance of the legal profession.

137. Solicitor General

- (1) The Solicitor General is established as an Independent Officer under Chapter 13 of this Constitution.
- (2) The Solicitor General has a status equivalent to a Permanent Secretary, but—
 - (a) despite Articles 149 and 166 (2), the appointment of the Solicitor General must be made by the President, in accordance with the recommendation of the Judicial Service Commission; and

- (b) despite Article 167 (4), the Prime Minister may not re-assign the Solicitor General.
- (3) The Solicitor General is responsible for—
 - (a) providing independent legal advice to any Officer of the State or State organ, on request;
 - (b) preparing draft legislation on the request of any Minister or Member of Parliament;
 - (c) maintaining a publicly accessible register of the Acts of Parliament and laws made under them;
 - (d) representing the State in court in any legal proceedings to which the State is a party, other than criminal proceedings; and
 - (e) performing any other functions assigned by this Constitution, an Act of Parliament or by the Cabinet.
- (4) The Solicitor General, with the permission of the court, may appear as a friend of the court in any civil proceedings to which the State is not a party.
- (5) Any functions assigned to the Solicitor General may be exercised in person or by subordinate officers acting in accordance with general or special instructions.
- (6) The Solicitor General is not a member of Cabinet, or of Parliament.

138. Director of Public Prosecutions

- (1) The Director of Public Prosecutions is established as an Independent Officer under Chapter 13 of this Constitution.
- (2) Only the Director of Public Prosecutions has authority to institute and conduct criminal proceedings on behalf of the State, except to the extent that any legislation contemplated in Article 66 (3)(d)(ii) permits the Ethics and Integrity Commission to prosecute any matter.

- (3) The Director of Public Prosecutions may take over criminal proceedings that have been instituted by another person or authority, either with that person's consent or with the approval of the court.
- (4) At any stage before a plea is entered, the Director of Public Prosecutions may discontinue criminal proceedings —
 - (a) instituted by the Director; or
 - (b) taken over by the Director, but only with the consent of the person who initiated those proceedings, or with the approval of the court.
- (5) In exercising the powers conferred by this Article, the Director of Public Prosecutions must have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.
- (6) The Director of Public Prosecutions must be a person who is qualified to be a judge of the High Court.
- (7) Before appointing a person to be the Director of Public Prosecutions, the Constitutional Offices Commission must consult the Minister responsible for Justice.
- (8) The powers of the Director of Public Prosecutions may be exercised by the Director personally, or through other persons acting on the Director's instructions.

139. Mercy Commission

- (1) The Mercy Commission is established as an Independent Commission under Chapter 13 of this Constitution, and consists of—
 - (a) the Minister responsible for justice, as Chair;
 - (b) the Commissioner of Corrections Services; and
 - (c) 2 women and 2 men, to represent the public.
- (2) On the petition of any convicted person, the Mercy Commission may recommend that the President exercise a power of mercy by—

- (a) granting a free or conditional pardon to a person convicted of an offence;
 - (b) postponing the carrying out of a punishment, either for a specific or indeterminate period;
 - (c) substituting a less severe form of punishment; or
 - (d) remitting all or a part of a punishment.
- (3) The Mercy Commission may dismiss a petition that it reasonably considers to be frivolous, vexatious or entirely without merit, but otherwise—
- (a) must consider a report on the case prepared by—
 - (i) the judge who presided at the trial; or
 - (ii) the Chief Justice, if a report cannot be obtained from the presiding judge;
 - (b) must consider any other information derived from the record of the case or elsewhere that is available to the Commission; and
 - (c) may consider the views of the victims of the offence.
- (4) The President must act in accordance with the recommendations of the Commission.

CHAPTER 12—LOCAL GOVERNMENT

140. System of local government

- (1) Democracy begins with the People. It is first expressed locally as people participate in local affairs, and first experienced locally as people choose to provide services for their community through their local government.
- (2) A strong system of local government, with structures tailored to the distinctive needs of each locality, strengthens national unity by—
 - (a) recognising the right of the people in their communities to manage their own affairs and further their development in a manner that is responsive to local interests and needs;
 - (b) integrating all the residents within a locality under the same local government bodies, so that issues are resolved, and services are provided without discrimination;
 - (c) engaging the people in the decisions that most affect their daily lives;
 - (d) promoting social and economic development, and the provision of easily accessible public services throughout Fiji;
 - (e) promoting democratic and accountable exercise of authority; and
 - (f) giving each local community a voice in national discussion through the participation of their local government representatives in meetings of the National People's Assembly, and the National Consultative Land Forum.
- (3) As an expression of national unity, local government must be structured for all of Fiji as a single system of democratic, non-discriminatory, inclusive government, reflecting all the values recognised in Chapter 1.
- (4) Each local government body must be chosen by the citizens resident within its area in elections administered by the Electoral Commission.

- (5) Each local government body must have responsibility for any public services that are most effectively delivered locally, and must have authority to decide issues of public concern that arise locally or primarily affect the local residents in their daily lives.

141. Local Government Structures

- (1) An Act of Parliament must establish the system and structures of local government in accordance with this Chapter.
- (2) The legislation required by clause (1)—
 - (a) must provide for local government for all of the territory of Fiji;
 - (b) must structure local government to achieve the realisation of each provision of Article 140 (2);
 - (c) may establish different categories of local government bodies in different localities, and may establish multiple levels of local government bodies in particular localities;
 - (d) may assign different roles, functions and powers to different categories of local government bodies; and
 - (e) must establish standards for local government transparency and the accountability of all local government bodies to the residents of the locality.

142. Local Government responsibility and accountability

- (1) Each local government body must have sufficient autonomy to carry out its responsibilities, and to be responsive to the needs of the residents of its locality.
- (2) The roles, functions and powers of each category of local government body must be clearly set out in the Act of Parliament required by Article 141.
- (3) In assigning roles, functions and powers to categories of local government bodies, Parliament must be guided by the principle set out in Article 140 (5) and, in particular, must assign responsibility to local government bodies unless there is good

reason to conclude that local government cannot effectively perform the required role or function, or exercise the required powers.

- (4) Each local government body is accountable to its residents and, in particular, must—
 - (a) promote the rights of its residents to actively participate in local decision making procedures;
 - (b) ensure that the needs of the entire community, including youth, women, minorities, the elderly and the disabled are considered in local government decisions;
 - (c) deliver services in a manner that recognises the diverse needs of its residents; and
 - (d) account to the residents of the locality through regular reports and other methods that enable the residents to provide proper oversight of the local government body.
- (5) The elected members of local government bodies, and the senior office holders within each local government body, are Officers of the State and are subject to, and must comply with, the Code of Conduct set out in Schedule 4.

143. Government co-operation

- (1) The national government must support all local government bodies, and contribute to building their capacity to fulfil their responsibilities.
- (2) Local government bodies must be provided with adequate and reasonably predictable sources of revenue to carry out the roles, functions and powers assigned to them.
- (3) The national government may supervise or intervene in the management of a local government body—
 - (a) only when necessary to ensure that the roles, functions and powers assigned to it are properly fulfilled and exercised; and

- (b) only in accordance with the principles of this Chapter, and following clearly defined procedures set out in legislation.
- (4) The national government and local government bodies must cooperate with one another in mutual trust, good faith and constructive engagement, and support one another in the performance of their respective roles.

CHAPTER 13—INDEPENDENT COMMISSIONS AND OFFICES**144. Establishment and objects of Independent Commissions and Offices**

- (4) In order to secure and protect constitutional democracy in Fiji, this Constitution recognises or establishes the following State organs as Independent Commissions or Independent Offices:

Independent Commissions

Fiji Human Rights Commission

Ethics and Integrity Commission

Electoral Commission

Judicial Service Commission

Mercy Commission

Constitutional Offices Commission

Salaries and Benefits Commission

Public Service Commission

Police and Corrections Services Commission

Independent Offices

Solicitor General

Director of Public Prosecutions

Auditor General

Governor of the Reserve Bank of Fiji

Ombudsman

Commissioner of Police

Commissioner of Corrections

- (5) Each Independent Commissions or Office is established to—
- (a) protect the sovereignty of the people and the public interest;

- (b) uphold the rule of law, and promote the observance of democratic principles and values by all State organs; and
- (c) maintain constitutionality and integrity by insulating essential democratic functions from improper influence, manipulation or interference.

145. Independence of Commissions and Offices

- (1) Each Independent Commission or Office is a legal person, which is independent and subject only to the Constitution and the law.
- (2) Each Independent Commission, and each Independent Office, must be impartial, and perform its functions without fear, favour or prejudice.
- (3) Other State organs, through legislative and other measures, must assist and protect the Independent Commissions and Offices to ensure their independence, dignity, impartiality, and effectiveness.
- (4) Parliament must ensure that each Independent Commission and Office has adequate financial and other resources to perform its functions and exercise its powers properly.
- (5) No State organ may interfere with the functioning of any Independent Commission or Office.
- (6) Staff of each Independent Commission or Office—
 - (a) must be appointed by the Public Service Commission, with the agreement of the Commission or Office; or
 - (b) may be seconded from other State organs.
- (7) Each Independent Commission or Office has complete, independent authority to—
 - (a) retain contractors or consultants to supplement any staff appointed or seconded as contemplated in clause (6);
 - (b) control its own budget and finances;

- (c) raise funds in addition to those appropriated by Parliament;
- (d) engage directly with the public, including through public media; and
- (e) direct its own activities.

146. Independence of members and officers

- (1) Each member of an Independent Commission, and each Independent Officer, in performing the functions of that Commission or Office—
 - (a) is independent and subject only to the Constitution and the law;
 - (b) must act impartially, and without fear, favour or prejudice;
 - (c) must withdraw from deliberation of any matter in which the person could reasonably be perceived as having a conflicting personal interest; and
 - (d) has no civil, criminal or administrative liability for anything said or done by the person in good faith.
- (2) The salaries and benefits of the members of each Independent Commission, or of each Independent Officer—
 - (a) are determined in accordance with a framework established by the Salaries and Benefits Commission under Article 161;
 - (b) must not be reduced, except as part of an overall austerity reduction similarly applicable to all Officers of the State, as permitted under Article 161 (4); and
 - (c) are a charge on the Consolidated Fund.

147. Authority of Independent Commissions and Offices

- (1) In addition to the functions conferred on it by this Constitution, each Independent Commission or Office has any other powers and other functions that are assigned to it in Acts of Parliament.

- (2) If an Independent Commission has authority to initiate complaints, it also has authority on its own initiative, or in response to a complaint, to initiate and carry out public inquiries into any matter generally within its mandate.
- (3) If an Independent Commission has authority to receive and investigate complaints or petitions, it also has the discretion—
 - (a) to dismiss any complaint that it reasonably regards as being frivolous or vexatious, or without merit;
 - (b) to facilitate the resolution of complaints by mediation or conciliation;
 - (c) following an investigation, to issue a notice requiring a State organ or person to take any particular action, or cease any particular practice;
 - (d) to apply to the High Court to have a notice under paragraph (c) endorsed as an order of the court, if it has not been complied with in a reasonable time; and
 - (e) to refer a matter to the Director of Public Prosecutions if it appears to involve an offence under any law.
- (4) The Auditor General, the Ombudsman, and each Independent Commission has the same powers as the High Court in respect of—
 - (a) the attendance and examination of witnesses, including witnesses abroad;
 - (b) the administration of oaths or affirmations; and
 - (c) the production of documents.
- (5) Each Independent Commission or Office has the authority to—
 - (a) accept from a member of the public any complaint, application or submission that should properly be directed to another Independent Commission or Office; and

- (b) with proper written notice to the member of the public, re-direct that complaint, application or submission to the appropriate Independent Commission or Office.

148. Business and accountability of Independent Commissions and Offices

- (1) Each Independent Commission or Office may make regulations respecting its own procedures and functions.
- (2) An Independent Commission—
 - (a) may act despite the absence of one or more of its members; and
 - (b) must preferably make its decisions by consensus, failing which a decision may be made by simple majority decision of its members, with a question failing in case of a tied vote.
- (3) The validity of the transaction of business of an Independent Commission is not affected if someone who was not entitled to do so took part in its proceedings.
- (4) Each Independent Commission or Office must observe the principles that it is charged to uphold, in particular—
 - (a) accessibility and approachability;
 - (b) simplicity and clarity of all procedures and documentation; and
 - (c) speed, efficiency and responsiveness.
- (5) Where appropriate, each Independent Commission or Office must establish branches across Fiji as necessary to provide reasonably accessible service to the people.
- (6) Two or more Independent Commissions or Offices may agree to combine resources to establish a joint secretariat, or joint branch offices, to serve their administrative requirements.
- (7) Each Independent Commission or Office is accountable to the People through Parliament, and must deliver to Parliament annual reports concerning its functions.

- (8) Every report published by an Independent Commission or Office regarding its functions, or serious investigations it has conducted, must be submitted to Parliament.
- (9) Every annual report of an Independent Commission or Office must disclose the source, amount and purpose of any money received by that Commission or Office from sources other than the State.
- (10) Reports issued by an Independent Commission or Office must be—
 - (a) as informative as reasonably possible, bearing in mind the need for individual privacy, national security, commercial confidentiality and other relevant factors, including economy on the part of the office; and
 - (b) publicised and made readily available to the public.

149. Appointments to Independent Commissions and Offices

- (1) Every Independent Officer, and every member of any Independent Commission, other than the Constitutional Offices Commission, is appointed by the President, in accordance with a recommendation made by the Constitutional Offices Commission after it has conducted an appropriate search and selection process, including—
 - (a) advertising of the position to the public and invitation to the public to submit applications or nominations;
 - (b) identification and review of qualified candidates; and
 - (c) consultation with any relevant parliamentary committee and Minister, the Public Service Commission, and appropriate groups within civil society.
- (2) To qualify for appointment as a member of an Independent Commission, or as an Independent Officer, a person must—
 - (a) possess the requisite knowledge, experience, temperament and reputation as appropriate for the respective commission or office; and

- (b) satisfy any requirements for a particular Independent Commission or Office, as set out elsewhere in this Constitution.
- (3) A member of an Independent Commission or an Independent Officer assumes office by taking the oath or affirmation of office set out in Schedule 3, as administered by the Chief Justice.
- (4) A person must not be appointed or re-appointed if the person—
 - (a) is a member of any other Independent Commission or holder of an Independent Office;
 - (b) is a member of Parliament or other elected body established by or under this Constitution;
 - (c) is a candidate for election to Parliament, or an elected body contemplated in paragraph (b);
 - (d) is an office bearer in a political party that listed candidates in—
 - (i) the most recent election for Parliament; or
 - (ii) the most recent election for local government bodies;
 - (e) holds a public office, including a local government office, if an Act of Parliament restricts holders of that office from being appointed to an Independent Commission or Office;
 - (f) fell into any category mentioned in paragraphs (b) to (e) at any time during the immediately preceding 4 years, or 8 years in the case of an appointment to the Electoral Commission;
 - (g) is subject to a sentence of imprisonment when appointed;
 - (h) has been subject to a sentence of imprisonment in excess of 6 months at any time during the 5 years immediately before being appointed; or
 - (i) is disqualified from holding an Office of the State under Schedule 5.

- (5) When selecting women or men to serve Fiji, the need for the ethnic, cultural and gender diversity of Fiji to be reflected in the broad composition and chairing of the Independent Commissions and filling of Independent Offices must be considered.

150. Term of office and vacancies

- (1) A member of an Independent Commission is appointed to serve part-time, unless otherwise stated in this Constitution or in legislation.
- (2) A member of an Independent Commission or an Independent Officer—
 - (a) serves for a term of 5 years from the date of appointment; and
 - (b) may be appointed to serve a second consecutive term in that Independent Commission or Office.
- (3) If the office of Chair of an Independent Commission is vacant, or the Chair is absent from duty or from Fiji, the remaining members may elect one of their number to serve as acting Chair.
- (4) The Constitutional Offices Commission may appoint a qualified person to be an acting member of any Independent Commission, or acting Independent Officer, whenever—
 - (a) an appointed person is unable to perform the functions of that office for any other reason; and
 - (b) no other provision has been made under an Act of Parliament for a person to act in place of the absent member or office holder.

151. Constitutional Offices Commission

- (1) The Constitutional Offices Commission is established as an Independent Commission under this Chapter.
- (2) The Constitutional Offices Commission is responsible for—
 - (a) encouraging citizens to make themselves available to serve Fiji in the Independent Commissions and Offices;

- (b) compiling and maintaining a register of those citizens who have expressed a willingness or desire to serve in that capacity;
 - (c) appointing women and men to serve in Independent Commissions and Offices, whenever a vacancy arises; and
 - (d) reviewing the conduct of Officers of the State as set out in Schedule 5 and convening a Tribunal under that Schedule, when required,.
- (3) The Constitutional Offices Commission consists of—
- (a) the Chair of the Fiji Human Rights Commission, or the Ombudsman, with the position rotating between them on a bi-annual basis, subject to clause (5);
 - (b) the Chair of the Ethics and Integrity Commission, or the Chair of the Electoral Commission, with the position rotating between them every two years, subject to clause (5); and
 - (c) 2 women and 2 men, each to be appointed to serve for a term of 5 years, selected by the Prime Minister and the Leader of the Opposition acting jointly, or individually only if they are unable to agree. If the party leaders choose to act individually, each of them must select 1 woman and 1 man.
- (4) The women and men selected under clause (3) (c) must each have a record of service to the public in civil society.
- (5) If, at any time, the Commission is required to consider a matter concerning any of the offices mentioned in clause (3) (a) or (b), and at that time the incumbent in that office is serving a rotation on the Commission, that incumbent must be temporarily replaced on the Commission by the alternate office holder mentioned in the relevant paragraph.
- (6) The members of the Constitutional Offices Commission must select a person from among them to serve as Chair for 2 years.

CHAPTER 14—PUBLIC FINANCE

152. Principles of public finance

The following principles apply to public finance in Fiji—

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

153. Annual presentation of the budget

Each year, the Minister responsible for finance must present to Parliament a budget for the next financial year, with sufficient time before the beginning of the next financial year for Parliament to adequately consider and adopt the budget.

154. Budgets

- (1) Each budget must contain—
 - (a) estimates of revenue and expenditure for each State organ;
 - (b) a statement of the sources of revenue and the way in which proposed expenditure will comply with legislation;

- (c) proposals for financing any anticipated annual budget deficit, or using any annual budget surplus;
 - (d) an indication of intentions regarding borrowing and other forms of public liability that will increase public debt during the ensuing year; and
 - (e) multi-year projections or objectives for total revenue and spending, budget balance, government borrowing and public debt.
- (2) Legislation must prescribe—
- (a) the form of budgets; and
 - (b) the manner in which annual estimates for each State organ are to be prepared, including appropriate mechanisms for preparing the estimates of the judiciary and Independent Commissions and Offices in a manner that promotes their independence.

155. Expenditure before the budget is passed

- (1) If the Appropriation Act for a particular financial year has not been passed by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of money from the Consolidated Fund for the services of the Government for which funds were appropriated in the previous financial year, subject to any limits or conditions prescribed by legislation.
- (2) The amount authorised for withdrawal each month under clause (1) must not exceed 1/12 of the total annual appropriations approved for the immediately preceding financial year.
- (3) The Minister must not authorise the withdrawal of money under clause (1) for any period that extends more than 4 months beyond the beginning of the financial year.

156. Revenue

- (1) No tax or fee may be imposed, waived or varied by the State, except as provided by legislation.

- (2) If legislation permits the waiver or variation of any tax or fee—
 - (a) a public record of each waiver or variation must be maintained together with the reason for it; and
 - (b) each waiver or variation, and the reason for it, must be reported to the Auditor General.
- (3) No law may exempt, or authorise the exemption of, a public officer from payment of any tax or fee by reason of—
 - (a) the office held by that public officer; or
 - (b) the nature of the work of the public officer.

157. Borrowing and guarantees

- (1) An Act of Parliament may—
 - (a) prescribe the terms on which the State may borrow money or guarantee the liability of any person; and
 - (b) impose reporting requirements in respect of any borrowing or guarantees.
- (2) Parliament, by resolution, may require the Minister responsible for finance to present to the relevant committee, within 7 days after the resolution, information concerning any particular loan or guarantee, including all information necessary to show—
 - (a) the extent of the total indebtedness by way of principal and accumulated interest;
 - (b) the use made or to be made of the proceeds of the loan or the purpose of the guarantee;
 - (c) the provision made for servicing or repayment of the loan; and
 - (d) the progress made in the repayment of the loan.

- (3) The State must not guarantee the financial liability of any person unless the guarantee is in accordance with conditions imposed by legislation.

158. Consolidated Fund

- (1) All money raised or received by or on behalf of the State must be paid into a single Consolidated Fund or a fund contemplated in Article 159.
- (2) Money may be withdrawn from the Consolidated Fund only in accordance with —
 - (a) an appropriation by legislation;
 - (b) Article 155; or
 - (c) a charge against the Consolidated Fund under Article 128 (3) or 146 (2)(c), or clause (3), or provided for in an Act of Parliament.
- (3) All debt charges for which the State is liable and all pension benefits are a standing charge payable out of the Consolidated Fund.
- (4) Clause (3) does not apply to the extent that a particular debt or benefit is a charge on another fund and has been paid out of that fund to the person or authority to whom payment is due.

159. Other public funds

- (1) An Act of Parliament may exempt specific money from the application of Article 158 (1), only if that Act requires the money to be paid into another fund to be used only for a specific purpose expressed in the Act.
- (2) Money may be withdrawn from a public fund other than the Consolidated Fund only in accordance with an Act of Parliament.

160. Control of public money and tendering

- (1) Parliament must enact legislation to ensure expenditure control, transparency and independent internal audit mechanisms in government.

- (2) When a State organ or any other public entity contracts for goods or services, it must do so in accordance with a system that is fair, transparent, competitive and cost-effective.
- (3) An Act of Parliament must prescribe a framework within which policies relating to procurement and asset disposal are to be implemented.

161. Salaries and Benefits Commission

- (1) The Salaries and Benefits Commission is established as an Independent Commission under Chapter 13 of this Constitution.
- (2) The Salaries and Benefits Commission consists of—
 - (a) The Chair of the Public Service Commission.
 - (b) 2 persons, each of whom must—
 - (i) be qualified as an actuary or accountant; or
 - (ii) have extensive experience in public administration, trade, commerce, finance or labour relations; and
 - (c) one woman and one man, to represent the public.
- (3) The Salaries and Benefits Commission must convene once every 4 years to review and determine the framework and upper limits of the salaries, allowances and benefits applicable to Officers of the State.
- (4) When determining the framework of salaries and benefits, the Salaries and Benefits Commission must not reduce the overall value of the salaries and benefits of judges, other judicial officers, members of Independent Commissions or Independent Officers, except—
 - (a) for reasons of national economic austerity; and
 - (b) as part of a general reduction in the framework applicable to all Officers of the State, and under which all Officers of the State are similarly affected.

- (5) For the purpose of conducting a review, the Commission may consider submissions made to it and other relevant material.

162. Auditor General

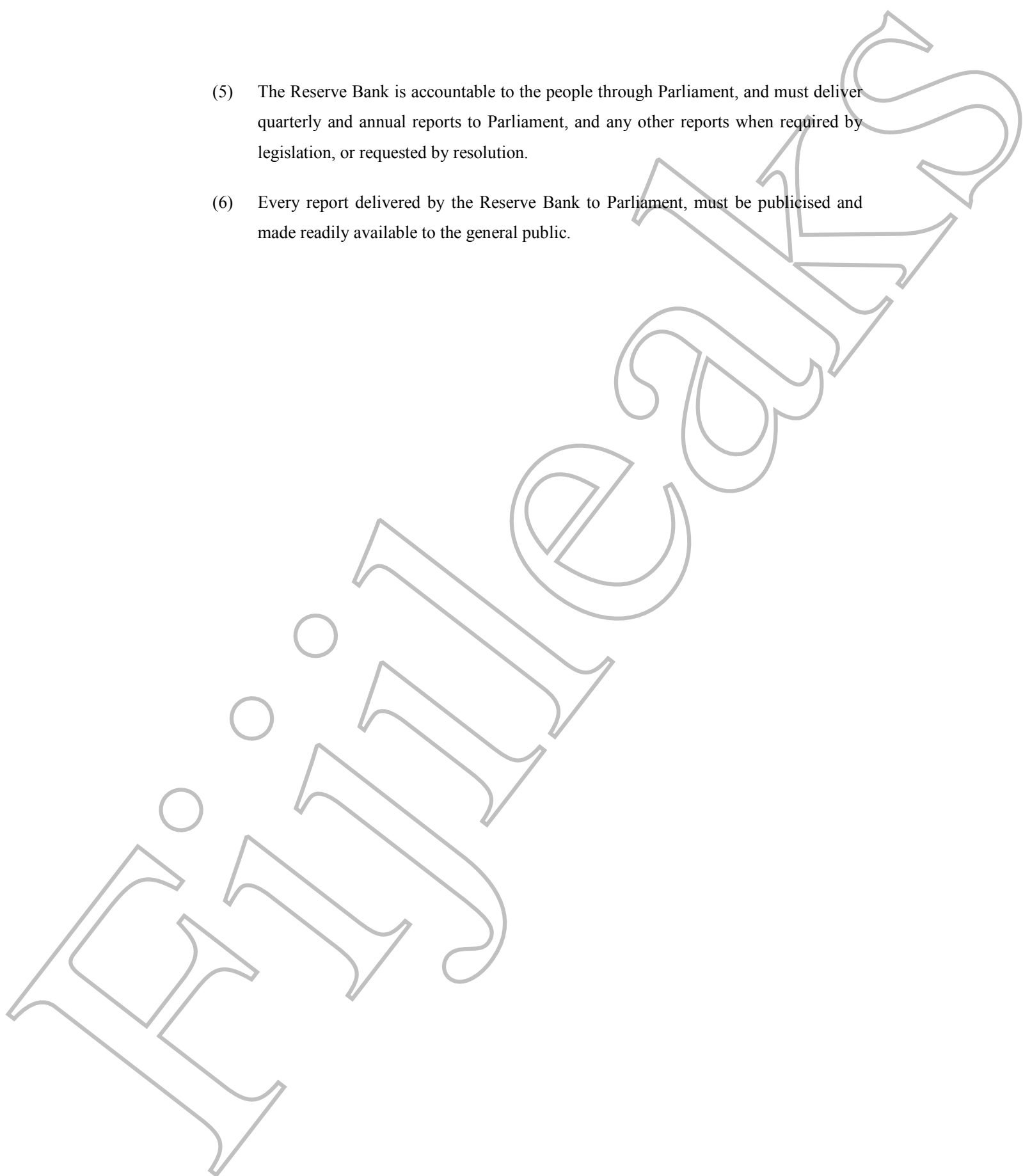
- (1) The Auditor General is established as an Independent Officer under Chapter 13 of this Constitution.
- (2) The Auditor General provides independent assurances to Parliament that State organs are properly accounting for their operations and management, and—
 - (a) has the general responsibility to investigate and report on any aspect of public financial management in the State; and
 - (b) may independently initiate and conduct inquiries into the management of public resources.
- (3) At least once in every year, the Auditor General must inspect and audit, and report to Parliament on—
 - (a) the public accounts of the State and all State organs, unless exempted by an Act of Parliament contemplated in clause (7)(b); and
 - (b) budget implementation, including internal control and internal audit, and how it complies with the budget adopted by Parliament.
- (4) The Auditor General has the authority to access all records, books, vouchers, stores or other government property in the possession or control of any person or State organ being audited.
- (5) State organs must provide their annual financial statements to the Auditor General within 3 months after the end of the financial year, or such longer period as the Auditor General may allow.
- (6) The Auditor General must promptly complete the annual audit of each State organ.
- (7) Parliament must enact legislation, which—

- (a) must specify the manner, form and timing for State organs to provide periodic financial reports to the Auditor General;
 - (b) may provide that the accounts of a specified corporate body are to be audited as prescribed in that law; and
 - (c) may confer further functions and powers on the Auditor General, or make further provision in relation to the office of the Auditor General.
- (8) The Auditor General has the authority to review any audit performed as contemplated in clause (7)(b), and to report the results of such a review.

163. Reserve Bank of Fiji

- (1) The Reserve Bank of Fiji is the central bank of the Republic, whose primary function is to protect the value of the currency in the interest of balanced and sustainable economic growth by, among other things—
- (a) formulating monetary policy;
 - (b) promoting price stability;
 - (c) issuing currency; and
 - (d) performing other functions conferred on it by Acts of Parliament.
- (2) The Reserve Bank of Fiji must perform its functions independently and without fear, favour or prejudice, but there must be regular consultation between the Bank and the Minister responsible for finance.
- (3) Before making an appointment to the office of Governor of the Reserve Bank of Fiji, the Constitutional Offices Commission must consult the Minister responsible for finance and the Board of the Reserve Bank.
- (4) An Act of Parliament must provide for the composition, powers, functions and operations of the Reserve Bank of Fiji.

- (5) The Reserve Bank is accountable to the people through Parliament, and must deliver quarterly and annual reports to Parliament, and any other reports when required by legislation, or requested by resolution.
- (6) Every report delivered by the Reserve Bank to Parliament, must be publicised and made readily available to the general public.



CHAPTER 15—PUBLIC ADMINISTRATION

164. Values and principles of public service

- (1) The People of Fiji require the public service to—
 - (a) be loyal to the people;
 - (b) faithfully carry out the policies of the government and administer the law;
 - (c) be free from corruption; and
 - (d) function in accordance with the values and principles set out in this Article.
- (2) The values and principles of public service include—
 - (a) high standards of professionalism, including professional ethics and integrity;
 - (b) prompt implementation of government policy and administration of laws;
 - (c) efficient, effective and economic use of public resources;
 - (d) involvement of the people in the process of policy making;
 - (e) prompt response to requests and questions from the public, and delivery of service to the public, in a manner that is respectful, effective, impartial, fair, and equitable;
 - (f) accountability for administrative conduct;
 - (g) transparency, including—
 - (i) timely, accurate disclosure of information to the public; and
 - (ii) prompt, complete and candid reporting to Parliament, as required by law;
 - (h) cultivation of good human resource management and career development practices, to maximise human potential; and

- (i) recruitment and promotion based on—
 - (i) objectivity, impartiality and fair competition;
 - (ii) ability, education, experience and other characteristics of merit; and
 - (iii) the need to broadly represent the diversity of Fiji.
- (3) The values and principles of public service apply in all State organs and State corporations.
- (4) The duties of a public officer include bringing contraventions of this Constitution or the law to the attention of the appropriate authorities.
- (5) A public officer must not be dismissed or removed from office or demoted in rank or otherwise punished without due process of the law, except to the extent provided in Chapter 10 with respect to members of the Cabinet, or as otherwise provided in this Constitution.
- (6) A public officer must not be victimized or discriminated against for having performed the officer's duties in accordance with this Constitution or the law.
- (7) Parliament must enact legislation to give full effect to this Article.

165. Service quality

- (1) All State organs and all public officers have the duty to seek to understand the needs of vulnerable groups within society, including women, the elderly, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities, and to address those needs with empathy.
- (2) To ensure efficiency in delivery of service to the public, every State organ may—
 - (a) liaise and exchange information with other State organs on matters of common interest;
 - (b) negotiate appropriate agreements with any State organ to co-ordinate and harmonise the exercise of their respective authority; and

- (c) advise, or receive advice from, any other State organ.

166. Appointment of public officers

- (1) Ambassadors, High Commissioners and Consuls General must be appointed by the President, acting in accordance with the recommendation of the Public Service Commission, which may make such a recommendation only after consulting the Minister responsible for foreign affairs.
- (2) Permanent Secretaries, and any officer of equivalent status, must be appointed directly by the Public Service Commission.
- (3) Other public officers must be appointed as provided in this Constitution or legislation.

167. Permanent Secretaries

- (1) There is established within each Ministry the office of Permanent Secretary, which is an office in the public service.
- (2) Each Ministry is to be under the administration of a Permanent Secretary.
- (3) The Permanent Secretary of a ministry is responsible to the Minister concerned for the efficient, effective and economical management of the department.
- (4) The Prime Minister may at any time re-assign one or more Permanent Secretaries among the various departments of the State.
- (5) A Permanent Secretary may resign from office by giving notice to the Prime Minister.

168. Public Service Commission

- (1) The Public Service Commission is established as an Independent Commission under Chapter 13 of this Constitution.
- (2) The Public Service Commission consists of 5 members, one of whom must be designated to be the Chair of the Commission.

- (3) The functions and powers of the Public Service Commission are—
 - (a) to ensure an independent and professional public service by—
 - (i) establishing norms and standards for recruitment and human resource management to ensure fairness and procedural uniformity across all State organs;
 - (ii) monitoring the recruitment, promotion and disciplining of public officers by those departments to whom that authority has been delegated; and
 - (iii) providing public service educational opportunities, on its own initiative or in conjunction with other training institutions;
 - (b) to make direct appointments to, and promotions within, public offices;
 - (c) to take disciplinary action against holders of public offices; and
 - (d) to remove persons from public offices.
- (4) The Public Service Commission may delegate to any State organ all or part of its authority to recruit, appoint, promote, discipline and dismiss public officers within that State organ.
- (5) The functions of the Public Service Commission do not extend to the direct appointment, promotion, disciplining or dismissal of any person in respect of an office in Parliament, or in respect of which this Constitution or an Act of Parliament makes other provision.
- (6) The powers of Public Service Commission must be exercised directly by the Commission, and not delegated, when exercised in respect of a Permanent Secretary, or any equivalent office.

169. Appeals from the Public Service Commission

- (1) Parliament must make laws—

- (a) providing for appeals against specified decisions of the Public Service Commission;
- (b) constituting the body to hear the appeals; and
- (c) making any other provision that is necessary or desirable in connection with the operation of the appeals system.

170. The Ombudsman

- (1) The Ombudsman is established as an Independent Office under Chapter 13 of this Constitution.
- (2) The Ombudsman provides an accessible forum for resolving complaints about failings in administration by Officers of the State or State organs, and is responsible for—
 - (a) promoting the protection and observance of, and respect for—
 - (i) the principle of respectful, effective, impartial, fair and equitable service;
 - (ii) the right to executive and administrative justice recognised in Article 39; and
 - (iii) the Constitution and the law in the context of public service, including the principle of service quality set out in Article 165;
 - (b) consulting with and educating the public, including civil society, about the nature and content of the principles of public service and the right to executive and administrative justice;
 - (c) making recommendations to any State organ concerning the matters within its scope, including recommendations concerning existing or proposed legislation;
 - (d) receiving and investigating complaints, as set out in Article 172, and taking steps to secure appropriate responses from the relevant State organ; and

- (e) investigating or researching, on its own initiative or on the basis of a complaint, any matter within its scope, and making recommendations to improve the functioning of public entities.

171. Authority of the Ombudsman

- (1) The Ombudsman may investigate any complaint—
 - (a) about any act or omission in public administration that is alleged to be prejudicial, or improper; or
 - (b) of abuse of power, unfair treatment, manifest injustice, or unlawful, oppressive, unfair or unresponsive official conduct.
- (2) The authority of the Ombudsman includes investigating complaints—
 - (a) arising from circumstances that occurred either before or after the commencement of this Constitution;
 - (b) arising from the conduct of an Independent Commission or Office; or
 - (c) relating to accessibility to, and service delivery by, the courts.
- (3) The Ombudsman must not investigate complaints relating to—
 - (a) the judicial process or substance of decisions made by the courts, or any matter that is before the court;
 - (b) the substance of decisions made by an Independent Commission or Office, or any matter that is being considered by a Commission or Office; or
 - (c) operational decisions of the security services.

172. Complaints and investigation by Ombudsman

- (1) The Ombudsman may conduct an investigation—
 - (a) in response to a complaint that has been made to it;
 - (b) in response to a request by a member or committee of Parliament; or

- (c) on its own initiative.
- (2) Complaints to the Ombudsman may be made in any form, by any person.
- (3) If a court, tribunal or other body could hear a particular complaint, the Ombudsman may advise the complainant to proceed with the matter in that forum, unless the complainant could not reasonably exercise, or could not have reasonably exercised, that right.
- (4) The Ombudsman has discretion—
 - (a) to decide whether or not to investigate any action in response to a complaint;
 - (b) to attempt to resolve a complaint through informal procedures; or
 - (c) to discontinue an investigation after starting it.
- (5) After completing an investigation, the Ombudsman must report to—
 - (a) the complainant;
 - (b) the State organ concerned; and
 - (c) any responsible Minister.
- (6) After concluding an investigation, the Ombudsman may ask the State organ concerned to give it, within a specified time, particulars of the action proposed to be taken with respect to the conclusions and recommendations in the report.
- (7) The Ombudsman may give a further report on the matter to Parliament if the Office believes that the State organ concerned has not taken adequate and appropriate action within a reasonable time.
- (8) The Ombudsman—
 - (a) must keep complainants informed about the progress of their complaints and any investigations including respecting the right to reasons for decision;

- (b) must report fully to the body complained against, including providing recommendations for action in regard to the particular complaint and to changes in procedure in the future; and
 - (c) may prepare reports and recommendations for the public service generally for the improvement of procedures to enhance compliance with this Constitution and the law.
- (9) Parliament may enact legislation relating to the conduct of investigations by the Ombudsman.

CHAPTER 16—NATIONAL SECURITY

173. Principles of national security

- (1) The institutions of national security are established to give effect to the principles of the Constitution, and in particular to pursue our goals—
 - (a) to live in peace and harmony among ourselves;
 - (b) to be free from fear; and
 - (c) to live peaceably with all other nations.
- (2) National security must be pursued in compliance with the Constitution, and with international law regulating the use of force.
- (3) All national security matters are subject to oversight by Parliament, and are under the authority of the Cabinet. A member or members of the Cabinet other than the Prime Minister must be assigned responsibility for—
 - (a) matters of internal security; and
 - (b) direct oversight of the Republic of Fiji Military Forces.
- (4) Our resolve to live in peace precludes any citizen from participating in armed conflict, nationally or internationally, except as provided for by this Constitution or an Act of Parliament.
- (5) The Cabinet must approve in advance any deployment of the armed forces of another country within the territory of Fiji.

174. Institutions of national security

- (1) The national security services of Fiji comprise—
 - (a) the Republic of Fiji Military Forces;
 - (b) the Fiji Police Service; and
 - (c) the Fiji Corrections Service.

- (2) The security services must be structured and regulated by legislation.
- (3) The security services must—
 - (a) strive for the highest standards of professionalism and discipline among their members;
 - (b) promote and practise transparency and accountability;
 - (c) comply with constitutional and international standards of democracy and human rights and freedoms; and
 - (d) train staff at all ranks—
 - (i) to the highest possible standards of competence and integrity and to respect human rights and freedoms and dignity;
 - (ii) to resolve conflicts peacefully; and
 - (iii) to act, in accordance with this Constitution and the law, including customary international law and international agreements binding on the Republic.
- (4) A member of any security service must not obey a manifestly illegal order, and is justified in refusing to obey such an order.
- (5) Neither the security services, nor any of their members, in the performance of their functions, may—
 - (a) prejudice a political party interest that is legitimate under the Constitution or any legislation; or
 - (b) further any interest of any political party or candidate in a partisan manner.
- (6) The recruitment, composition and command structure of each security service must broadly reflect the ethnic, cultural and gender diversity of Fiji, and promotion within the services must be based on merit and competence.

175. National Security Council

- (1) The National Security Council is a consultative forum in which members of Parliament, and Ministers who are directly accountable to Parliament, engage the Commanders of the security services in discussion of matters of national security, and through which they exercise civilian oversight of the security services.
- (2) The National Security Council consists of—
 - (a) the Prime Minister, as Chair
 - (b) the Minister responsible for defence;
 - (c) the Minister responsible for foreign affairs;
 - (d) the Minister responsible for police and public safety;
 - (e) the Leader of the Opposition, or a person designated by the Leader of the Opposition;
 - (f) the Chair of any parliamentary committee responsible for defence, security, public safety or corrections; and
 - (g) the commanding officer of each of the security services.
- (3) The Permanent Secretary in the ministry responsible for defence is the secretary of the National Security Council.
- (4) The National Security Council—
 - (a) is responsible to Parliament for the overall policy, co-ordination, control and supervision of the security services;
 - (b) has exclusive authority to recommend the declaration of a state of emergency, in accordance with Article 181;
 - (c) may direct the Republic of Fiji Military Forces to cooperate with other authorities in situations of emergency or disaster; and

- (d) performs any other functions prescribed by legislation.
- (5) The National Security Council must conduct a regular review of the national security policy, with the objective of reducing the Republic of Fiji Military Forces over time, and submit its reports to Parliament.

176. Republic of Fiji Military Forces

- (1) The Republic of Fiji Military Forces—
 - (a) are responsible for the defence and protection of the sovereignty and territorial integrity of the Republic;
 - (b) may assist and cooperate with other authorities in situations of emergency or disaster when so directed in writing by the National Security Council;
 - (c) may be deployed to restore peace in any part of Fiji affected by unrest or instability, only if requested in writing by, and under the control of, the Commissioner of Police, and with the prior approval of the Minister responsible for defence.
- (2) The Republic of Fiji Military Forces may be deployed outside Fiji only with the prior approval of—
 - (a) Parliament, if it is in session; or
 - (b) the Cabinet, if Parliament is not in session.
- (3) The Minister responsible for defence has authority to direct the deployment of the Republic of Fiji Military Forces outside the Republic, in accordance with decisions of Parliament.
- (4) Whenever the Republic of Fiji Military Forces are deployed, the Minister must promptly inform Parliament, or a committee of Parliament if Parliament is not in session, in appropriate detail, of—
 - (a) the reasons for the deployment;
 - (b) the place where the force is deployed;

- (c) the number of members of the Military Forces involved in the deployment,
and
 - (d) the period for which the Military Forces are expected to be so deployed.
- (5) Parliament may make laws relating to the Republic of Fiji Military Forces.

177. Commander of the Military Forces

- (1) The Cabinet, after consulting the National Security Council, must appoint a Commander of the Republic of Fiji Military Forces.
- (2) The Commander of the Republic of Fiji Military Forces serves for a single term of 5 years unless dismissed earlier by the Cabinet.
- (3) The Commander is responsible for—
 - (a) exercising military executive command of the Military Forces, subject to the law and any written directives from the Minister responsible for defence;
 - (b) making appointments of members of the Military Forces, in accordance with any relevant legislation;
 - (c) taking disciplinary action against members of the Military Forces; and
 - (d) removing members from the Military Forces.

178. Police and Corrections Services Commission

- (1) The Police and Corrections Services Commission is established as an Independent Commission under Chapter 13 of this Constitution.
- (2) The Police and Corrections Services Commission consists of 3 members, one of whom must be designated as the Chair of the Commission.
- (3) The Constitutional Offices Commission must consult the Minister or Ministers responsible for police and corrections before appointing a person to the Police and Corrections Services Commission.

- (4) The Police and Corrections Services Commission is responsible for—
 - (a) making appointments of, and removing officers above the rank of senior inspector, from the Fiji Police Service or Fiji Corrections Service; and
 - (b) taking disciplinary action against officers of the Fiji Police Force or Fiji Corrections Service.
- (5) The functions of the Police and Corrections Services Commission do not extend to—
 - (a) the Commissioner of Police; or
 - (b) an officer of the Fiji Police Service having the rank of senior inspector, its equivalent, or a lesser rank.

179. Commissioner of Police

- (1) The Commissioner of Police is established as an Independent Officer under Chapter 13 of this Constitution.
- (2) The Constitutional Offices Commission must consult the Minister responsible for public safety matters before appointing a person as Commissioner of Police.
- (3) The Commissioner serves for a single term of 5 years.
- (4) The Minister responsible for police may issue general policy directions to the Commissioner of Police with respect to the maintenance of public safety and public order.
- (5) The Fiji Police Service is under the command of the Commissioner of Police, who is responsible for—
 - (a) the organisation and administration of the Fiji Police Service;
 - (b) the deployment and the control of the operations of the Fiji Police Service;
 - (c) making appointments of officers at or below the rank of senior inspector and removing any such officer from the Fiji Police Service; and

- (d) taking disciplinary action against officers referred to in paragraph (c).

180. Commissioner of Corrections

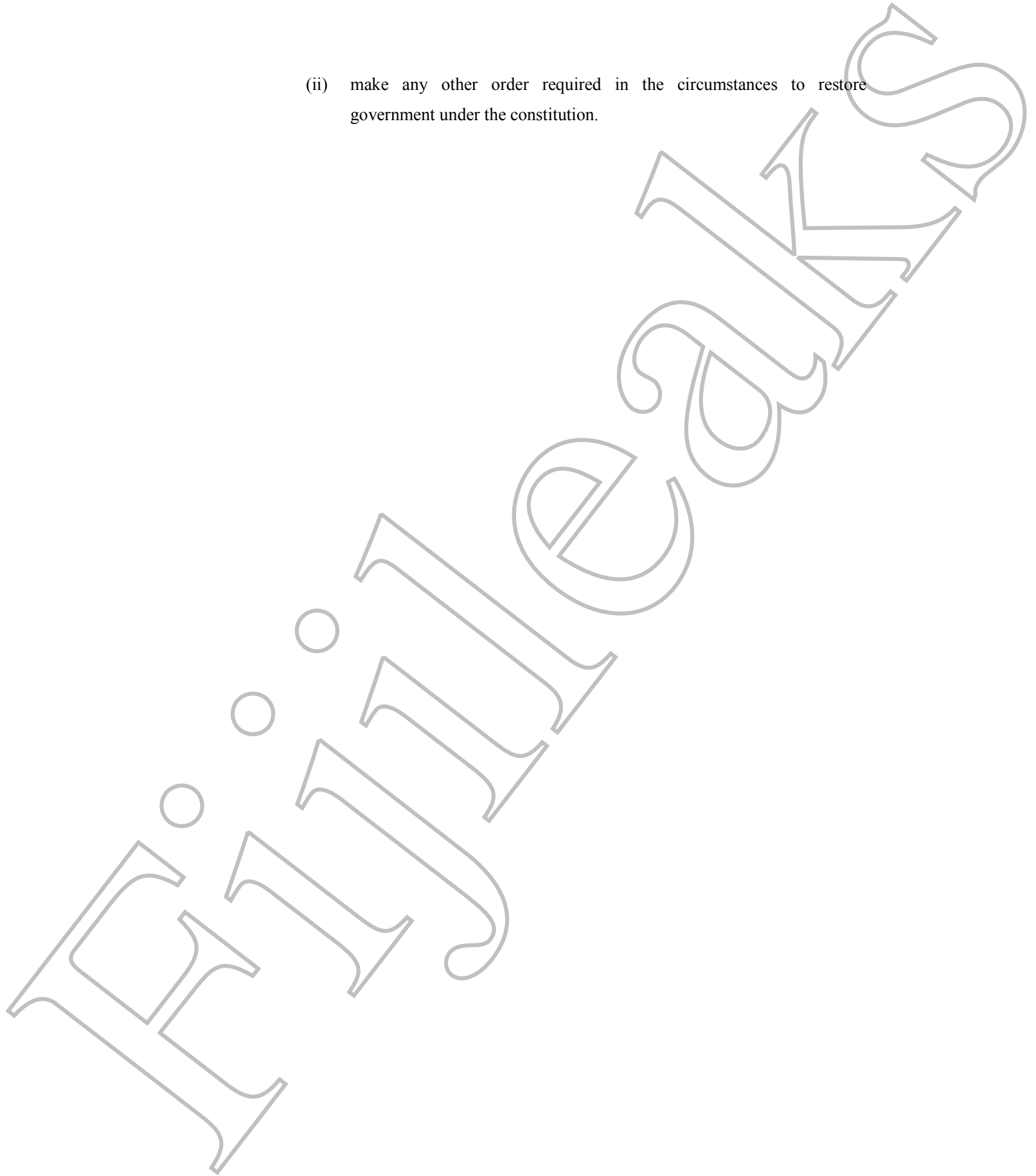
- (1) The Commissioner of Corrections is established as an Independent Officer under Chapter 13 of this Constitution.
- (2) The Constitutional Offices Commission must consult the Minister responsible for public safety matters before appointing a person as Commissioner of Corrections.
- (3) The Commissioner serves for a single term of 5 years.
- (4) The Minister responsible for corrections may issue general policy directions to the Commissioner of Corrections with respect to the functions of the Fiji Corrections Service.
- (5) The Fiji Corrections Service is under the command of the Commissioner of Corrections, who is responsible for—
 - (a) the organisation and administration of the Fiji Corrections Service;
 - (b) the deployment and the control of the operations of the Fiji Corrections Service;
 - (c) making appointments of officers at or below the equivalent to a rank of senior inspector, and removing any such officer from the Fiji Corrections Service; and
 - (d) taking disciplinary action against officers referred to in paragraph (c).

181. States of emergency

- (1) The Cabinet, on the recommendation of the National Security Council, may declare a state of emergency in Fiji, or in a part of Fiji, and may make, or bring into force, regulations relating to a state of emergency, if there are reasonable grounds to believe that—
 - (a) the security and safety of all or part of the Republic is threatened; and

- (b) it is necessary to declare a state of emergency to deal effectively with the threatening circumstances.
- (2) Upon declaring a state of emergency, the Prime Minister must—
 - (a) immediately call upon the Speaker to convene a sitting of Parliament; and
 - (b) refer the declaration of a state of emergency to Parliament for confirmation within 10 days after the declaration is made, unless the declaration has been withdrawn during that time.
- (3) The state of emergency ends immediately unless Parliament confirms it by a resolution supported by at least 48 of its members.
- (4) A state of emergency confirmed or renewed by Parliament remains in force for no longer than 3 months, unless it has been renewed by a further vote in Parliament.
- (5) A declaration of a state of emergency, and any regulation made, or brought into force, under such a declaration, that is inconsistent with the obligations of the State under an international convention or covenant are invalid to the extent of the inconsistency.
- (6) Regulations made or brought into force pursuant to the declaration of a state of emergency remain in force only so long as the state of emergency remains in force.
- (7) At any time—
 - (a) Parliament may—
 - (i) disallow or terminate the declaration of a state of emergency; or
 - (ii) amend or disallow regulations relating to the state of emergency; and
 - (b) the Supreme Court, on application by any person, may—
 - (i) disallow or terminate the declaration of a state of emergency, if the circumstances did not, or no longer, justify the declaration, in terms of clause (1); or

- (ii) make any other order required in the circumstances to restore government under the constitution.



CHAPTER 17—AMENDMENT OF THE CONSTITUTION**182. Protection of constitutional principles, values and electoral system**

- (1) No amendment to this Constitution may ever—
 - (a) repeal any provision—
 - (i) in Chapter 1, of Articles 1, 2, 3, 6 or 9;
 - (ii) in Chapter 3, of Articles 18 to 51; or
 - (iii) of the grant of immunity in Section 27 of Schedule 6;
 - (b) infringe or diminish the effect of any provision mentioned in paragraph (a); or
 - (c) repeal, infringe or diminish the effect of this Article.
- (2) Until the first sitting of the second Parliament elected under this Constitution, no amendment to this Constitution may repeal or amend any provision of Chapter 8, Article 87 or 88, or infringe or diminish the effect of any of those provisions.

183. Procedure to amend the Constitution

- (1) A proposal to amend this Constitution may be initiated by—
 - (a) a petition in any form signed by 1000 citizens, and delivered to the Speaker of Parliament;
 - (b) a resolution in any form introduced by a member of the National People's Assembly after delivering a notice and copy of the resolution to the Speaker at least two months before the beginning of the Assembly; or
 - (c) a resolution introduced in Parliament by any member, in the form of a bill to alter the Constitution, at least two months before the beginning of the next National People's Assembly.
- (2) The Speaker must—
 - (a) publicize every proposal received under clause (1); and

- (b) deliver every proposal received to the Executive Committee of the Assembly, for consideration by the National People's Assembly, in accordance with its rules.
- (3) When preparing the agenda of the Assembly, the Executive Committee may—
 - (a) consolidate multiple proposals dealing with the same provisions of the Constitution;
 - (b) determine the order in which proposals will appear on the agenda of the Assembly; and
 - (c) defer proposals to a future meeting of the Assembly if there is insufficient time to consider all proposals on the agenda at a particular meeting.
- (4) The National People's Assembly must—
 - (a) consider and debate proposals to amend the Constitution in the order that they are placed on the agenda by the Executive Committee; and
 - (b) take a non-binding advisory vote, to recommend that Parliament either adopt or reject the proposal.
- (5) After the Assembly has voted on a proposal—
 - (a) the Minister responsible for justice matters must introduce the proposal in Parliament;
 - (b) after debate in accordance with the Standing Orders, the Speaker may call for the initial vote on the proposal, as required by clause 8 (a); and
 - (c) if the proposal is supported by at least 48 members, and was submitted in —
 - (i) the form of a Bill to amend the Constitution, as contemplated in clause (1)(c), the Speaker must proceed with the consideration of that Bill in accordance with the Standing Orders, and with clause (8); or

- (ii) any other form, as contemplated in clause (1)(a) or (b), the Speaker must require the Solicitor General to formulate the proposal in the form of a Bill to amend the Constitution, in a manner that is consistent with Article 182.
- (6) If, when preparing a Bill as required under clause (5)(c)(ii), the Solicitor General has reservations that the proposal may be inconsistent with Article 182, the Solicitor General may attach an advisory opinion, with reasons, which must be tabled in Parliament before a further vote is taken on the Bill.
- (7) Parliament, after considering the Assembly's non-binding advisory vote, any opinion received from the Solicitor General, and following debate on the Bill in accordance with the Standing Orders and clause (8), must vote to adopt the Bill, with or without amendments, or reject it.
- (8) A Bill to amend this Constitution will have been enacted by Parliament if—
 - (a) it has been supported by at least 48 members in the first vote required under clause (5)(b);
 - (b) it has been publicised by Parliament for public discussion and participation for at least 6 months after the first vote in Parliament; and
 - (c) it has been passed a second time with the support of at least 48 members within one year after the first vote in Parliament.
- (9) The President must assent to a Bill to amend this Constitution if the Speaker has certified that it was enacted in accordance with clause (8).
- (10) In this Article, the use of the word "*amend*" or "*amendment*" is intended to be understood broadly, so that the Article applies to any proposal to repeal, replace, revise, or alter any provision or provisions of this Constitution.

CHAPTER 18—INTERPRETATION AND COMMENCEMENT

184. Principles of constitutional interpretation

- (1) Any person interpreting or applying this Constitution must promote the spirit, purport and objects of this Constitution, and the values that underlie an open and democratic society based on human dignity, equality, and freedom.
- (2) When interpreting any legislation, or when developing the common law or customary law, every court, tribunal or other authority must promote the spirit, purport and objects of this Constitution.
- (3) If a law appears to be inconsistent with a provision of this Constitution, the court must prefer any reasonable interpretation of that law that is consistent with the provisions of this Constitution over an interpretation that is inconsistent with them.
- (4) If there is an apparent difference between the meaning of the English version of a provision of this Constitution, and its meaning in iTaukei or Hindustani, the English version prevails because the Constitution was drafted and adopted in English.

185. Definitions

In this Constitution, unless the context indicates otherwise—

“*adult*” means an individual who has reached age 18;

“*child*” means an individual who has not reached age 18;

“*civil society*” means the collectivity of persons and associations or other organised groups of persons, other than public officers and State organs, actively engaged in the development of the society;

“*corrupt practices*” includes—

- (a) any attempt to improperly influence a public officer;
- (b) influence peddling, bribery, or extortion;
- (c) misuse of inside information for personal gain;

- (d) requesting or accepting any benefit to which a person is not lawfully entitled;
- (e) withholding any service, benefit, decision or judgment, or threatening a person with the exercise of a lawful power against that person, or implying any such practice, in order to extort a personal benefit or to improperly obtain the person's consent to any action or omission;
- (f) unlawfully taking or demanding any private property;
- (g) misuse or misapplication of public property for personal purposes, or theft of public property; and
- (h) converting or selling public assets for personal gain;

“criminal proceedings” means proceedings before any court, other than a military court, in which a person is prosecuted for allegedly committing an offence, including an appeal, a case presented on the basis of agreed facts, or a question of law reserved;

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

“de facto relationship” means a stable conjugal partnership between two persons who are unmarried;

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

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

“effective date” means the date on which this Constitution, or a particular provision of it, came into force;

“*eligible service*” means service in a public office, but does not include service in the Republic of Fiji Military Forces;

“*Gazette*” means the *Fiji Gazette* published by authority of the government, or a supplement to the *Fiji Gazette*;

“*Independent Officer*” means the holder of an Independent Office established under Chapter 13;

“*legislation*” means an Act of Parliament, or any law made under such an Act;

“*minerals*” does not include clay, sand, gravel, stone, or other common mineral substances, except those that are in rivers or under water;

“*Officer of the State*” means the holder of any of the following offices:

- (a) The President;
- (b) The Speaker and Deputy Speaker of Parliament;
- (c) Members of the Cabinet, and the Leader of the Opposition;
- (d) Members of Parliament and persons elected to local government bodies;
- (e) Judges and other judicial officers;
- (f) Members of Independent Commissions and holders of Independent Offices;
- (g) Ambassadors, High Commissioners and Consuls General;
- (h) Governor of the Reserve Bank of Fiji;
- (i) Permanent Secretaries, and any holder of an equivalently ranked office;
- (j) Commissioner of Police;
- (k) Commissioner of Correctional Services;
- (l) The Commander of the *Republic* of Fiji Military Forces;

(m) any other office holder prescribed by legislation.

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

“*person*” includes a company, association or other body of persons whether incorporated or unincorporated;

“*political party*” means an organized group or association of people striving for participation in the political life or government of the Republic of Fiji that has been registered under legislation regulating the organization of political parties;

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

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

“*public land*” includes any land known as “*State land*”, and any freehold land held by the State;

“*public office*” means an office in the State or the public service;

“*public officer*” means the holder of a public office, including every Officer of the State;

“*public service*” means the collectivity of all individuals performing a function within a *State organ*;

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

“*State*”, when used as a noun, means the collectivity of State organs under this Constitution;

“*State organ*” means a Ministry, department, commission, office, agency or other body established under this Constitution;

“*territory of Fiji*” means all the land and sea within the area recognised in international law, and in particular since 1970, as being the territory of Fiji; and

“*youth*” means the collectivity of all individuals in the Republic who have reached age 18, but not reached age 35.

186. Guides to understanding the constitution

- (1) Every provision of this Constitution is to be construed according to the doctrine of interpretation that the law is always speaking. Therefore, among other things—
 - (a) a function or power conferred by this Constitution on an office may be performed or exercised as occasion requires, by the person holding the office;
 - (b) any reference in this Constitution to an Officer of the State or other public office or officer, includes a reference to the person acting in or otherwise performing the functions of the office at any particular time; and
 - (c) a reference in this Constitution to an office, State organ or locality named in this Constitution is to be read with any formal alteration necessary to make it applicable in the circumstances.
- (2) In this Constitution, unless the context otherwise requires—
 - (a) if a word or expression is defined in this Constitution, any grammatical variation or cognate expression of the word or expression has a corresponding meaning, read with the changes required by the context; and
 - (b) the word “includes” means “includes, but is not limited to”.
- (3) In calculating time between two events for any purpose under this Constitution, if the time is expressed—
 - (a) as days, the day on which the first event occurs is to be excluded, and the day by which the last event may occur is to be included;

- (b) as months, the time period ends at the beginning of the day in the relevant month—
 - (i) that has the same number as the date on which the period began, if that month has a corresponding date; or
 - (ii) that is the last day of that month, in any other case; or
 - (c) as years, the period of time ends at the beginning of the date of the relevant year that corresponds to the date on which the period began.
- (4) If a period of time prescribed by this Constitution for any purpose is six days or less, Sundays and public holidays are not to be counted when calculating the time.
 - (5) If, in any particular circumstances, the period of time prescribed by this Constitution ends on a Sunday or a public holiday, the period extends to the first subsequent day that is not a Sunday or public holiday.
 - (6) If a particular time is not prescribed by this Constitution for performing a required act, the act must be done without unreasonable delay, and as often as occasion requires.
 - (7) If any person or State organ has authority under this Constitution to extend a period of time prescribed by this Constitution, the authority may be exercised either before or after the end of the period, unless a contrary intention is expressly mentioned in the provision conferring the authority.
 - (8) Except to the extent that this Constitution provides otherwise, if a person has vacated an office established under this Constitution, the person may, if qualified, again be appointed, elected or otherwise selected to hold the office in accordance with this Constitution.
 - (9) A reference in this Constitution to a power to make appointments to a public office includes a reference to —
 - (a) a power to make appointments on promotion and transfer to the office; and

- (b) a power to appoint a person to act in the office while it is vacant or its holder is unable to perform the functions of the office.
- (10) Except to the extent that this Constitution provides otherwise, a person who has been appointed to an office established by this Constitution may resign from the office by a signed notice in writing addressed to the person or authority who made the appointment. A resignation takes effect at the later of—
- (a) the time and date specified in the notice; or
 - (b) the time and date at which the notice is received by the person or authority to whom it is addressed.
- (11) The Schedules are a part of this Constitution, and every use of the expression “this Constitution” includes the Schedules.
- (12) The Interpretation Act, 1967, and any law made in substitution for it, does not apply to this Constitution.
- (13) Any person required under any law to take an oath or affirmation of allegiance or of office must take the appropriate oath or affirmation set out in Schedule 3.

187. Transitional arrangements, repeal and consequential amendments

- (1) Schedule 6 applies to govern the transition to the new constitutional order established by this Constitution, and any matter incidental to that transition.
- (2) The laws mentioned in Schedule 7 are repealed to the extent indicated.

188. Commencement and title

- (1) This Constitution comes into effect after the President has proclaimed it publicly, in the manner, and subject to the provisions, set out in Schedule 6.
- (2) This Constitution may be called The Constitution of the Republic of Fiji, 2013.

SCHEDULE 1—CITIZENSHIP

(Article 9)

1. Continuation of citizenship

Every person who was a citizen of Fiji immediately before the effective date continues to be a citizen under this Constitution.

2. Citizenship by birth

- (1) Every child born in Fiji on or after the effective date is a citizen of Fiji, unless, at the child's date of birth, neither parent of the child was a citizen of Fiji and one of those parents had diplomatic immunity accorded by Fiji to that parent.
- (2) A child found in Fiji who is or appears to be under age 14, and whose nationality and parents are unknown, is deemed to have been born in Fiji.

3. Citizenship by registration

- (1) Any of the following persons is entitled to become a citizen by registration:
 - (a) A person born outside Fiji on or after the effective date, if—
 - (i) at the date of the person's birth, either parent was a citizen; or
 - (ii) in the case of a person whose father died before the person's birth, either the mother was a citizen at the date of the person's birth, or the father was a citizen immediately before his death.
 - (b) A foreign born person adopted by a citizen before the person reached age 18.
 - (c) A person, either of whose parents became a citizen before the person reached age 18.
 - (d) A person who was formerly a citizen of Fiji, and is a citizen of another country.
 - (e) A person who, for at least 3 years immediately before the date of the application, has been—

- (i) married to, and living with, a citizen of Fiji; or
 - (ii) living in a *de facto* relationship with a citizen of Fiji.
- (2) A person is further entitled to become a citizen by registration if the person—
- (a) was not a citizen immediately before the effective date; but
 - (b) would have been entitled under this Constitution to be a citizen by birth, or to become a citizen by registration, if this Constitution had been in effect at any time during the person's lifetime.
- (3) Parliament may enact legislation limiting the number of generations of descendants of citizens, born outside Fiji, who may benefit from subsection (1)(a).
- (4) An application for registration under subsection (1)(a) to (d) or under subsection (2), may be made at any time during a person's lifetime, and—
- (a) must be made on behalf of the person by their parent or guardian if made before the person has reached age 18; or
 - (b) may be made by the person after attaining age 18, but if made after the person has reached age 25, may be granted only if the person has been lawfully present in Fiji for at least a total of 3 of the 5 years immediately before the date of the application.

4. Citizenship by naturalisation

A person may become a naturalised citizen of Fiji if the person—

- (a) has been lawfully present in Fiji for at least a total of 5 of the 10 years immediately before the date of the application; and
- (b) satisfies any other requirements prescribed by the laws contemplated in Section 7 of this Schedule.

5. Right to reclaim citizenship

For a period of 2 years immediately after the general effective date, no fee may be imposed by the State upon any former citizen of Fiji who—

- (a) lost that citizenship upon acquiring foreign citizenship; and
- (b) is exercising the right under Section 3 (1)(d) of this Schedule to acquire citizenship of Fiji by registration.

6. Renunciation of citizenship

A person may renounce citizenship of Fiji if the person—

- (a) has reached the age of 18 before the date of the renunciation; and
- (b) either is a citizen of another country, or will acquire citizenship of another country co-incident with renouncing their citizenship of Fiji.

7. Legislation concerning citizenship

An Act of Parliament may—

- (a) regulate applications for citizenship by registration or naturalization, including, but not limited to—
 - (i) the calculation of time an applicant has been lawfully present in Fiji;
 - (ii) additional conditions that applicants for naturalisation must satisfy; and
 - (iii) the manner and form of making applications; and
- (b) provide for deprivation of citizenship only on the grounds that citizenship was obtained by fraud, misrepresentation or concealment of any material fact.

SCHEDULE 2—PROTECTED LAWS RESPECTING LAND AND LAND RIGHTS

(Article 17)

Article 17 (3) applies to the following Acts:

iTaukei Lands Act (Cap.133)

iTaukei Land Trust Act (Cap. 134)

Rotuma Lands Act (Cap.138)

Banaban Lands Act (Cap.124)

Agricultural Landlord and Tenant Act (Cap.270)

SCHEDULE 3—OATHS OR AFFIRMATIONS

Part A—Allegiance

OATH OR AFFIRMATION OF ALLEGIANCE

I, A.B..... swear/solemnly affirm that I will be faithful and bear true allegiance to the Republic of Fiji, and uphold and obey the Constitution of Fiji.
(In the case of an Oath) So help me, God!

Part B—For Taking Office

OATH OR AFFIRMATION FOR PRESIDENT or ACTING PRESIDENT

I, A.B..... aware of the high calling I assume as President /Acting President of Fiji, swear/solemnly affirm that I will be faithful and bear true allegiance to the Republic of Fiji, and will obey, observe, uphold and maintain the Constitution and all other law of the Republic, and I solemnly and sincerely promise that I will devote myself to the well-being of Fiji and all of its people, protect and promote their rights, and well and truly serve the Republic of Fiji in the office of President.
(In the case of an Oath) So help me, God!

OATH OR AFFIRMATION FOR CABINET MEMBERS

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

OATH OR AFFIRMATION FOR JUDICIAL OFFICE

I, A.B.....swear/solemnly affirm that, as a judge within the courts of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution and all other law of the Republic; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will do justice to all persons without fear, favour or prejudice, in accordance with the Constitution and the law.
(In the case of an Oath) So help me, God!

OATH OR AFFIRMATION FOR MEMBERS OF PARLIAMENT

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

**OATH OR AFFIRMATION FOR SPEAKER AND
DEPUTY SPEAKER OF PARLIAMENT**

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

(In the case of an Oath) So help me, God!

**OATH OR AFFIRMATION FOR MEMBERS OF
INDEPENDENT COMMISSIONS AND
INDEPENDENT OFFICERS**

I, A.B.....swear/solemnly affirm that, as a member of the Commission/holder of the independent office of, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution and all other law of the Republic; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will fulfil all my responsibilities without fear, favour or prejudice, in accordance with the Constitution and the law.

(In the case of an Oath) So help me, God!

**OATH OR AFFIRMATION FOR SECURITY
SERVICES**

I, A.B.....swear/solemnly affirm that, as a member of the Republic of Fiji Military Forces/Fiji Police Service/Fiji Corrections Service, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution and all other law of the Republic, and I will discharge my duty in accordance with the Constitution and the law.

(In the case of an Oath) So help me, God!

Part C—Reconciliation and Allegiance

I, A.B..... swear/solemnly affirm that I accept the sovereignty of the people of Fiji as the only legitimate source of authority in the Republic. I renounce any actions in my past that may have promoted, assisted or protected attempts to establish a government otherwise than in accordance with law. I solemnly and sincerely submit myself to democracy and the rule of law, and promise that, from this day forward, I will be faithful and bear true allegiance to the Republic of Fiji, and will uphold and obey the Constitution of Fiji.

(In the case of an Oath) So help me, God!

SCHEDULE 4—CODE OF CONDUCT FOR OFFICERS OF THE STATE

(Article 64)

Part A – General Provisions

1. Interpretation

(1) In this Code:

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

“*decision*” includes—

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

“*employment*” does not include the performance of the functions of the office to which an Officer of the State was elected or appointed;

“*presiding officer*” means the person presiding over a meeting;

“*Rule*” means a Rule set out in this Code;

“*spouse*” means a person who—

- (a) is married to another person, or
- (b) is, and has been for a period of at least one year, living in a *de facto* relationship with another person;

(2) The Ethics and Integrity Commission—

- (a) must prescribe disclosure forms for the purpose of this Schedule;

- (b) may prescribe minimum values below which disclosure is exempt; and
- (c) may prescribe additional Codes of Conduct to ensure integrity, transparency and freedom from corrupt practices in specific State organs.

Part B—Conduct of Officers of the State

2. General duties

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

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

3. Attendance at meetings

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

4. Confidentiality and discretion

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

5. Finances, property and employment

- (1) An Officer of the State must not knowingly claim any payment or financial benefit to which the Officer is not entitled.
- (2) An Officer of the State must promptly pay any money that the Officer owes to the State.

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

6. Gifts

- (1) An Officer of the State who receives a gift as a representative of, or on behalf of, the State or any State organ, must deliver the gift to the relevant authority.
- (2) An Officer of the State who receives a personal gift when acting in an official capacity, having an apparent value above a prescribed minimum, must disclose the gift in accordance with Section 10 or, if this is required by legislation, deliver the gift to the relevant authority.

Part C—Abuse of Office

7. Corrupt practices

- (1) An Officer of the State must not, directly or indirectly, engage in any corrupt practice.
- (2) Without limiting the scope of clause (1), an Officer of the State must not accept, demand, or request from another person any private monetary or other economic favour, advantage or benefit for the Officer or any other person, in exchange for—

- (a) using their office to make, participate in the making of, influence, or attempt to influence a decision on a matter;
- (b) influencing or attempting to influence a vote or decision of another Officer of the State; or
- (c) influencing any public officer administering a service or programme provided by the State or any State organ.

8. Use of inside information for private purposes

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

9. Conflicts of interest

- (1) An Officer of the State must not use their office to make, participate in the making of, influence or attempt to influence a decision on a matter in respect of which the Officer has a conflict of interest.
- (2) If an Officer of the State considers that they have a conflict of interest in respect of a matter to be discussed or voted on at a meeting, the Officer—
 - (a) must declare the conflict of interest and its general nature at the meeting;
 - (b) must immediately leave the meeting or that part of the meeting during which the matter is to be discussed or voted on;

- (c) must not take part in the discussion or vote on the matter or attempt to influence the discussion or vote on the matter before, during or after the meeting; and
 - (d) must not execute any document in relation to the matter unless specifically directed to do so by the State organ concerned.
- (3) A person responsible for recording the proceedings of a meeting referred to in subsection (2) must record any Officer's declaration of a conflict of interest and the time when the Officer was absent from the meeting.
- (4) On request of a person at a meeting, the presiding officer may invite any Officer of the State to consider whether they have a conflict of interest in respect of a matter to be discussed or voted on at the meeting.
- (5) For the purposes of this Section, an Officer of the State—
- (a) has a conflict of interest in respect of a matter if their direct or indirect private interest would be, or could reasonably be expected to be, affected by a decision on that matter, and if the Officer has the opportunity to use their office to make, participate in the making of, influence or attempt to influence that decision; and
 - (b) does not have a conflict of interest in respect of a matter if the Officer's direct or indirect private interest in the matter—
 - (i) is the same interest as that of a broad class of citizens;
 - (ii) relates to the Officer's compensation or payment of expenses while acting in the Officer's official capacity; or
 - (iii) is so remote or insignificant that it cannot reasonably be regarded as likely to influence the Officer in relation to the matter.
- (6) In this Section—
- (a) "*private interest*" means a monetary or economic interest or an interest to which a monetary value may be attributed; and

- (b) An Officer's indirect private interest includes any private interest of—
 - (i) the Officer's spouse;
 - (ii) a minor in respect of whom the Officer is a parent, acts in a parental capacity or is a guardian;
 - (iii) an individual, other than an employee of the Officer, who is financially dependent upon the Officer or upon whom the Officer is financially dependent; and
 - (iv) an entity in which the Officer, or the Officer in combination with a person described in paragraph (i), (ii) or (iii), has a direct or indirect controlling interest, or other significant interest.

Part D—Disclosure requirements

10. Declaration of financial interests

- (1) Each Officer of the State must complete and file the prescribed disclosure form—
 - (a) upon election or appointment to office;
 - (b) at prescribed intervals of not less than two years or more than four years, after election or appointment to office; and
 - (c) whenever a change occurs in the information most recently reported by the Officer under this Section.
- (2) The prescribed disclosure form must require disclosure of at least the following information and may require disclosure of any other information relevant to the issues addressed in this Code:
 - (a) employment held by the Officer and the Officer's spouse at the time of disclosure, and income from that employment;
 - (b) interests in land or businesses owned by the Officer or the Officer's spouse at the time of disclosure;

- (c) significant investments, contracts or other financial interests of the Officer or Officer's spouse at the time of disclosure;
- (d) any gift described in Section 6 (2) received by the Officer during the Officer's term of office; and
- (e) any loan owed by the Officer or Officer's spouse, or loan guarantee protecting the Officer or Officer's spouse, above the prescribed minimum, including the identity of the person to whom the money is owed, or by whom the guarantee was given.

Part E—Complaints

11. Complaints

The Ethics and Integrity Commission has authority to receive and investigate complaints alleging that an Officer of the State has failed to comply with this Code of Conduct, or any Code of Conduct contemplated in Section 1 (2)(c).

SCHEDULE 5—REMOVAL OF OFFICERS OF THE STATE

(Article 67)

Part A—Application of the Schedule

1. General principle

- (1) The provisions of this Schedule apply to Officers of the State except those contemplated in Article 64 (1)(m).
- (2) The provisions of this Schedule are in addition to—
 - (a) any other provisions of this Constitution governing vacancies that occur automatically on the happening of specific events; and
 - (b) any authority set out in this Constitution of a person to dismiss an office holder.
- (3) A person who is the subject of proceedings under this Schedule—
 - (a) has the right—
 - (i) to appear and be represented before any investigating or adjudicating body considering removal; and
 - (ii) to adduce evidence, cross examine witnesses, and make submissions; but
 - (b) must not participate in any vote on a motion or other decision.

Part B—Removal in cases of incapacity

2. Removal of the President on grounds of incapacity

- (1) Parliament may initiate the procedure to remove the President on the grounds of incapacity by passing a resolution introduced at any sitting and supported by at least 36 members.
- (2) If Parliament adopts a resolution contemplated in clause (1) –

- (a) the Speaker must appoint a tribunal to investigate the matter consisting of 3 appropriately qualified medical practitioners—
 - (i) one selected by the President, or a personal representative of family member of the President;
 - (ii) one selected by the body regulating the medical profession in Fiji; and
 - (iii) one selected jointly by the other two members of the tribunal;
 - (b) the President may not perform any of the functions or exercise any of the powers of that office, until the final resolution of the matter in accordance with this section; and
 - (c) the Speaker has the authority to perform any function of the President, in the manner contemplated in Article 76.
- (3) A tribunal appointed under this section must inquire into the matter and report to the Speaker of Parliament.
- (4) If at least 2 of the 3 members of the tribunal concur in their report, the report is conclusive.
- (5) If the report concludes that the President—
- (a) is able to perform the functions of President, the President may resume exercising the powers of that office upon the report being delivered to the Speaker; or
 - (b) is unable to perform the functions of President, but is more likely than not to recover that capability within 4 months or less, the suspension of the President's powers under clause (2)(b) continues; or
 - (c) is incapable of performing the functions of President, and is unlikely to recover that capability within 4 months, the President is removed from office upon the report being delivered to the Speaker.
- (6) If clause (5)(b) applies—

- (a) the President may immediately resume exercising the powers and functions of that office at any time that 2 of the 3 members of the Tribunal jointly certify that the President has sufficiently recovered the capacity to perform those functions; or
- (b) at the end of the time within which the President was expected to recover, the Speaker must request a fresh report from the tribunal and the provisions of this section apply to that fresh report, but in the case of continued incapacity, the President must be removed from office, irrespective of any prospect for recovery at that time.

3. Removal of other office holders for incapacity

- (1) The process of removal of any office holder, other than the President, for incapacity may be initiated—
 - (a) in the case of a judge or judicial officer, or a member of the Constitutional Offices Commission, by the Judicial Service Commission acting on its own initiative, or on a report or submission from any person or State organ;
 - (b) in the case of the Commissioner of Police, by the Police Commission acting on its own initiative, or on a report or submission from any person or State organ; or
 - (c) in the case of any other person, by the Constitutional Offices Commission, acting on its own initiative, or on a report or submission from any person or State organ.
- (2) The provisions of Section 2 of this Schedule, each read with the changes required by the context, apply to the proceedings initiated under this Section, except—
 - (a) a reference to the President must be regarded as a reference to the office holder concerned;
 - (b) a reference to the Speaker of Parliament must be regarded as a reference to the Chair of the Commission that initiates the proceedings;

- (c) if the office holder concerned is a member of Parliament or an elected member of a local government body, the person may continue to exercise the functions of the office during the proceedings; and
- (d) during the time that an office holder's powers are suspended an acting appointment to that office may be made by the body responsible for such appointments.

Part C— Removal for misconduct or wrongdoing

4. Automatic removal for commission of a serious criminal offence

- (1) If an office holder has been finally convicted of an offence in Fiji and sentenced to a term of imprisonment, that office holder automatically loses that office.
- (2) If a judge or judicial officer, or a member of the Constitutional Offices Commission, has been convicted as specified in clause (1), the Judicial Service Commission must declare the office holder removed from office.
- (3) If a member of Parliament, other than the Speaker, or a member of the Cabinet has been convicted as specified in clause (1), the Speaker must declare the office holder removed from office.
- (4) If any other office holder has been convicted as specified in clause (1), the Constitutional Offices Commission must declare the office holder removed from office.
- (5) A declaration required by this Section must be published in the Gazette.

5. Inquiry and removal from office for other wrongdoing

- (1) The process of removal of an office holder for wrongdoing other than specified in Section 4 of this Schedule, may be initiated—
 - (a) in the case of the President, by Parliament, by a resolution supported by at least 36 of its members;

- (b) in the case of a judge or judicial officer, or a member of the Constitutional Offices Commission, by the Judicial Service Commission acting on its own initiative or on a request from any person or State organ;
 - (c) in the case of the Commissioner of Police, by the Police Commission acting on its own initiative or on a request from any person or State organ; or
 - (d) in the case of any other office holder, by the Constitutional Offices Commission, acting on its own initiative or on a request from any person or State organ.
- (3) The relevant initiating body under clause (1) must initiate proceedings for removal from office if an office holder has been finally convicted in Fiji or elsewhere of an offence involving dishonesty, abuse of office, physical violence, or rape or other sexual assault.
- (4) If an office holder has been finally convicted in Fiji or elsewhere of any other offence, the relevant initiating body under clause (1) must hold an inquiry with a view to deciding whether to institute proceedings for removal of that person from office.
- (5) If an office holder is alleged to have been guilty of other conduct that amounts to a significant violation of this Constitution, to gross misconduct, or to conduct that makes that person unfit to hold the office, the relevant initiating body under clause (1) may either—
- (a) dismiss any report or allegations that it concludes are frivolous, vexatious or otherwise without merit; or
 - (b) hold an inquiry with a view to deciding whether to institute proceedings for removal of that person from office.
- (6) When a procedure under this section has been initiated, the initiating body—
- (a) must inquire into the allegations against the office holder;
 - (b) must publish a report on the matter; and

- (c) may attach to its report a motion proposing that the office holder be removed for misconduct or wrongdoing, including in the motion the particulars of the grounds for the motion; and
- (d) forward the motion—
- (i) to the Speaker, in the case of a member of Parliament or Cabinet;
 - (ii) to the President, in the case of the Chief Justice; or
 - (iii) to the Chief Justice, in the case of any other office holder.
- (7) Within 7 days after receiving a motion under clause (3), the person who receives it must convene a panel composed according to the following Table:

Office holder	Judicial and official members (chair shown in bold text)	Lay members and others
President	Chief Justice The President of the Court of Appeal 2 members of Independent Commissions, selected by the Chief Justice.	1 woman and 1 man, representing the public, selected by the Constitutional Offices Commission
Judges	A retired Chief Justice of Fiji, or a member or retired member of the highest appellate court from another common law jurisdiction One other judge 2 members of Independent Commissions, selected by the Constitutional Offices Commission.	1 woman and 1 man, representing the public, selected by the Constitutional Offices Commission
Any other office holder	A judge other than the Chief Justice One other judge 2 members of Independent Commissions selected by the Chief Justice.	1 woman and 1 man, representing the public, selected by the Constitutional Offices Commission

- (8) A panel convened under clause (4) must consider the motion against the office holder concerned, by hearing evidence and submissions relating to the allegation.
- (9) When the panel has heard and considered all relevant evidence, and the office holder has been afforded adequate opportunity to make any submissions, the panel must issue a decision with reasons, on each allegation set out in the motion for removal.
- (10) If at least 5 of the members of the panel support the motion for removal, on any of the allegations—

- (a) in the case of the Chief Justice, the President must immediately declare the Chief Justice removed from office;
 - (b) in the case of a member of Parliament, the Speaker must immediately declare that person's seat vacant; and
 - (c) in the case of the President, or any other office holder, the Chief Justice must immediately declare that person removed from office.
- (11) The Chief Justice may establish rules of procedure for the conduct of the proceedings of a panel under this Section, but in the absence of any such rules the Panel in question must proceed with the consideration of the motion for removal, applying normal principles of a fair hearing.

6. Supplementary provisions

- (1) A court that convicts an office holder of any offence must report that fact to the relevant initiating body under Section 4 or 5 (1) of this Schedule, as the case may be.
- (2) An office holder who is removed from office under section 4 or 5 (2) of this Schedule is permanently disqualified from holding an State office.
- (3) A State office holder who is removed from office under Section 5 (3) of this Schedule is disqualified from holding any State office for 10 years after the completion of any sentence of imprisonment.
- (4) The Panel that decides the question of removal of an office holder under Section 5 (4) may disqualify that person from holding any State office, or particular State offices, for any length of time the Panel decides appropriate, provided that any disqualification under this subsection from all State offices must not exceed 10 years.

SCHEDULE 6—TRANSITIONAL ARRANGEMENTS

(Article 187)

Part A—General Provisions

1. Interpretation

(1) In this Schedule—

“*Announcement Date*” means the date on which notice of the First Election Date is published in the *Gazette* under Section 3 of this Schedule;

“*First Election Date*” means the date of the first election for members of the first Parliament elected under this Constitution, as determined under Section 3 of this Schedule;

“*first sitting of Parliament*” means the first sitting of the first Parliament elected under this Constitution;

“*former senior public officer*” means a person who has served Fiji with honour and integrity at any time at the level of Permanent Secretary or its equivalent, or Solicitor General, and who retired, or resigned from public service before the General Effective Date;

“*General Effective Date*” means the date immediately following the date on which the President assented to this Constitution, in the manner provided for in Section 21 of Decree No. 58 of 2012;

“*Interim Electoral Commission*” means the commission established under Section 7 of this Schedule to conduct the first elections for members of Parliament; and

“*Transitional Advisory Council*” means the Council established by Section 17 of this Schedule.

(2) Any person with authority to appoint or designate a person to an office or to a State organ under this Schedule should exercise that authority bearing in mind the

principle that, so far as reasonably possible, the composition of appointed State organs should reflect the regional, cultural and gender diversity of Fiji.

- (3) A person is ineligible to be a candidate in the first election of members of Parliament under this Constitution if the person—
 - (a) accepts an appointment or designation under this Schedule to any office or State organ; or
 - (b) holds office as an Officer of the State at any time after the Announcement Date.

2. Incremental effect of this Constitution

- (1) Every provision of this Constitution takes effect on the General Effective Date, except as otherwise provided in this section.
- (2) Chapter 2—Articles 16 and 17 are suspended until the first sitting of Parliament.
- (3) Chapter 6—Article 69 (1)(e) is suspended until Parliament enacts legislation contemplated in Chapter 12 to establish local government authorities.
- (4) Chapter 9—is suspended until the final announcement of all the results of the first election for Parliament under this Constitution.
- (5) Chapter 10—Article 113 (3) to (6), Articles 114 (2), 115, 116, 117 (2), and (3) are suspended until the first sitting of Parliament.
- (6) Chapter 11—Article 139 is suspended until the first sitting of Parliament.
- (7) Chapter 12— is suspended until Parliament has enacted the legislation contemplated in Article 141, but the obligation and authority of Parliament to enact that legislation takes effect when Chapter 9 comes into effect.
- (8) Chapter 13—is generally suspended until the first sitting of Parliament, but—
 - (a) the provisions of Articles 145 to 147 apply to the Commissions established by this Schedule as from the General Effective date; and

- (b) Article 149 (3)(a) remains suspended until the first sitting of the third Parliament elected under this Constitution.
- (9) Chapter 14—Articles 153, 155 and 161 are suspended until the first sitting of Parliament.
- (10) Chapter 15—Article 170 to 172 are suspended until the first sitting of Parliament.
- (11) Chapter 16—Article 173 (4) is suspended until the first sitting of the second Parliament elected under this Constitution.
- (12) Chapter 17—Article 183 is suspended until the first sitting of Parliament.
- (13) Schedule 2 is suspended until the first sitting of Parliament.

Part B—Parliament and National People's Assembly

3. Date of the first elections for Parliament

- (1) Despite Article 86, the first election for members of Parliament must be held on a date determined by the President, on the advice of the Prime Minister, and with the agreement of the Interim Electoral Commission.
- (2) The First Election Date must be no later than 30 September 2014.
- (3) The President must announce the First Election Date by Notice in the *Gazette*.
- (4) There must be at least 6 months between the date of the Notice in the *Gazette*, and the First Election Date.

4. Conduct of the first election

- (1) The first election is to be conducted by the Interim Electoral Commission, in accordance with Chapter 8.
- (2) Despite Article 79 (2), the boundaries of the Electoral districts for the first election of members of Parliament are the boundaries of the 4 administrative Divisions of Fiji as they existed on the General Effective Date.

- (3) Despite Article 79 (3), the allocation of the 60 seats mentioned in Article 79 among the electoral districts for the first election is as follows:
- (a) Central Division 24
 - (b) Western Division 22
 - (c) Northern Division 9
 - (d) Eastern Division 5

5. Extended term of first Parliament

- (1) Despite Article 87, if the First Election Date falls—
- (a) on or before 31 August in a particular year, the term of the first Parliament extends to the date determined in accordance with Article 86 (1)(a), in the calendar year that is 4 years after the year of the first election, unless Parliament is dissolved earlier under Article 88; or
 - (b) after 31 August in a particular year, the term of the first Parliament extends to the date determined in accordance with Article 86 (1)(a) in the calendar year that is 5 years after the year of the first election, unless Parliament is dissolved earlier under Article 88.
- (2) If the first Parliament is dissolved early under Article 88, the next election for members of Parliament must be held on a date determined in accordance with Article 86 (1)(b).

6. Gender balance of candidates for Parliament

- (1) Article 80 (3) does not apply until the third election for Parliament under this Constitution.
- (2) Parties listing candidates under Article 80 for the first and second elections for Parliament under this Constitution must rank women and men on the party list in each electoral district so that at least —
- (a) 1 of the first 2 candidates listed is a woman;

- (b) 2 of the first 5 candidates listed are women;
- (c) 3 of the first 8 candidates listed are women; and
- (d) 1 of every subsequent group of 3 candidates listed is a woman.

7. Interim Electoral Commission

- (1) The Interim Electoral Commission is established with all of the powers of the Electoral Commission under this Constitution and any legislation concerning elections.
- (2) The Interim Electoral Commission consists of—
 - (a) a person designated by the Fiji Law Society;
 - (b) 2 persons selected on the basis of education, skill or experience in fields relevant to elections or election management—
 - (i) one designated jointly by the Vice-Chancellors of the three universities in Fiji; and
 - (ii) one designated by the Transitional Advisory Council; and
 - (c) 2 persons with experience in election management, each from outside Fiji and designated by the Transitional Advisory Council, after consulting the International Institute for Democracy and Electoral Assistance (IDEA) and the International Foundation for Electoral Systems (IFES).
- (3) At its first meeting, the Commission may select a chair from among its members.
- (4) The Interim Electoral Commission must make appropriate arrangements for local and international monitoring of the first elections of members of Parliament.

8. National People's Assembly

- (1) The first sitting of the National People's Assembly must be called in October 2015, unless called earlier by the Speaker.

- (2) Despite Article 72 (1), when the first members of the National People's Assembly are appointed by—
 - (a) the Constitutional Offices Commission, the Commission must designate—
 - (i) 3 of the women and 3 of the men to serve for a term of 1 year;
 - (ii) 4 of the women and 4 of the men to serve for a term of 2 years; and
 - (iii) 3 of the women and 3 of the men to serve for a term of 3 years; or
 - (b) the Electoral Commission—
 - (i) 1/3 of the members appointed in each of the 8 groups will serve for a term of 1 year;
 - (ii) 1/3 of the members appointed in each of the 8 groups will serve for a term of 2 years; and
 - (iii) the remaining members appointed in each of the 8 groups will serve for a term of 3 years.
- (3) Article 72 (4) does not apply to the persons appointed under this section for terms of less than 3 years.

Part C—Continuation of Office Holders

9. The President

- (1) The President of Fiji in office immediately before the General Effective Date is the President under this Constitution as from that date, and serves until the first person elected President under Article 74 assumes office.
- (2) The authority of the President holding office under this section must be exercised in compliance with this Constitution and the law, and in a spirit and manner consistent with the principles of democracy and other values of this Constitution.
- (4) If a vacancy arises in the office of the President—

- (a) before the first sitting of Parliament, the Transitional Advisory Council may appoint a person who satisfies the qualifications in Article 74 (6) to fill the vacancy until the first election of a President under Article 74; or
 - (b) after the first sitting of Parliament, the Speaker of Parliament must act as President until the first election of a President under Article 74.
- (5) The first election of a President under Article 74 must be held at the sitting of the National People's Assembly in October 2015.
- (6) A person who was President of Fiji at any time before the General Effective Date is not eligible to be appointed President under this section, or to be elected as President under this Constitution.

10. The Executive

- (1) The Prime Minister and each other Minister holding office immediately before the General Effective Date continue to hold their respective offices as from that date, until the Announcement Date, subject to the following subsections.
- (2) The authority of the Prime Minister and each other Minister holding office under this section must be exercised in compliance with this Constitution and the law, and in a spirit and manner consistent with the principles of democracy and other values of this Constitution.
- (3) If, between the General Effective Date and the Announcement Date, a vacancy arises in the office of—
- (a) Prime Minister, the President, after consulting the Cabinet and the Transitional Advisory Council, must appoint a person to fill the vacancy until the Announcement Date; or
 - (b) any other Minister, the President, on the recommendation of the Prime Minister, must appoint a person to fill the vacancy until the Announcement Date.

- (4) The Prime Minister and each other Minister in office at the General Effective Date are deemed to have resigned with effect from the Announcement Date.
- (5) The President, on the recommendation of the Transitional Advisory Council, must appoint former senior public officers to a caretaker cabinet, to a maximum of 15 members, to hold office from the Announcement Date until the first sitting of Parliament.
- (6) The caretaker cabinet is responsible for—
 - (a) implementing the constitution, and in particular, managing the transition to an elected constitutional government;
 - (b) ensuring a stable administration of and by State organs;
 - (c) responding to emergencies; and
 - (d) carrying out the ordinary procedures of preparing estimates to be included in the budget for the next financial year.
- (7) If a vacancy arises in the office of Prime Minister, or any other Minister, of the caretaker cabinet between the Announcement Date and the date of the first sitting of Parliament, the President, on the recommendation of the Transitional Advisory Council, must appoint a former senior public officer to fill the vacancy.

11. The Judiciary

- (1) All of the judges, magistrates and other judicial officers holding office in Fiji immediately before the General Effective Date continue to hold their respective offices as from that date, subject to the following subsections.
- (2) The authority of judges, magistrates and other judicial officers holding office under this section must be exercised in compliance with this Constitution and the law, and in a spirit and manner consistent with the principles of democracy and other values of this Constitution.
- (3) Article 133 does not apply to a judge contemplated in subsection (1).

- (4) Any contract that was in effect immediately before the General Effective Date and that fixes the term of a judicial officer for a period other than 3 years is deemed to have been amended on the General Effective Date to provide for the contract to expire on the date that is 3 years after the date of the contract.
- (5) If a vacancy arises in a judicial office at any time before the first sitting of Parliament, the President, on the recommendation of the Interim Judicial Service Commission, may appoint a person who satisfies the relevant requirements of Article 130 to fill the vacancy for a maximum period of 2 years.
- (6) Article 134 applies to each judicial officer contemplated in subsection (4) or (5).

12. Local Government

- (1) Any local government in existence immediately before the General Effective Date continues under this Constitution, subject to the provisions of this section. The local government system continued by this section includes—
 - (a) provincial councils and administration;
 - (b) rural local authorities; and
 - (c) municipal councils for cities and towns within urban areas.
- (2) The authority of local government structures holding office under this section must be exercised in compliance with this Constitution and the law, and in a spirit and manner consistent with the principles of democracy and other values of this Constitution.
- (3) The Transitional Advisory Council must convene a working group of 6 persons to develop proposals for the legislation required by Article 141(1) to establish the structures of local government in accordance with Chapter 12. The working group must include—
 - (a) people with experience in local government administration or local service delivery;

- (b) people with expertise in issues relating to the powers and financing of devolved government or municipal administration; and
 - (c) representatives of civil society.
- (4) The working group convened by the Council must report to the Minister responsible for local government as soon as practicable after the first sitting of Parliament, and thereafter as required by the Minister.
- (5) The proposals prepared by the working group must comply with Chapter 12, and must address—
- (a) the steps to be taken to move to the new local government system from the existing system continued under subsection (1);
 - (b) the structures, boundaries and multiple levels of local governance appropriate for all regions of Fiji;
 - (c) the responsibilities, functions and powers appropriate for each category of local government;
 - (d) the criteria that must be satisfied by a local government body before any particular responsibilities, functions or powers are devolved to it, so as to ensure that the capacity exists to properly exercise its functions for the benefit of the people;
 - (e) the system of electing representatives to local government bodies;
 - (f) appropriate management structures for each category of local government body; and
 - (g) the standards of accountability to be required of local government bodies, and the appropriate mechanisms required to achieve transparency and accountability.
- (6) An Act of Parliament establishing local government structures may provide for different categories of local government bodies to assume different powers at

different times, to the extent appropriate to ensure that capacity exists to properly deliver services.

- (7) The system and structures of local government, contemplated in Chapter 12 must be in effect no later than the date of the second election for members of Parliament under this Constitution.
- (8) The following laws are protected to the extent set out in subsection (9), until the laws establishing local government structures come into force:
 - (a) iTaukei Affairs Act (Cap.120)
 - (b) iTaukei Development Fund Act (Cap.121)
 - (c) iTaukei Trust Fund Act 2004 (Cap.121A)
 - (d) Rotuma Act (Cap. 122)
 - (e) Banaban Settlement Act (Cap. 123)
- (9) Despite Article 99, until the time contemplated in subsection (8), none of the laws listed in that subsection may be amended unless the Bill to amend such a law is supported by at least 48 members of Parliament.

13. The public service

- (1) Unless this Schedule provides otherwise, a person who held or was acting in an office within the public service immediately before the General Effective Date continues to hold or act in that office under this Constitution for the unexpired period, if any, of the term of that office.
- (2) The provisions of this section do not affect the powers conferred on any person or authority under this Constitution to abolish offices or remove persons from an office contemplated in subsection (1).
- (3) If, before the General Effective Date, a person had vacated an office, and that office is retained or established under this Constitution, the person may, if qualified, again be appointed, elected, or otherwise selected to hold that office in accordance with the

provisions of this Constitution, except to the extent that this Constitution expressly provides otherwise.

- (4) The provisions of this Constitution prevail to the extent of any conflict between—
 - (a) a law that was in effect immediately before the General Effective Date that assigns responsibility for that matter to a particular State organ or public officer; and
 - (b) a provision of this Constitution that assigns responsibility for that matter to a different State organ or public officer.

14. Republic of Fiji Military Forces

- (1) The Republic of Fiji Military Forces, as constituted immediately before the General Effective Date, continue as the Republic of Fiji Military Forces under this Constitution.
- (2) Any person who, immediately before the General Effective Date, held a rank, title or office within the Republic of Fiji Military Forces, and also held any office that falls within the definition of an Officer of the State under this Constitution, and who continues to hold such an office as of the Announcement Date, is deemed to have resigned all rank, title and offices within the Republic of Fiji Military Forces as of the Announcement Date.
- (3) Subsection (2) does not apply to the person holding the office of Commander of the Republic of Fiji Military Forces as at the Announcement Date.

15. Succession of institutions, offices, assets and liabilities

An office or institution established under this Constitution is the legal successor of the corresponding office or institution, existing immediately before the General Effective Date, whether known by the same or a new name. Without limiting the generality of this section—

- (a) the Interim Electoral Commission is the legal successor to the office of the Registrar of Voters established under Decree No. 54 of 2012;

- (b) the Ethics and Integrity Commission is the legal successor to the Fiji Independent Commission against Corruption established under the Fiji Independent Commission against Corruption Promulgation No. 11 of 2007;
- (c) the Fiji Human Rights Commission is the legal successor to the Commission established under the Human Rights Commission Decree No. 11 of 2009; and
- (d) the Ombudsman is the legal successor to the Ombudsman established under the Ombudsman Act No. 4 of 1970.

16. Pensions, gratuities and other benefits

The law applicable to pensions in respect of holders of public offices immediately before the General Effective Date is either the law that was in force at the date on which those benefits were granted, or any law in force at a later date that is not less favourable to the person.

Part D—Establishment of State organs

17. Transitional Advisory Council

- (1) The Transitional Advisory Council is established as of the General Effective Date —
 - (a) to advise State organs on the transition of Fiji to democratic governance under this Constitution;
 - (b) to provide public education and promote awareness of this Constitution;
 - (c) to research, plan and draft proposed strategies for implementation of this Constitution, and deliver a report and recommendations on those matters to the first Speaker and Prime Minister elected under this Constitution; and
 - (d) to recommend persons for appointment to—
 - (i) the Interim Electoral Commission, under Section 7;
 - (ii) fill any vacancy in the office of President under Section 9, until the first sitting of Parliament;

- (iii) constitute the caretaker cabinet and fill vacancies in it, under Section 10;
 - (iv) the Ethics and Integrity Commission under Section 18; and
 - (v) the Judicial Service Commission, under Section 19 (2)(c).
- (2) All State organs must assist the Transitional Advisory Council to enable it to perform its functions effectively, and the Council must be provided with adequate resources to fulfil its mandate.
- (3) The Council consists of—
 - (a) 2 persons designated by the Prime Minister, one of them representing the Republic of Fiji Military Forces;
 - (b) 1 person designated by the Fiji Law Society;
 - (c) 1 person designated jointly by the Vice Chancellors of the three universities in Fiji;
 - (d) 3 persons from civil society, selected by the other members;
 - (e) the Chair of the Interim Electoral Commission, when appointed;
 - (f) the Chair of the Ethics and Integrity Commission, when appointed;
 - (g) the chair of the Interim Judicial Service Commission, when appointed; and
 - (h) two persons to be designated by the caretaker cabinet, after it has been appointed on the Announcement Date.
- (4) Despite subsection (3), when the members of the Transitional Advisory Council—
 - (a) under subsection (3)(a) to (c) have been designated and are present, the Council is properly constituted for the purpose of selecting the members under subsection (3)(d); and
 - (b) under subsection (3)(d) have been designated and are present, the Council is properly constituted for the purpose of appointing members of the Interim

Electoral Commission, the Ethics and Integrity Commission, and the Interim Judicial Service Commission, to the extent required by Sections 7, 18 and 19 of this Schedule.

- (5) The selection and appointments referred to in subsection (4) must be made within 1 month after the General Effective Date.
- (6) The members of the Transitional Advisory Council designated by the Prime Minister before the Announcement Date are entitled to continue as members of the Council after that date.
- (7) If a vacancy arises in the membership of the Transitional Advisory Council, the entity that designated or selected the vacating member may designate or select a replacement member.
- (8) The Transitional Advisory Council may choose one of its members to be the Chair.
- (9) The Transitional Advisory Council serves until the first sitting of Parliament, and ceases to exist as of that date.

18. Ethics and Integrity Commission

- (1) Despite Article 149, the Transitional Advisory Council must appoint persons to constitute the Ethics and Integrity Commission for a term that ends when the Constitutional Offices Commission appoints members of the Ethics and Integrity Commission under Article 149.
- (2) If there is a Commissioner of the Fiji Independent Commission against Corruption immediately before the General Effective Date, that person's term ends on that date.
- (3) The Ethics and Integrity Commission may perform any function and exercise any power previously vested in the Fiji Independent Commission against Corruption under the Fiji Independent Commission against Corruption Promulgation 11 of 2007, as amended, to the extent that those functions and powers are consistent with this Constitution.

19. Interim Judicial Service Commission

- (1) The Interim Judicial Service Commission is established to perform all the functions of the Judicial Service Commission under this Constitution from the General Effective Date until the Constitutional Offices Commission appoints members to the Judicial Service Commission in accordance with Article 149.
- (2) The Interim Judicial Service Commission consists of—
 - (a) one judge of the Court of Appeal, designated by the President of the Court;
 - (b) one person designated by the Fiji Law Society;
 - (c) one person from civil society, who satisfies the requirement of Article 135 (2)(e), designated by the Transitional Advisory Council; and
 - (d) one foreign judge, designated jointly by the members referred to in paragraphs (a) and (b).

20. Constitutional Offices Commission

- (1) The first members of the Constitutional Offices Commission to be appointed under Article 151 (3)(c) must be designated by the Prime Minister and Leader of the Opposition within one month after the first sitting of Parliament.
- (2) Despite Article 151 (3), when the 4 members have been appointed under clause (1), the Constitutional Offices Commission is properly constituted for the purpose of appointing the Chairs of the Fiji Human Rights Commission and the Ethics and Integrity Commission, who will serve the first rotations contemplated under Article 151 (3) (a) and (b), respectively.

*Part E—Rights, laws and judicial proceedings***21. Preservations of rights and obligations**

- (1) Except to the extent that this Constitution expressly provides otherwise, all rights and obligations, however arising, of the State or the Republic and subsisting immediately before the General Effective Date continue as rights and obligations of the State or the Republic under this Constitution.

- (2) Any permits, licences, rights or similar undertakings of the State issued to any person, and in force immediately before the General Effective Date, continue in the same terms from that date.

22. Preservation of laws

- (1) All law in force immediately before the General Effective Date continues in force as from that date, subject to subsections (2) to (6), unless repealed in Schedule 7.
- (2) All law continuing in force as from the General Effective Date is subject to this Constitution, and must be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with this Constitution.
- (3) A Decree in effect immediately before the General Effective Date must be regarded as being a law in force as from that date, with the same validity as if it had been enacted by Parliament under this Constitution. No person may challenge such a law on any grounds that impugn the manner in which it was made.
- (4) Any provision of a Decree referred to in subsection (3) that ousts the jurisdiction of the courts, or impedes any person's right of access to a court or tribunal as recognised in Article 40, must be regarded as having been void as of the date that Decree was made.
- (5) Any limitation period affecting a right to apply to a court in respect of any matter begins to run as from the General Effective Date if, before that date, the right to apply to a court had been impeded by a provision that has now been declared void by subsection (4).
- (6) Any provisions of law set out in the Table of Repealed Decrees in Schedule 7 in effect immediately before the General Effective Date are repealed, and any Decree or other law made in substitution for any of them, is declared to be void as from that date.

23. Promulgation of new laws

- (1) The President and Cabinet as constituted under this Schedule between the General Effective Date and the date of the first sitting of Parliament may make laws by Decree, subject to the following subsections.
- (2) The authority of the President and Cabinet under this section must be exercised in compliance with this Constitution and the law, and in a spirit and manner consistent with the principles of democracy and the values of the Constitution.
- (3) Every law promulgated on or after the General Effective Date must be consistent with this Constitution as if the entire Constitution were in effect, and any provision of any such law that is inconsistent with this Constitution is void to the extent of the inconsistency.
- (4) During the period between the General Effective Date and the first sitting of Parliament, the Solicitor General must prepare draft standing orders for use by Parliament as of the first sitting of Parliament, based on the standing orders of the House of Representatives under the Constitution Amendment Act, 1997, with modifications as needed to be consistent with the relevant provisions, and the values, of this Constitution.
- (5) The Public Order Law and Access to Information Law appended to this Constitution are necessary for a peaceful transition to democracy through free and fair elections. They—
 - (a) will have been adopted upon the adoption of this Constitution;
 - (b) take effect from the General Effective Date, but the Minister responsible for public administration may delay the implementation of the Access to Information Law for no longer than a year to allow for proper planning for its implementation; and
 - (c) may not be amended before the first sitting of Parliament.
- (6) The Laws referred to in subsection (5) have the same status as an Act of Parliament passed in accordance with this Constitution, except—

- (b) Article 106 (4) does not apply to any Bill to repeal or amend them;
- (c) despite Article 99 (2), a Bill to amend them will pass only if it has the support of at least 36 members of Parliament; and
- (d) if there is a conflict between any provision of the Laws referred to in subsection (5) and any provision of an ordinary Act of Parliament or a Decree, the provision of the Law prevails, except to the extent that the ordinary Act expressly provides otherwise.

24. Judicial proceedings and other pending matters

- (1) Any proceedings before any court, tribunal or commission that had arisen under any law and that had been terminated by order at any time before the General Effective Date, are revived and may be proceeded with under this Constitution, and any limitation period affecting any such proceedings begins to run afresh as from the General Effective Date.
- (2) Unless otherwise provided under this Constitution, all judicial proceedings pending before any court immediately before the General Effective Date must continue to be heard and determined by the same court.
- (3) Any judgment or order of a court given or made before the General Effective Date, in so far as it has not been fully executed or enforced, may be executed or enforced on or after that date.
- (4) Any court rules in force immediately before the General Effective Date remain in force under this Constitution, subject to any later variation made by the authority that issued those rules, but any such rules may be replaced by the relevant Rules Committee established under Article 127.
- (5) All proceedings pending before any tribunal or commission immediately before the General Effective Date must continue to be heard and determined by the same tribunal or commission.

- (6) Any decision of a tribunal or commission issued before the General Effective Date in so far as it has not been fully executed or enforced, may be executed or enforced on or after that date as if it had been made under this Constitution.

Part F- Dispute Resolution, Oaths of Allegiance and Immunity

25. Resolution of disputes

- (1) The Transitional Advisory Council may issue advisory directives addressing any matters that are uncertain in the application of this Schedule, to promote an efficient and stable transition to elected constitutional government.
- (2) If, despite any directives issued under subsection (1), a dispute remains over the application of any provision of this Schedule, a person may apply to the High Court for a declaratory order to resolve the dispute.

26. Oath of allegiance to this Constitution

On the General Effective Date, the President and any Officer of the State or other person who had previously taken and subscribed an oath or affirmation of office under any former Constitution or law, and who holds that office on that date, must take and subscribe the appropriate oath or affirmation under this Constitution, as set out in Schedule 3.

27. Grant of immunity

The immunities set out in Section 7 (4) of the Fiji Constitutional Process (Constitutional Commission) Decree 2012 (Decree No. 57 of 2012) and in Section 8 (3) of Decree No. 58 of 2012, are continued or granted, as the case may be, in the precise terms specified in those Decrees with respect to each person who, before an attesting witness, signs and swears or affirms the Oath or Affirmation of Reconciliation and Allegiance, set out in Part C of Schedule 3.

SCHEDULE 7—REPEAL OF LAWS AND DECREES

(Article 187)

1. Repeal of previous constitutions

Any law, under whatever style or title, previously in force as a constitution within the territory of Fiji is repealed.

2. Repeal of other laws

The laws listed in the first column of the following table are repealed to the extent indicated in the second column

Table of Repealed Decrees

Decree	Extent of Repeal
Regulation of National Spectrum Decree 2009 (No.48/09)	Sections 3(4) and 11
Media Industry Development Decree 2010 (No.29/10)	Sections 8(d) and (e), 10, 18 (5), 20, 22, 23, 24, 26 to 30, 80 and 88
Employment Relations Promulgation 2007 (No. 36/07)	Section 3
Employment Relations (Am) Decree 2011 (No.21/11)	Section 266
Essential National Industries (Employment) Decree 2011 (No.35/11)	All of it
Public Order Act (Cap.20) as amended by Public Order (Amendment) Decree 2012 (No.1/12)	All of it except the definitions of “corrosive and inflammable substance”, “explosive” and “terrorism” in section 2; and Parts 2A and 3A
State Proceedings Act (Cap.24) (as amended by State Proceedings (Am Decree 2012 (No.14/12))	Section 18A
Television Decree 1992	Section 4A
Television (Amendment) Decree 2012 (No.52/12)	Section 34